

VALLCO SHOPPING DISTRICT SPECIFIC PLAN AND THE HILLS AT VALLCO PROJECT

November 10, 2015
Cupertino Community Hall

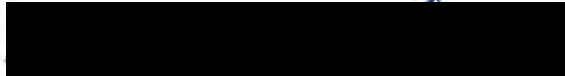


PUBLIC COMMENT CARD

The City of Cupertino, as Lead Agency under the California Environmental Quality Act (CEQA), will prepare an Environmental Impact Report (EIR) for the above-referenced project. Written comments on the scope of the EIR analysis will be accepted until November 16, 2015. Please send comments to Piu Ghosh, Senior Planner.

By Mail: City of Cupertino, Community Development Department
10300 Torre Avenue, Cupertino, CA 95014-3202

By Email: PiuG@cupertino.org (please include "Vallco" in the subject line)

Online: www.cupertino.org/access (please select "The Hills at Vallco" topic)

Name: Caleb Lee Email: 
Address:  Phone: 

COMMENTS:

Need inform what is benefit of Cupertino citizen from The Hills at Vallco Project. what is the most concern from the city of Cupertino? Revenue, welfare of citizen, entertainment center, education, shopping convenience, better place to live?
It seems an excellent project but there is not much awareness from citizen. It must be the most favorable place Cupertino can enjoy and proud.
Thanks

COMMENT CARDS TRANSCRIPTION
THE HILLS AT VALLCO
ENVIRONMENTAL IMPACT REPORT SCOPING MEETING
NOVEMBER 10, 2015

Comment 1 of 24

Hui-Ching Hsieh

[REDACTED] [REDACTED]

We need more retail shops, restaurants not more office buildings.

Comment 2 of 24

Cathy Wandy
Cupertino

[REDACTED]

#1 Concern traffic
#2 Livability – lost small town feel.
#3 Sustainable?
#4 I want to stay here, retire (even after my two kids gone to colleges). Please do not ruin the city that we love.

Comment 3 of 24

Robert Bensaten

[REDACTED] [REDACTED]

Regarding planned use vs needs & housing concerns comments re developer plans.

Comment 4 of 24

Anne Pflager

[REDACTED] [REDACTED]

The developers are calling this the world's largest green roof? This appears to be an extremely water intensive project. We are experiencing increasingly severe multi-year droughts. How can you even consider such a project? This is insanity! We need to conserve our water supply not waste it on roofs of shopping centers. Consider native landscaping & drought tolerant landscapes.

Comment 5 of 24

Stuart Chessen
[REDACTED] [REDACTED]

What is shadow pattern & how will affect existing solar systems. Will recycle water be used? Extra rain water collection. Electric car stations for 10% parking. Should have 50% renewable energy source. What pesticides will be used? Native plants? Impact of traffic to nearby schools. Bike trails to/from site.

Comment 6 of 24

John Buenz
[REDACTED] [REDACTED]

Strong opposition to Hill project because following points:

1. Project of "virtual nature" overkill in our digital culture (Apple just down the street)
 2. Costly project to complete with Santana Row/Stanford/Saratoga/Westlake/Main Street
 3. Increased use of water in face of prospect of drought
 4. Adds to focused traffic congestion (Apple/Main St)
 5. Out of character for city history/character
-

Comment 7 of 24

Xiaowen Wang
[REDACTED] [REDACTED]

1. The impact of massive office building on the next RSNA cycle. The increased employment will be factored in the ABAG's formula for the RHNA calculation. How such office allocation would result in the RHNA requirement?
 2. The total enrollment of school due to the project should be calculated based on both housing and office on site.
 3. The traffic study should also include the surrounding secondary road, such as, Blaney, Portal, Fantau, Estate, Finch.
-

Comment 8 of 24

Jennifer Griffin [REDACTED]

I thought the Specific Plan was going to be worked on by the public. This does not seem to be the case. The Specific Plan should be a plan worked on by the public.

Comment 9 of 24

No name
No address

No email
No phone

Public not involved in the specific planning process. Current city process hasn't allowed public input. The more I learn of the process & Hills project, the more questions and concerns I have!!! Some citizens have even suggest that the citizens of Cupertino vote to determine the viability of this ambitious building project.

Comment 10 of 24

Hongwei Duan [REDACTED]

We are against the idea of redevelopment of the Mall to have more population. It's a disaster for the residents. Its bad traffic, bad over-population.

Comment 11 of 24

Ruiwei Wang [REDACTED]

We say NO to the re-building plan of Vallco Mall. We worried about traffic, environment etc. We don't like to live in a over-populated place.

Comment 12 of 24

Ray Martin [REDACTED]

I would like a "Notice of Availability of the Draft EIR" when available.

Comment 13 of 24

No name
No address

No email
No phone

We deserve retail!! Toilets for retail vs housing/office!
Shadowing to neighbors – NO SUN
Infrastructure water, electric, sewer, etc
Air pollution – cars, etc
Noise levels for neighbors
Impact on trees – already compromising trees – killed trees at Main St. on purpose not taking care of them... Buffer trees are suffering
Quality of life
Impact on neighborhood & city infrastructure
Where is water, electricity going to come from?
You are allowing this bldg. – which is taking General Plan office + housing allotment for NEXT 20 years in 1 project
Because of this project a new school on a very small site – back to back to another school – Build at Vallco instead. Let them build school at Vallco.
Impact on our neighborhood on all levels is awful
NO WAY out of the neighborhood
Talk about impact wow

Comment 14 of 24

Jennifer Griffin

[REDACTED]
[REDACTED]

Double row of ash trees on east and west sides of Wolfe road from Stevens Creek Blvd. to Homestead Road need to be protected as part of city infrastructure. Double row of ash trees along Vallco frontage on Stevens Creek Blvd. need to be protected as city infrastructure. Public expectation that the double row of ash trees will remain during any building will survive any building and be present for next 100 years or more as Cupertino Greenbelt/Public Infrastructure.

Comment 15 of 24

Heather Dean

[REDACTED]

[REDACTED]

First impression “sounds too good to be true.” Observation that project starts one way and change dramatically during construction. What we hear tonite- how firm is it and how is it going to change away from what is good for Cupertino Community. As in everything in this area how will we move around because of traffic, traffic traffic!

Comment 16 of 24

Charles Kippear
[REDACTED]

Questions:

- What will be done to alleviate traffic jams?
 - If drought conditions persist, would there be an alternate plan to replace the massive landscaping proposal?
 - When is the next public meeting/forum?
 - What will the make-up of the retail space be (i.e. restaurants, stores, "cultural stores")
-

Comment 17 of 24

Long Ching Yeh
[REDACTED]

I am concerned two things

1. The size & scale of the development of Vallco Center is very large & is aggressive enough that might impact the Cupertino community current situation, i.e. Peaceful, rich of culture & safety of living, suitable but already worsen traffic situation.
 2. Luther site can be a choice of new elementary school, not the Collins and Nan-Allen sites. Currently in the morning traffic in Portal Ave is heavy. I am concerned about the safety of children if the site is selected for new school.
-

Comment 18 of 24

Huang
[REDACTED]

We really are concerned for Environment that new or rebuilding will affect us.

Please stop damage our air, our place to live.

Comment 19 of 24

Martin Won [REDACTED]

1. Is there a safety barrier at the edge of the "green roof"?
 2. What safety precautions are in place to prevent accidents and suicides that the height of the roof will attract?
 3. How will the traffic change (wait times, average and/or worst-case travel times) in all surrounding streets, intersections, and all streets passing and feeding the Vallco development (taking Apple into account) including Stevens Creek Blvd, Homestead, Wolfe, 280 on ramps and off ramps, etc.
-

Comment 20 of 24

Dianne Stauffer [REDACTED]

Are the residences for ownership or rental?

Is the developer of The Hills the same one involved in the shopping center? That project is at a standstill. Any guarantee the developers will not go bankrupt?

Comment 21 of 24

Qin Pan [REDACTED]

Today I tried to drop my kids at dance class at Happy Donut plaza, it take me 7 minutes get into the plaza, as the plaza is filled with business related to kids activity.

This make me worried when Apple new campus and Hills at Vallco ready they are so close to each other. How long it going to take me from my house to 280? Or from 280 to my house after work? How Hills in Vallco enforce people using bike and walk?

Comment 22 of 24

Harris Au [REDACTED]

800 additional residential unit are way too excessive. Traffic at present is already very congested. We don't want this project to turn Cupertino into a big parking lot. The maximum no. of additional residence is 100 units.

Comment 23 of 24

Carrie Oleary [REDACTED]

Please review these:

1. Parking spaces- are there enough for all the office workers AND all the shoppers at all times of the day?
 2. What amount of time will the additional traffic add to Stevens Creek Wolfe, 280 N & S between Magdalena & Winchester?
 3. How many cars will be added?
 4. Why is Sandhill able to build Senior Housing now after claiming no expertise for Main St?
 5. Why did the City Manager recommend the City Council add 2 million sq. ft. of office space BEFORE negotiating with Sandhill?
-

Comment 24 of 24

Caleb Lee [REDACTED]

Needs inform what is benefit of Cupertino citizen from The Hills at Vallco project. What is the most concern from the City of Cupertino? Revenue, welfare of citizen, entertainment center, education, shopping convenience, better place to live? It seems an excellent project but there is not much awareness from citizen. It must be the most favorable place Cupertinoans enjoy and proud. Thanks.

From: santorojj@ [mailto:comcast.net [REDACTED]]
Sent: Monday, June 29, 2015 12:22 PM
To: City Council
Subject: Growth

We are objecting to the new building height allowance being considered by the Cupertino City Council. No buildings one 5 story's. Make sure that a schools can handle the influx of new students - do they have the money or property to add new schools if the impact of these plans add too many new students. Schools are one of the top attractions when parents are looking for a good education for their children.

We want Cupertino to maintain its' suburban environment as much as possible.
Please consider our concerns when you vote on issues of growth in the near future.

Jerry and June Santoro

[REDACTED]
[REDACTED]

From: Better Cupertino [mailto: [REDACTED]]
Sent: Thursday, September 03, 2015 12:58 AM
To: City Council; City of Cupertino Planning Dept.
Cc: [REDACTED]
Subject: Portal Park Will Remain a Neighborhood Park

Dear Mayor and Council members,

The enclosed email has been sent to the CUSD-discuss google group to inform CUSD parents about the reality of the "new K-5" or K-8 school that Sand Hill is proposing on the tiny 3-acre lot on Nan Allan site. We are strongly against that proposal since Collins is already an overcrowded school with 700 students. The listed school lot size of Collins is 11.3 acres. And Collins should be expanded to include Nan Allan and TRC for the existing 700 students only. No more. If Sand Hill would like to donate a new school, Sand Hill should donate the entire school include a full-size lot of 13.7 acres for a school of 700 students.

We strongly oppose adding another school on top of an already overcrowded school.

If your plan includes annexing Portal Park as a part of the "new" school, be sure that you will face strong opposition from the North Blaney neighborhood. The very tiny Portal Park, already too small for the population of North Blaney neighborhood, is the only park in that area. The neighborhood already fought to protect the park when CUSD wanted to annex it into a middle school. The neighborhood would fight tooth and nails to protect our only park. The 30-acre sky park, which may or may not be realized, is no replacement for Portal Park.

And please do remind Sand Hill that Vallco should still provide the required 3 acres parkland per 1,000 residents in true parkland. It cannot be replaced by any area in their sky park.

Do not even allow partial access to Portal Park during the school day. Portal Park belongs to the neighborhood. Families with young children and seniors need access to the park during the day.

Many members of BetterCupertino are from North Blaney. If any one ever considers to take Portal Park away, BetterCupertino will fight against the proposal with full force with the North Blaney neighborhood.

Superintendent Wendy mentioned in McAuliffe PTF meeting that the City Council supports the "new K-5" school. This issue was never discussed in any council agenda. I assume that it was determined in closed meeting behind closed doors. And in a meeting without any community member or representative from the parent community of North Blaney neighborhood, the very neighborhood that's impacted by your proposal.

Please do involve the "community" in any discussion of "community benefits" or "voluntary community amenities" as you like to call it now. Any such private deals negotiated between elected officials and developers should be avoided for potential conflict of interest and violation of the Brown Act.

Sincerely,

BetterCupertino

----- Forwarded message -----

From: **Liang C** <[REDACTED]>
Date: Thu, Aug 27, 2015 at 6:46 AM
Subject: Exciting News about NEW K-5 School is NOT So Exciting
To: [REDACTED]

Everyone must have gotten the email from CUSD about the "exciting" new school. However, the truth is not so exciting. The proposal would essentially add 700 more students to the current (already crowded) site of Collins Elementary with a separate entrance on N. Portal and call it a "new school".

Mette asked me to post what I found about this "NEW K-5 School" to be funded by Sand Hill as a Community Benefits for Vallco redevelopment project.

The exciting news is

- Delivery of a newly constructed elementary school (K-5) at the former Nan Allan Elementary School site (located on N. Portal Avenue) which would accommodate 700 new students,

Here is a map of the Nan Allan Elementary School:

<https://drive.google.com/file/d/0B7Rmc9DXGhUAME9iY2sxWjwUzQ/view?usp=sharing>

Nan Allan (Nan Allen on the map) is the site currently released to Bright Horizon.

Here are some facts:

Nan Allan (Bright Horizon) = 1.5 acre
TRC (Teacher Resource Center) = 1.5 acre
Collins' Size (current in use) = 8 acres (including the green sports field)
Collins' Lot Size listed in Cupertino's General Plan = 11.8 acres
Capacity of Collins - 598 students
Current Enrollment = 700-720 students
Recommended Lot Size for 700-750 students = 13.7 acres. (According to "Guide to School Site Analysis and Development," published by The School Facilities Planning Division of the California Department of Education. -- Environment Impact Report of Cupertino's General Plan)

As you can see, the site for Collins Elementary is supposed to include Nan Allan and TRC to get to a total close to 11 acres. Yet, that's still below the State Guideline of 13.7 acres.

Now the "exciting" new K-5 school simply adds 700 more students to the 11 acre site, which is hardly even big enough for the current 700 students.

So, here is Sand Hill's contribution on "Community Benefits". Take a school that's already one of the most crowded. Double its number of students and then do some facelift. And that gives them a free pass to add 411 more housing units to the 389 units allocated by Cupertino Council.

If you haven't already, here is the "exciting" 30-acre sky-park proposed for Vallco.
<http://www.bizjournals.com/sanjose/news/2015/08/26/vallco-plans-revealed-30-acre-sky-park-over.html>

Except the cool green rooftop garden, which might end up to be a pile of yellow dirt either due to drought or bad maintenance, Sand Hill is still going to build 2 million square feet of office (add 10,000 to 12,000 people to rush hour traffic), 800 housing units (when Cupertino Council only approved 389 units) and 625,000 s.f. of retail (50% of the current retail space in Vallco).

So, the proposal still does not address important issues like traffic congestion and school overflow at all. The cool looking green rooftop does not make these other issues magically disappear unless Sand Hill thinks that Cupertino residents are easily fooled by a pretty "dress."

Liang

----- Forwarded message -----

From: **CUPERTINO UNION ELEM SCH DIST** <email@blackboard.com>

Date: Wed, Aug 26, 2015 at 12:00 PM

Subject: Exciting News re: Cupertino Union School District

To: [REDACTED]

A message from CUPERTINO UNION SCHOOL DISTRICT

August 26, 2015

Dear CUSD Community:

I'm about to step into a meeting where there will be an announcement of exciting news regarding the redevelopment project at Vallco Mall and the opportunities it presents for the students of the Cupertino Union School District. Before I step in I wanted to keep you informed as well.

At the June 16th Board Meeting, the Cupertino Union School District Board of Education publicly entered into a Letter of Intent (LOI) with Sand Hill Property Company (Sand Hill) in order to continue exploring ways to enhance the quality of education for students within our District. Although signed, the LOI is contingent on the City of Cupertino approving "The Hills" at Vallco redevelopment project.

As a school district, we do not govern redevelopment projects as that power falls under the jurisdiction of the City of Cupertino. However, as stewards of the District, it is our obligation to properly plan for redevelopments that may be approved by the city. The obligation of the developer is to pay only state mandated developer fees. In wanting to keep the community informed, this letter will provide you with a synopsis of the LOI and what was approved by our Board of Education to ensure quality education for our students.

At the core of our negotiating, we, both the District and Sand Hill, were driven by the idea that the proposed redevelopment should not impact any of our schools. The developer fees for the future Vallco redevelopment would likely total approximately \$2 million. With that in mind, we began the process of securing commitments from Sand Hill that, over time, evolved into a package worth a total of \$20 million.

In the event the City of Cupertino approves "*The Hills*" at Vallco redevelopment, here are a few highlights of the benefits the District would receive:

- Delivery of a newly constructed elementary school (K-5) at the former Nan Allan Elementary School site (located on N. Portal Avenue) which would accommodate 700 new students,
- Replacement of portables with permanent buildings at Collins Elementary School
- Enhancement of the play fields between Collins Elementary School and Nan Allan Elementary School.

Additionally, we secured a \$1 million donation from Sand Hill to fund an endowment to help support our annual 8th grade Yosemite experience, a tremendously valuable educational program and tradition our students look forward to every year.

As Superintendent, you have my commitment that if the LOI becomes effective, the District will embark on a community engagement process in order to actively seek public input on the potential new school.

This effort represents unprecedented collaboration between the District and property owners. The new and improved schools will not only accommodate students from "*The Hills*" at Vallco and provide space for hundreds of existing students, but also provide space for future students and relieve pressure from existing schools. If approved, "*The Hills*" at Vallco will not only protect, but improve and strengthen our schools.

Regardless of what direction the City of Cupertino takes with Sand Hill's project, this agreement is a testimony that we are a District whose sole focus is on creating opportunities that will enhance every aspect of the student experience. That mission is what makes me proud to be a part of the Cupertino Union School District family.

I thank you for your time. If you have any questions, feel free to contact my office.

Sincerely,

Wendy Gudalewicz

Superintendent

File attachments:

[Valco Mall Redevelopment Project Update 08.26.15.pdf](#)

This e-mail has been sent to you by CUPERTINO UNION SCHOOL DISTRICT. To maximize their communication with you, you may be receiving this e-mail in addition to a phone call with the same message. If you no longer wish to receive email notifications from CUPERTINO UNION SCHOOL DISTRICT, please [click here](#) to unsubscribe.

From: MaryAnn [mailto: [REDACTED]]
Sent: Monday, October 05, 2015 4:07 PM
To: City of Cupertino Planning Dept.
Subject: Cupertino Hills and other area developments

As I luckily drive the reverse commute and look at the parking lot on 280 at 3:45 on a Monday I'm reminded to send in this inquiry.

Although the project of the Hills at Cupertino looks progressive and innovative I have to ask the Cupertino Planning department as well as other local Planning departments if they have required funding for VTA line development from these organizations and development companies that will be making an excessive amount of profit on these projects, while creating a nightmare on our roadways.

We all know the gridlock that has been created yet all the cities in the region continue to be enticed by the profits from these developments and organizations. The same funding question should be asked regarding those businesses being built on 237. The highway infrastructure cannot accommodate what currently exists let alone the development that is already visible.

An easy way to quickly develop a feasible and efficient VTA infrastructure is to require these companies to fund a portion of the line for light rail before they can open their doors. This would enable the local cities to quickly build a practical, connected infrastructure that residents might see as a faster, convenient mode of transportation. If this funding hasn't been required as of yet, Council should consider this for any current developments underway, as well as any future developments planned. If I need to attend a planning session please advise.

I moved here 15 years ago because the area was amazingly beautiful. Unfortunately greed and capitalism have now made it gridlock quickly approaching that of LA. In time this will likely hurt the value of homes, certainly the environment, and even the overall culture of the residents, both social and collaborative which makes Silicon Valley thrive.

Until the highway interchanges are reasonably widened to accommodate the current load (i.e. 280/85; 85/237) and a solid alternative infrastructure is developed, similar to that of the New York subway station, residents will continue to drive their cars because, although they might live next to a light rail, they won't work next to one or shop next to one or attend school next to one. It is currently a failed plan that won't see even a slight impact for at least a decade.

Leveraging quick funding from these organizations would be a great way to advance progress for the betterment of the communities at large vs only a select corporate few.

I'm happy to speak at a session as needed.

MaryAnn Sullivan
Cupertino Resident
[REDACTED]

From: paulette altmaier [mailto: [REDACTED]]
Sent: Wednesday, October 07, 2015 9:28 AM
To: City Council
Subject: Hills at Vallco - Scott Herhold's column in the Merc on vision vs reality

Dear Cupertino City Council,

I had previously emailed you very enthusiastic about the Hills at Vallco. But after reading Herhold's column I have serious doubts about how this project might morph.

I am also concerned about the City Council's role in permitting projects to gradually morph into something very different from what residents were promised.

Before I support this project, I would want to know what guarantees the developer will provide this time around, in particular that the gardens will actually be built.

And I would also want to understand why the Council approved so many changes to Main St Cupertino, and why we should trust that this project will not also change gradually but unmistakably to something much different from what is being marketed to us now.

Paulette Altmaier

[REDACTED]

Cupertino

From: Better Cupertino [mailto: [REDACTED]]
Sent: Saturday, October 10, 2015 11:32 AM
To: City Council; City of Cupertino Planning Dept.; City Clerk
Subject: The Performance of Shopping Malls are Improving Nationwide

[Please put this on record for community comments for Vallco.]

Dear Mayor, Vice Mayor, Councilmembers and Planning Commissioners,

Shopping Malls are on the decline? That's a myth spread by peopling looking at only one piece of the puzzle with a ulterior motive. Some shopping centers are closing due to neglect or a reduction in population or a change in local economy. Some retailers are not doing well as they restructure and adjust. But overwhelmingly more retailers are doing better and better.

This CNBC report shows that shopping centers in US are doing even better than before and continue improving.

Malls outperforming the shopping center industry, March 30, 2015

<http://www.cnbc.com/2015/03/30/malls-outperforming-the-shopping-center-industry.html>

Forget all those images of abandoned malls filled with snow. As the shopping center industry consolidates from weaker properties shuttering their doors, rents, occupancy rates and productivity are all on the rise.

According to data released Monday by the International Council of Shopping Centers, an industry trade group, occupancy rates ended 2014 at 92.7 percent, the highest since the throes of the recession in second-quarter 2008.

For the often-dragged-through-the-mud mall segment, occupancy rates reached a level not seen since fourth-quarter 1987, of 94.2 percent.

Base rents at shopping centers increased 6.5 percent on the year, their third-straight year of gains. Base rents at malls grew 17.2 percent, representing the strongest annual gain since ICSC and the National Council of Real Estate Investment Fiduciaries began tracking the data in 2000.

Net operating income at shopping centers and malls also saw the highest annual growth rate since the organizations began compiling data.

"The 2014 data paints a very strong picture of the shopping center industry for the year ahead, and is especially promising in the mall segment," ICSC spokesperson Jesse Tron said in a news release.

That's not to say that things are running smoothly throughout the entire sector. Retailers from RadioShack to Sears are either filing for bankruptcy or closing hundreds of stores to stay relevant in an era of digital price comparisons and online ordering.

Similarly, malls across the U.S. that were neglected by their owners, located in an area where there's been a large population shift or exodus, or lost shoppers to a new, better-run property have been

demolished or otherwise forgotten.

A recent study by FBIC analyst Deborah Weinswig, citing data from CoStar, found that among seven troubled retailers, including J.C. Penney and Kmart, the majority of the endangered locations are in smaller markets with less population and income density, or in an economically distressed region.

Even healthy retailers such as Macy's have begun pruning their store fleets as more shoppers make purchases online, causing a steady slide in traffic.

In an interview earlier this month, Tron downplayed the impact of the Internet on store closings.

"Stronger retailers stay, weaker retailers go, and it's been that way forever," he said.

From: [REDACTED]] On Behalf Of
Chris Hastings
Sent: Saturday, October 17, 2015 11:35 AM
To: City Council
Subject: The Hills at Vallco

Please allow new housing in Cupertino so that rent prices don't skyrocket. There are many young professionals like me who are getting started in non-technical careers in the Bay/Silicon Valley area that can't afford the rent spikes that are likely when Apple's new facilities open.

From: Yan Yu [mailto: [REDACTED]]
Sent: Monday, October 19, 2015 9:38 PM
To: City Council
Subject: Re: Concerns about the Vallco project: We would like to help and please let us help!

Dear Cupertino Council member,

I would like to clarify one sentence included in my previous email:

"I am interested to know more details about this project, for example, how many people of various types would it bring in?" By various types, I meant whether these people will become the new residents living in Vallco, or work in the new office spaces in Vallco, or transient shoppers. The first two types would not only add daily commute traffic, but also impose much higher demand on other city and community services as well.

I apologize for the confusion in my previous email, and thank you for attention!

Best,

yan

On Mon, Oct 19, 2015 at 1:27 PM, Yan Yu < [REDACTED] > wrote:

Dear City council officers, Happy Monday!

I am very concerned about the Vallco project. I would like to ask this correspondence to be included in the public records

High density living brought by the Vallco project shall have direct and indirect impacts on health and wellbeing of residents living in and near the Cupertino Area. Direct impacts include air quality, climate, water quality, noise, insufficient capacity from existing Cupertino city and community service infrastructure. Indirect impacts affect more distal determinants of health, such as social connections, access to services and restricted physical activity imposed by high density living. Among residents of all ages, children and older people are particularly impacted by and vulnerable to these detrimental effects. For example, seniors and children are particularly vulnerable to traffic accidents and increased crimes brought by high density living. I am wondering whether the Cupertino city or Vallcos developers have a concrete plan to address those issues satisfactorily before any Vallco rebuilt plan can be approved by the city?

I heard that the vallco project includes 800+ residential units, which would imply a few thousands (up to five thousand) new residents to Cupertino, which is up to significant 8% (5000/60000 based on 2013 data) of existing Cupertino population.

I am interested to know more details about this project. For example, how many people of various types would it bring in? how much more rush hour traffic and non-rush hour traffic it would incur? How many more school-aged kids it would incur to increase load on the

already strained school system. How much more demand it would put on the existing service infrastructure, e.g., fire/police department, library, community service, school system, transportation system, etc.

If we need to boost up existing city infrastructure to meet greatly increased demand, who is going to pay for the infrastructure and staff upgrade? Is the developer going to pay for this? Or it comes from existing property tax and sale tax? Cupertino residents and tax payers have rights to know all the developmental implications and details to make sure that Cupertino city is still a desirable livable city. The reason that I bought a house in Cupertino is because I thought Cupertino is a nice place to live. However, I start to have serious doubts on this now with many recent high-density developmental plans. The new Apple building already increased office space and local traffic dramatically, I hope the city could be cautious, responsible and hold accountable on any new future development plan. At this point, as a very concerned and responsible Cupertino resident, I object to any vollco rezoning plan that involves increasing residential or office space.

If the city needs help in understanding and researching the issue, I am very happy to help. I would love to be present in any such future planning meeting. Please let me know how can I help.

Best,
yan

PS. I hope city could hold regular town hall meetings at a convenient hour (e.g., evening or weekends as opposed to midnight) to educate and address the concerns from Cupertino residents on this issue, and make concerned residents part of the decision process since any decision would greatly impact their lives in many years to come.

From: stacy wilson [mailto: [REDACTED]]
Sent: Monday, October 19, 2015 5:12 PM
To: City Council
Subject: please look over these comments from Cupertino residents about rezoning of Vallco

Dear Mayor Sinks and other City Council members, I thought that you should see some of the discussion that has been going on in our community about the potential rezoning of Vallco to accommodate a developer's wishes. There are other NextDoor threads discussing this issue. I appreciate the time you will take to look through this (which was copied from Nextdoor.com), and I hope some of the sentiment will be presented in a balanced discussion of the issue tomorrow night. As you read, I believe you will see that many citizens have lost faith in your willingness to represent us, but you can change that by taking the concerns seriously and making a determined effort to work with the community you represent.

Please note that this poll collected over 330 votes and the clear majority do not want Vallco rezoned at all.

Stacy Wilson voter, long-time resident of Rancho Rinconada, Cupertino

Shared with [Rancho Rinconada + 14 nearby neighborhoods](#) in [General](#)
Thank 34 Reply 432

[Vivek](#), [Chris](#), [Carrie](#), and [31 others](#) thanked [Eric](#)

From: Atul Tulshibagwale <[REDACTED]>
Date: Oct 20, 2015, at 9:31 AM
Subject: Vallco shopping center development suggestion
To: Rod Sinks <[REDACTED]>

Hello Mayor Sinks,

I'm simultaneously excited and concerned about the new proposed development at Vallco site. Most of the criticism to the plan seems to be coming from the reputation of the builder and whether the builder will actually deliver on what they're promising. I have a suggestion about this:

Since the green roof of the proposed construction is so important to the citizens and possibly not so important to the builder, to avoid the possibility of the builder not delivering on it, is it possible to ask the builder to submit a bond that will be released only when the green roof is fully constructed?

Thanks,
Atul Tulshibagwale
Seven Springs, Cupertino resident.

From: Rod Sinks <[REDACTED]>
Date: Tue, Oct 20, 2015 at 10:10 AM
Subject: Re: Vallco shopping center development suggestion
To: Atul Tulshibagwale <[REDACTED]>
Cc: "<rsinks@cupertino.org>" <rsinks@cupertino.org>

Hi Atul,

Your idea is certainly worth considering and will pass it in to Staff.

There are various ways we can use to ensure we get project elements that have high value to the community. For example, at Main Street, our entitlement terms dictate that most of the retail be built before the office can be occupied, and we limited the period of the entitlement to a fairly short window to avoid a half-built project.

I have no doubt that if the City of Sunnyvale could wind back the clock on their entitlement of downtown Sunnyvale, they would have put in some means to prevent or at least abbreviate the legal lockup that went on for years. The problem started when the financing dropped out during the 2008 financial crisis, which of course stalled many projects worldwide, but downtown Sunnyvale could have been resolved much sooner with a better agreement.

Rod Sinks

Sent from my iPhone

From: Eric Ho [mailto: [REDACTED]]
Sent: Friday, October 23, 2015 11:44 AM
To: City of Cupertino Planning Dept.
Subject: Please reconsider rezoning Vallco Hills for office

Dear Council members and Staff,

I'm writing to petition to delay the re-zoning of Vallco Hills for office and residence. I petition on the delay until we have a firmer picture on how additional traffic will impact the city once Apple Campus 2 and Main Street come on line.

Sand Hill is proposing a big chunk of space to offices. The additional employees will add even more traffic to our already congested roads.

In addition, the additional office space means that we will be forced to build more high rise housing in the city in the future, per ABAG rules. This in turn will negatively impact our schools. And a whole chain reactions will follow from that..

It would be much better to allocate more space for retail, at least as much space, if not more, as Santana Row / ValleyFair. This is because a thriving retail needs to have a certain size geographically for it to thrive. Case in point, witness downtown Sunnyvale. It is now pretty dead on a typical Sat afternoon.

<eric>

From: Victoria [mailto: [REDACTED]]
Sent: Saturday, October 24, 2015 2:37 PM
To: Karen B. Guerin; Savita Vaidhyanathan; Gilbert Wong; Darcy Paul; Barry Chang; Rod Sinks; City of Cupertino Planning Dept.; City Council
Subject: Regarding Rezoning of Vallco (November 10th meeting)

Please include my letter among the public records regarding the Vallco development project.

I am NOT in support of rezoning Vallco into a mixed use site. As a resident of the eastern part of Cupertino, we will be impacted directly from the traffic, overpopulation in schools and parks. I am frankly disappointed and angry that the city council (or majority of) seem to be only concerned with benefiting the developers instead of the city's residents. We want a shopping area, not the massive amount of office space and apartment housing that Sand Hill is trying to hide in its ad slicks.

We want the city council to be realistic and sensitive to the fact that we have no space for so many additional students in our schools, which is by the way, the reason why we poured our life savings into buying a home in this city...for its top notch schools. We also don't want to sit in traffic on city streets for over 15-20 minutes. Our roads and freeway entrances are not meant for this big of an influx of residents and workers! A shuttle and a "new school" on an existing campus does NOT help alleviate all the problems that this push to over build Cupertino will create. Many residents that I have spoken with are very aware of what is being shoved down our throats and we don't plan on sitting idly by while our city is destroyed. Please see that what is proposed and what the council is trying to sneak into our city is not beneficial in the long run.

Victoria Lau
Cupertino Resident

Sent from my iPhone

From: judy wang [mailto: [REDACTED]]
Sent: Saturday, October 24, 2015 3:06 PM
To: City of Cupertino Planning Dept.
Subject: One more comment about Vallco

Dear Planning Chairman:

I would like to add to the wonderful design of the new Vallco with so much green space which also include community garden (vineyards and an horticulture). It is sure to be another award winning design.

I suppose however people can have more access too. Is it possible to move the street bike lanes and some of the pedestrian sidewalk to be diverted to a more safe route inside this green walkway?

Buses, cars, and perhaps other transport vehicles (future rails) could have a more "adult", passenger oriented walkway; not for elder movement, handicapped or children running around. I suppose it does not look safe to have a mix of bikes, walking pedestrians and cars using the same road.

Perhaps it is the current partition of the public transportation authority, but schools, parents, and children might be concerned about quite a few safety issues.

Cordially yours,

Judy.

From: Robbie Mister [mailto: [REDACTED]]
Sent: Saturday, October 24, 2015 4:57 PM
To: City of Cupertino Planning Dept.
Subject: Comment on The Hills at Vallco

We strongly object the Hills at Vallco. There's no way Cupertino can accommodate so many more residents. The traffic is already at its limit on 280 and 85. Schools are full.

From: fan jiao [mailto:]
Sent: Saturday, October 24, 2015 7:00 PM
To: City of Cupertino Planning Dept.
Subject: env review of Vallco project

Hello,

We visit Vallco almost every weekend. The main concern is still the traffic. The city should take an overall review with this new traffic pattern together with that of Apple new campus.

--

Cheers,

Fan

From: Alison Mathias [mailto: [REDACTED]]
Sent: Saturday, October 24, 2015 8:51 PM
To: City of Cupertino Planning Dept.
Subject: Cupertino: The Hills at Vallco

You have received this link to the Cupertino from:
Alison Mathias [REDACTED] >

<http://www.cupertino.org/index.aspx?page=1365>

Dear Sirs,

We have been so proud of the Cupertino Culture. A space for two mice and we are going to put 20 mice. Over-development, what do you mean "Environmental Impact"? Please let Cupertino be Cupertino. Just like Yosemite be Yosemite. There are so many other spaces in a short driving distance, they can develop and easily keep an environmental balance. And we can go appreciating the HUGE project at weekends. We do not want to be bought out.

Sincerely,

Alison Mathias

Alison Mathias

From: susan jaybes [mailto: [REDACTED]]
Sent: Sunday, October 25, 2015 9:52 AM
To: City of Cupertino Planning Dept.
Subject: The Hills at Vallco

To the Department of Community Development of Cupertino:

I submit my general concerns regarding the proposed development at The Hills at Vallco. While I find the proposed area to contain much green space, which will offer a peaceful and serene setting for work and life from within the development, outside of the development the traffic and congestion will be just the opposite. Like others living in Cupertino and the Bay Area, the increase and abundance of economic development in the area has provided opportunities but also poses great strains on traffic and congestion and therefore quality of life. Within The Hills at Vallco, it seems all well and good, but there is a responsibility to others in the area shouldering the burden of the development. The current and future green-lit projects will further stress the area's traffic to greater degrees than it already is today - I ask that you seriously consider this in your planning approval process. Many residents feel that the intense development of Silicon Valley must stop at some point, or at some point, governmental bodies must step forward to provide alternatives to some of these issues that we face today - namely housing prices as well as traffic. The time is now.

The developers stand to profit handsomely from this endeavor, but it will be the people who already live and work in Cupertino and surrounding areas who will feel the burden and a decrease in quality of life. Please urge for an extremely scaled down version of the residential and extensive office development for The Hills at Vallco or reconsider the project altogether.

Respectfully submitted,
Susan Jaynes

From: Prakash Sripathy [mailto: [REDACTED]]
Sent: Sunday, October 25, 2015 8:16 PM
To: City of Cupertino Planning Dept.
Subject: The Hills @ Vallco...

Mayor. Vice Mayor and Council members,

It has been heartening to see mindless initiatives being pushed forward time and again in our city with no end to it. I am not sure how many of you live in Cupertino city and have children still attending Cupertino schools. Perhaps not.

Main Street and Apple campus are not up, but we could already see downsides of all new apartments and condo developments around valco mall neighborhood. The traffic is a mess and so is environmental pollution. You could name any street, be it weekend or weekday, it is extremely scary to walk or bike in the street unless you are living in home confinement. Parents are increasingly worried with their children biking to school, so am I. Our work and commute time to home has already gone up by 30%. We as a community are opposed to bringing in any more housing development in this neighborhood and rezoning. Is the council listening to the community or business? Our over crowded high schools are becoming sub standard fitting within lower band in the nation though we claim ours as best in state. Our students are constrained on what classes to choose because of size of the student population. We hear that the promoter of Hills is naive enough to propose another elementary school next to Collins. Why are they not proposing a school in the Hills development if they care for the community? Having a park on the roof top is just a mere joke to keep the neighborhood green.

I would propose that we take this up in next general election as a measure. This project is not super critical and it could wait until next year. i am pretty sure this project doesn't have legs to pass.

Please save our community, you could do it. Together, we will rebuild green and great Cupertino that it used to be.

Thanks,
Prakash

From: Sanjay Gupta K [mailto: [REDACTED]]
Sent: Wednesday, October 28, 2015 10:54 PM
To: City of Cupertino Planning Dept.
Subject: STOP Hills at Valco
Importance: High

I OPPOSE the HILLS at Valco. I have spoken to many residents around me and they are all alarmed at this development.

The traffic situation on 85 and 280 freeways has become really bad. In addition, main Cupertino streets such as De Anza Blvd & Stevens Creek Blvd is become very bad.

I am getting so many mails about redevelopments in Cupertino. The rampant development in the city of Cupertino MUST stop. Our quality of life in this city is degrading.

With Apple mega-campus not yet even complete, there is only so much development this city can take. Please stop this.

Sanjay Gupta

[REDACTED]

From: Wilson [mailto:]
Sent: Wednesday, October 28, 2015 9:14 PM
To: rmoulds@shpco.com; dyoung@irvinecompany.com; cmarsh@irvinecompany.com; applecampus2@apple.com; David Stillman; SAbbas@sunnyvale.ca.gov; colin@bikesiliconvalley.org; mark@bikewalk.org; perry.woodward@ci.gilroy.ca.us; board.secretary@vta.org; paula.bawer@dot.gov
Cc: Tiffany Brown; Piu Ghosh; ken.alex@gov.ca.gov; City of Cupertino Planning Dept.; Reed Moulds; commute@apple.com; Mark.Rosekind@dot.gov; Community.Outreach@vta.org; info@walkfriendly.org; prevent@preventioninstitute.org
Subject: Prioritizing Pedestrian, Bicycle and Public Transit Access in Cupertino, CA

Reed Moulds
Managing Director
Sand Hill Property Company, Vallco

Daniel Young
Community Development
Irvine Company, The Hamptons

Chris Marsh
Apartment Development
Irvine Company, The Hamptons

Edith Sandoval
Project Coordinator
Apple Inc., Apple Campus 2

Tiffany Brown
Piu Ghosh
Project Managers
City of Cupertino

David Stillman
Senior Civil Engineer
City of Cupertino

Shahid Abbas,
Traffic and Transportation Manager
City of Sunnyvale

Colin Heyne
Deputy Director
Silicon Valley Bike Coalition

Mark Plotz
Program Manager

The National Center for Bicycling & Walking

Perry Woodward
Office of the Board Secretary
Santa Clara Valley Transportation Authority

Alex Ken
Director
Governor's Office of Planning and Research

Paula Bawer
Program Manager
National Highway Traffic Safety Administration

Dear All,

My family has lived in Cupertino for the past 15 years and we are excited for the billion dollar developments being planned, particularly the Apple Campus 2, The Hills at Vallco and The Hamptons apartments. Interestingly, these three projects have in common a close proximity to N Wolfe Road and the ramp exit to Interstate 280. Hence, a coordinated effort by all involved to minimize traffic congestion and ensure the safety of pedestrians and bicyclists is crucial. [please see "3 projects on Wolfe.jpg" and "280 entrance.png" below]

<http://thehillsatvallco.com>

<http://www.hamptonscupertino.com>

To that end, it is commendable that both The Hills and The Hamptons will offer additional residential units, which is critical in establishing a city where people can live in close proximity to their workplace, thus minimizing vehicle traffic. Integrating housing with business development is smart design, and it will ensure that Cupertino remains a community rather than a business park filled with parking lots. More diverse housing options are clearly needed, and home ownership increased, to create a stable community.

But in order to really integrate large development projects into the neighborhoods nearby, pedestrian and bicycle paths need to be widely and safely available.

As you may be aware, a large number of people who live and work in Cupertino walk or use bicycles. Apple's bicycle sharing program alone means that thousands of employees are cycling on the roads, and with the construction of Apple 2, thousands more will be added. The area around Apple's campus 1 near N De Anza Blvd is often filled with pedestrian and bicycle traffic, including children on their way to and from school.

https://www.apple.com/environment/pdf/Apple_Facilities_Report_2013.pdf

<http://www.bizjournals.com/sanjose/news/2013/06/05/cost-of-getting-apple-employees-out-of.html>

Ensuring that sidewalks and bike paths are part of all neighborhoods in Cupertino must, therefore,

be a top priority.

There should be sidewalks and bike lanes on both sides of N. Wolfe Road so that employees and residents from the surrounding neighborhoods can walk or bike to The Hills at Vallco and nearby businesses for dining, shopping or entertainment. Not including safe pedestrian and bike paths will necessarily mean more car traffic and will cause a segmentation of Cupertino that is not conducive to community living. We hope that installing sidewalks and bike lanes on N. Wolfe Road can be done without building an unsightly and massive highway that would discourage people – be it an elderly couple, a mother with a stroller, a child with a dog, a person in a wheelchair – from using N Wolfe Rd without a car. For this reason, keeping N Wolfe Rd close to the existing size would be ideal. Hopefully the addition of public transportation by VTA in the form of more frequent buses and shuttles will also aid in keeping N Wolfe Rd close to its existing size and 280 less congested. Perhaps just the addition of a crosswalk button and lights that allow pedestrians to cross the entrance to 280 safely, as well as better marked bike lanes, will be enough. [please see “280 cross.jpg” below]

In addition to ensuring that pedestrians and bicyclists can access The Hills at Vallco and beyond via N. Wolfe Rd, another path should be created for non-car traffic by opening the wall along Perimeter Rd. and Amherst Dr. to allow people on foot or on bicycles from nearby neighborhoods to safely reach the Vallco shopping area. [please see “Amherst Dr wall.jpg” “Perimeter & Amherst Dr.png” and “Amherst & Perimeter Rd.png” below]

A great model for this is the discrete opening along the wall at the east end of Greenleaf Dr. that separates residences from Bandley Dr. and Mariani Avenue, where many businesses, including Apple offices, schools, bus stops and restaurants are located. Because of this wall opening, many students and employees can access these areas safely, quickly and without a car, while blocking car traffic preserves the peace and tranquility of the residential areas. [please see “Greenleaf & Mariani & Bandley.jpg” and “Greenleaf & Bandley Dr.png” below]

Literally connecting all new construction projects to existing neighborhoods via sidewalks and bike paths will make Cupertino more environmentally friendly, more cohesive and safer. Not only because the infrastructure will be there to discourage single occupancy car traffic that creates congestion and isolation, but because a real community will be formed by allowing people to meet their neighbors on the sidewalk, to do their shopping on foot, to exercise outdoors, to walk to restaurants or entertainment, to walk or bike to work or bus terminals, and to form a human presence on the street that discourages burglaries and robberies.

A walkable, bike friendly and interconnected Cupertino will promote a "small town feel" that increases quality of life and well being for all. Currently many streets do not have sidewalks or marked bike paths. Please invest in building and maintaining these vital resources, which are made even more essential by new construction projects.

<http://preventioninstitute.org/component/jlibrary/article/id-345/127.html>

Thank you very much for your time and consideration.

Sincerely,

Dr. and Mrs. Wilson
Cupertino, CA

<3 projects on Wolfe.jpeg>
<280 entrance.png>
<280 cross.jpeg>
<Amherst Dr wall.jpeg>
<Perimeter & Amherst Dr.png>
<Amherst & Perimeter Rd.png>
<Greenleaf & Mariani & Bandlely.jpeg>
<Greenleaf & Bandlely Dr.png>

<280 entrance.png><3 projects on Wolfe.jpeg><Amherst Dr wall.jpeg><280 cross.jpeg><Amherst & Perimeter Rd.png><Perimeter & Amherst Dr.png><Greenleaf & Bandlely Dr.png><Greenleaf & Mariani & Bandlely.jpeg><Walkability.Final.2.pdf>

On Oct 29, 2015, at 4:32 PM, GEOFFREY PAULSEN [REDACTED] > wrote:

Dear Dr. & Mrs. Wilson.

Thank you very much for your thoughtful email regarding bike access to Vallco.

From: Wilson [mailto:[REDACTED]]
Sent: Tuesday, November 03, 2015 10:10 PM
To: GEOFFREY PAULSEN
Cc: [REDACTED]; Cupertino Recreation and Community Services; City of Cupertino Planning Dept.; David Stillman; [REDACTED]; barry@railstotrails.org; [REDACTED]; Piu Ghosh; Tiffany Brown; rmoulds@shpco.com; dyoung@irvinecompany.com; commute@apple.com; general.manager@CupertinoHilton.com; Melissa.vela@marriott.com; Customer.care@Marriott.com; Barry Chang; Rod Sinks; Board.Secretary@vta.org; so.website@sheriff.sccgov.org
Subject: Re: Prioritizing Pedestrian, Bicycle and Public Transit Access in Cupertino, CA

Dear Mr. Paulsen,

Thank you for your very informative reply. We certainly support and thank you for your efforts to increase bicycle and pedestrian access throughout Cupertino, and are saddened to learn that there has been opposition to this worthy endeavor. However, because increasing bikeways and walkways is clearly in the best interest for the future of Cupertino, the current Bicycle Plan must be amended regardless of the opposition for the following reasons:

1) Openings around Vallco's perimeter wall would mainly be used by residents of Cupertino, since "out-of-towners" would most likely drive or use public transportation from nearby cities. Hence, the wall openings are for the benefit of our neighbors. They allow all residents the opportunity to reach major shopping and restaurant areas in three different forms of transportation. But without the openings around Vallco's perimeter wall, some residents are forced to take much longer and inconvenient paths, which are deterrents, or use cars, which add pollution and congestion to our streets. Clearly many more residents lose out without the perimeter wall openings, which means that the City of Cupertino loses out since someone in a car may easily travel outside the City to other shopping and dining destinations.

2) Foot and bicycle pathways allow community members to become the "eyes and ears" of the City, which helps with crime prevention: "Paths intended for day and evening use are more secure if located near residences, which provide passive surveillance" [please see the attached document "nmtguide.doc"]. "People using a designated space for a legitimate activity (ie: pedestrians in a neighborhood, people in a park, etc.) These people offer natural surveillance, which increases the likelihood that criminal activity will be observed. Criminals are more likely to commit their crimes in an environment where they can get away with it unobserved" [please see the website: <http://www.muni.org/Departments/police/ComAffairs/Pages/cpted.aspx>]. If residents near the wall are concerned about crime, a security guard that monitors the wall could be added.

3) Cupertino is on its way to becoming a world-class city and a major tourist attraction because it is at the heart of Silicon Valley, which serves as a beacon for people worldwide interested in advanced technology that brings wealth and prosperity to many. Walking and biking tours can become part of the City's growing economy if the infrastructure is put in place. Moreover, the "promenade," where large numbers of people can walk and shop leisurely, is a standard architectural feature in destination cities like Vienna (<http://youtu.be/NsvFt5ZTYXI>) and Paris (<http://youtu.be/csJupEA1ICI>). All roads, from small alleys to major roads, lead to these large pedestrian zones. The area around Vallco and "Main Street" is capable of becoming Cupertino's promenade. In fact, the existing perimeter wall likely is a contributing factor in Vallco's decline, since it boxes out casual shoppers and impedes the "window shopping" experience that leads to purchases. The wall effectively makes the mall disappear, which certainly contributes to its inability to draw in the number of shoppers needed to make it viable for popular retailers like Apple to open stores there. To ensure a natural flow that can help new ventures succeed, it is of utmost importance that bikeways and walkways reach major shopping areas like these, which will also minimize the intrusion of cars and the dangers that they pose. If residents near the perimeter wall are concerned about people driving to their neighborhoods to park close to the mall and then use the wall opening, then the car entrances to Vallco need to be more attractive to drivers than side streets near the mall by making sure that there are enough parking spaces easily available at the mall.

4) Having the openings around the perimeter wall allows people on foot or on bikes to be on quieter, safer, streets, rather than being forced to share one major road with all vehicles. This will decrease the probability of fatalities due to motor vehicle collisions. Again, for the physical safety and wellbeing of the majority of the residents of Cupertino, the perimeter wall should be opened to pedestrian and bicycle traffic.

5) The segmentation of Cupertino by blocking residents from reaching central zones on foot or on bike is an impediment to community development. Encouraging residents to do their shoppings and dining on foot or on a bike is not only healthier to their physical wellbeing and that of the environment, but also for the wellbeing of the community, because it allows neighbors the chance to meet each other on the street and form a "small town" community within a large, prosperous and cosmopolitan city. In other words, this type of infrastructure is capable of promoting better physical, environmental and mental health, which is the responsibility of government to support. Moreover, all outdoor commercial areas, particularly those that encompass residences and restaurants, should be smoke free zones. We also urge you to create an anti-smoking ordinance like California Labor Code 6404.5 in Cupertino:

<http://www.lafd.org/smoking-ordinance>

Lastly, regarding pedestrian and bike access on N Wolfe Rd that reaches the Vallco area and crosses the exit to 280, we would like to advocate for our neighbors at the Hamptons apartments, the Arioso Apartments, the residential area bounded by Heron Avenue and Linnet Lane, the residential area along Homestead Rd, as well as the visitors that stay at the Hilton Garden Inn and the Marriott Courtyard Hotel. All the people geographically represented here deserve walkways and pathways to major shopping and dining areas like Vallco and Main Street that are safe and inviting, which may be easily accomplished by adding a crosswalk button and lights to the exit to 280 on N Wolfe Rd. Similar crosswalks exist on N De Anza Blvd and 280 near the Apple Campus 1, which makes walking and biking around this area possible [please see "crosswalk 280.jpg" and "crosswalk 280 DA.jpg" below]. Currently around N Wolfe Rd and the 280 exit, it is very intimidating and dangerous to cross traffic. Fixing this for residents as well as visitors and employees working at or near the Apple Campus 2 will lead to a walkable and bike-able Cupertino that encourages community and commerce.

In sum, the neighborly thing to do, the safer thing to do, and the best investment in Cupertino's future is to make pedestrian and bicycle access widely available. To not do so because a small group of residents oppose change in any form is not reasonable. Balancing any opposition against the clear benefits of increased walkway and bikeway connectivity makes it obvious that acquiescing to nondescript fears will have a negative impact on Cupertino's future and all of its residents. With smart planning the changes that must come in order to accommodate growth will be positive for Cupertino. It would be irresponsible to ignore the reality that Cupertino is at the nexus of a booming global industry. Business grows here and that is why so many want to live here. The City of Cupertino does not have the option to ignore its

new role on the world stage. However, in order to maintain a high quality of life for its residents, Cupertino needs to invest in walkways and bikeways urgently.

The research is in and cities like New York, Boulder and Portland that have incorporated walkable neighborhoods have seen tremendous benefits [please see the links below]. Simply put, walkable cities increase the well-being of residents. Cupertino must not delay in implementing the best practices, particularly at this exciting time when decisions will shape the future of the City.

Janette Sadik-Khan, Commissioner New York City Department of Transportation:
<https://youtu.be/diVUmYc2ZWo>

Jeff Speck, City Planner, Walkability:
<https://youtu.be/uEkgM9P2C5U>

Kent Larson, MIT Media Lab:
<https://youtu.be/yKCJ2qzYEtl>

Attractive City:
<https://youtu.be/Hy4QjmKzF1c>

Thank you once again for your time and consideration.

Best wishes,

Dr. and Mrs. Wilson
Cupertino, CA





Existing crosswalks
N De Anza Blvd and 280

From: Shaupoh Wang [mailto: [REDACTED]]
Sent: Friday, October 30, 2015 3:45 PM
To: City of Cupertino Planning Dept.
Subject: No to Hills at Vallco

Hi,

I am strongly against the Vallco project proposed by Sand Hill Property for two reasons:

(1) The area simply does not have the traffic system to handle the traffic of 650,000 square feet of shops, 800 apartments and 2 million square feet of office, in addition to the new 3.5 million square feet office of Apple HQ. Running bus is no solution, for few people will take it.

(2) Sand Hill Property does not have the successful track record of managing large and complicated development project. The company over promised in the main-street project and fell short of delivering the sport club and senior housing as promised. More significantly, the company defaulted in a 100-million loan in 2009.

Regards,
Shaupoh Wang

From: Jing Lin [mailto: [REDACTED]]
Sent: Saturday, October 31, 2015 9:24 PM
To: City of Cupertino Planning Dept.
Subject: comments for Environmental Impact Report for The Hills at Vallco

Hi,

I lived in Cupertino and am very concerned about the future increase of needed school capacity. Please include this in the impact report.

Thanks

From: The Yuens [mailto: [REDACTED]]
Sent: Saturday, October 31, 2015 2:48 PM
To: City of Cupertino Planning Dept.
Subject: Vallco Project

I am concerned about the parking plans for the new Vallco project.

The project will conform to what the city requires. I would like to see parking spaces large enough for the many minivans in Cupertino. Many of the parking spaces in the city are too small for me to maneuver out of...for example, the parking behind Panera and Peet's the lane is so narrow that I hate to go to these venues. I hope the city will "require" larger parking spaces for my minivan.

There have not been enough spaces for the retail areas - Panera, Marukai, Trader Joe's, all of the parking areas in Cupertino have been too small. I believe that the proposed project will have 9000 parking spaces. This is the same number as Valley Fair. Valley Fair does not have any office space, hotel, or residential spaces. The office space will have regular employees. There is not any close alternatives for any overflow parking. I am concerned about having adequate parking. I understand that the residential spaces will have their own parking. I understand that in the past the city had considered only 1.5 parking spaces per unit. This equation would mean that for 6 units, there would only be 9 parking spaces. This seems woefully inadequate if the residences are designed for families. You would probably have 12 cars fighting for the 9 spaces.....or for the 800 units, 1200 spaces for the probably 1600 cars so those extra 400 cars and any guests will be using other parking spaces.

Thank you for your consideration and your effort to make Cupertino a wonderful livable community.

Warm Regards,
Ione Yuen

From: Kent Vincent [mailto: [REDACTED]]
Sent: Monday, November 02, 2015 10:57 AM
To: Rod Sinks; Barry Chang; wong@cupertino.org; Savita Vaidhyanathan; Darcy Paul; City of Cupertino Planning Dept.
Subject: THE NUMBERS: WHY THE COUNCIL MUST VOTE NO ON THE HILLS AT VALLCO

THE NUMBERS: WHY THE COUNCIL MUST VOTE NO ON THE HILLS AT VALLCO

Dear Councilmember,

This letter is to present the Council with compelling traffic and greenhouse gas impact numbers, CEQA job-housing imbalance lawsuit exposure and significant revitalization failure risks that demand the Council disapprove rezoning Vallco for the proposed Hills at Vallco office build; and place a moratorium on all rezoning within the city that increases office space.

The 2M sf of office build proposed for The Hills at Vallco will increase the total number of employees who work in Cupertino and commute from other cities to over 47,000, nearly doubling the population of Cupertino every work day and making Cupertino's growth imbalance one of the primary causes of traffic congestion, transportation infrastructure cost and air pollution in the Bay Area. The exhaust from these commuter's vehicles alone will produce 700 tons of CO₂ greenhouse gas daily. 20,000 new commute vehicles will converge on Wolfe Rd. from Apple Campus 2 and the Hills at Vallco office space, alone. The Hwy 280 interchange at Wolfe even when doubled in ramp lanes will only be capable of handling 1400 to 3600 of these vehicles per hour during commute hours, meaning the vast majority of the new commute traffic will be directed into the neighborhoods of Cupertino and Sunnyvale. The severe nature of this is owing to the unnecessary office build at the Hills at Vallco. Adjusting the General Plan to accommodate the Hills office build and its 10,000 new office jobs without a counter-balancing increase in housing exposes Cupertino to the same court mandated job-housing balance imposed on the City of San Jose's General Plan Amendment this year, where the court mandated one home for each office space job created. Given the enormous office build at Apple Campus 2, any mixed use revitalization of Vallco should be retail-residential only not retail-office and be incented to housing Cupertino-based employees, particularly at Apple Campus 2, to reduce traffic congestion in the city. I am proposing a method to accomplish this.

TRAFFIC NUMBERS – IMPACT OF 2M SF OF OFFICE SPACE

The proposed Empire State Building equivalent OFFICE SPACE FOR THE HILLS AT VALLCO WILL LIKELY ADD 10,000 OR MORE COMMUTE VEHICLES TO WOLFE RD. This is based on the Silicon Valley standard 200 sf (square feet) and one commute vehicle per employee. The Empire State Building (2.1M sf) is the second largest office building in the U.S. following the Pentagon. It houses 1000 businesses collectively employing 23,000 workers¹.

To visualize the traffic impact, note that 10,000 commute vehicles parked in two lanes of Hwy 280 with 5 feet gridlock spacing extends 20 miles on its own (one car each lane every 21 feet), the distance between Wolfe Rd. and Crystal Springs Reservoir. Add another 10,000 commute vehicles from the adjacent new Apple Campus 2 and the two-lane congestion doubles to 40 miles, the

distance from Wolfe Rd. to San Francisco. THIS 40 MILES IN TWO LANES OF NEW COMMUTER VEHICLES WILL ENTER AND DEPART THE CITY OF CUPERTINO AT WOLFE RD. DURING COMMUTE HOURS EVERY WORK DAY, ABHORRENTLY ADDING TO THE TRAFFIC CONGESTION THAT ALREADY EXISTS.

The Hwy 280 interchange at Wolfe Rd. is woefully incapable of handling the added commuters, even if onramps are doubled from one to two lanes. The State of California sets its metering lights to allow 350-900 vehicles per hour to enter a freeway per onramp lane². The rate depends on freeway traffic congestion. Assuming the state expands the onramps in each direction to two lanes, the Wolfe Rd. interchange will only be capable of releasing 1400 to 3600 vehicles per hour onto Hwy 280 when metering lights are on. Apple Campus 2 will need all of this to handle its 10,000 vehicles over the 4 – 7 pm commute period, excluding all other existing traffic and eventual new traffic from Main Street and Vallco retail. ADDING 10,000 COMMUTE VEHICLES FROM THE PROPOSED HILLS AT VALLCO OFFICE SPACE WILL REQUIRE 5.5 – 14 HOURS TO VACATE THE PARKING LOTS OF JUST THE APPLE CAMPUS 2 AND HILLS AT VALLCO OFFICES ONTO THE FREEWAY ALONE DEPENDING ON METERING. Obviously, this isn't going to happen. THE BULK OF THE 40 MILES OF TWO-LANE NEW COMMUTE VEHICLES WILL BE DISTRIBUTED THROUGH THE STREETS OF CUPERTINO AND SUNNYVALE, CONSUMING AND GRIDLOCKING EVERY NEIGHBORHOOD THROUGHWAY AS COMMUTERS SEEK FASTEST COMMUTE ROUTES. The increased congestion on Stevens Creek Blvd., De Anza Blvd. and Homestead Rd. in concert with the doubling of traffic flow entering the 280 onramp lanes at Wolfe Rd. will certainly back southbound Hwy 280 traffic from the current backup point near the Hwy 85 interchange into Los Altos Hills on the southbound home commute. THIS WILL MAKE FOOTHILL EXPRESSWAY THE NEW LOGICAL FIRST FREEWAY RELIEF POINT OFF-RAMP FOR SARATOGA, LOS GATOS AND CAMPBELL COMMUTERS, as the currently free right-hand exit-only lane leading to De Anza Blvd on 280, will be fully immersed in the extended 280 congestion zone. THIS WILL CONGEST FOR THE FIRST TIME STEVENS CANYON RD. AND THROUGH STREETS SUCH AS MCCLELLAN RD, BUBB RD., LINDA VISTA DR., HYANNISPORT DR., SANTA TERESA AVE, WILKENSON AVE, COLUMBUS AVE, TERRACE DR., REGNART RD., MONROVIA AND BYRNE AVE IN THE WEST OF BUBB NEIGHBORHOOD.

MASS TRANSIT – NOT A MITIGATING FACTOR

The fully decentralized, fully suburban and vast area in which Silicon Valley homes and workplaces are located make mass transit a non-factor in fighting traffic congestion. THE SOUTH BAY'S LIGHT RAIL AND BUS MASS TRANSIT SYSTEMS OPERATE VIRTUALLY EMPTY BECAUSE THEY PROVIDE NO FIRST MILE / LAST MILE COMMUTE SOLUTION FOR THE VAST MAJORITY OF COMMUTERS. It is inconceivable that such a system could have stops within three blocks of both homes and workplaces for enough commuters to have a measureable impact on traffic. Such mass transit is only feasible for highly urbanized cities such as San Francisco. THERE IS NO FEASIBLE MASS TRANSIT ALTERNATIVE TO MITIGATE THE TRAFFIC CONGESTION PRODUCED BY THE PROPOSED OFFICE SPACE BUILD AT THE HILLS AT VALLCO. Sand Hill's mention of shuttles and VTA traffic mitigation is simply placatory for a problem that has not been addressed and is insolvable through mass transit.

ENVIRONMENTAL IMPACT – CEQA AND ABAG EXPOSURE

BY VIRTUALLY ANY STATE OR REGIONAL ENVIRONMENTAL METRIC, THE CITY OF CUPERTINO SHOULD NOT BE AUTHORIZING ANY REZONE TO OFFICE SPACE, NOW OR INTO THE FORESEEABLE

FUTURE. THE COMPLETION OF APPLE'S CAMPUS 2 WILL PUT CUPERTINO'S JOBS-HOUSING RATIO COMPLETELY OUT OF BALANCE. Of the 31,800 people employed in Cupertino only 5100 live here³, meaning 84% OF CUPERTINO'S WORKFORCE, 26,700 EMPLOYEES, COMMUTE HERE EVERY WORK DAY FROM OTHER CITIES. IN CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AND ABAG TERMS, CUPERTINO'S GROWTH IMBALANCE IN OFFICE DEVELOPMENT IS A MAJOR CAUSE OF THE COUNTY'S TRAFFIC CONGESTION, TRANSPORTATION INFRASTRUCTURE COSTS AND AIR POLLUTION. With the projected growth of 14,600 Apple employees AT THE COMPLETION OF CAMPUS 2, CUPERTINO JOBS GROWTH WILL SOAR TO NEARLY 46% OVER A 2-3 YEAR PERIOD DURING A PROTRACTED PERIOD WHEN CUPERTINO HOUSING IS GROWING ONLY 1.4% ANNUALLY³. Using the same statistics Cupertino-based employees commuting from other cities at that time will reach at least 39,000.

THE PROPOSED OFFICE SPACE AT THE HILLS AT VALLCO IS EQUIVALENT TO NEARLY A QUARTER OF ALL OF THE OFFICE SPACE IN THE ENTIRETY OF DOWNTOWN SAN JOSE⁴. If the 2M sf Hills At Vallco office space is approved and using the 84% statistic, THE NUMBER OF CUPERTINO-BASED EMPLOYEES FROM EXISTING, APPLE CAMPUS 2 AND HILLS AT VALLCO OFFICES COMMUTING FROM OTHER CITIES INTO CUPERTINO EACH WORK DAY WOULD BE EXPECTED TO EXCEED 47,000, A FLAGRANT CEQA AND ABAG IMBALANCE. IF WE PARKED THAT NUMBER OF VEHICLES ON HWY 280 IN TWO LANES, AS IF THOSE COMMUTING FROM OTHER CITIES WERE WAITING AT A GATE TO ENTER CUPERTINO EACH MORNING, THE VEHICLE BACK-UP WOULD EXTEND 94 MILES, THE DISTANCE FROM WOLFE RD. TO ROUGHLY SANTA ROSA! Assuming an average roundtrip commute of 25 miles and a standard 1.22 lbs CO₂ emissions per mile⁵, THE TOTAL CO₂ EMISSIONS FROM THOSE CUPERTINO-BASED EMPLOYEES COMMUTING FROM OTHER CITIES WILL BE OVER 700 TONS DAILY, 150 TONS DUE TO THE APPROVAL OF THE HILLS OFFICE SPACE ALONE.

CCEC V. CITY OF SAN JOSE AND ITS GENERAL PLAN – JOBS-HOUSING IMBALANCE LAWSUIT

The City of Cupertino cannot afford to ignore the environmental impact and job-housing imbalance issues incurred in the community and region by its General Plan and its development projects. In April of this year, a CEQA suit by the California Clean Energy Committee against the City of San Jose successfully over-turned its General Plan for failing to address the jobs-housing imbalance of its planned office space development. THE COURT FAULTED SAN JOSE FOR NOT PLANNING ENOUGH HOUSING TO ACCOMMODATE THE JOBS CREATED BY ITS GENERAL PLAN, PUSHING HOUSING AND TRAFFIC INTO OTHER COMMUNITIES TO ACCOMMODATE THOSE JOBS. THE COURT ORDERED SAN JOSE TO INCREASE ITS HOUSING UNIT ALLOCATION BY THE ENTIRE JOBS-HOUSING IMBALANCE SHORTFALL (109,000 HOMES) AND TO PAY THE ENTIRETY OF THE \$300,000 SUIT LEGAL COSTS^{6,7}. The proposed Hills At Vallco project and accommodating Cupertino General Plan Amendment exposes Cupertino to the same jeopardy. The city of Cupertino, its schools, infrastructure and lack of available land cannot accommodate the housing needed for the jobs that will be created by the Hills at Vallco, let alone Apple Campus 2. Environmental advocacy groups, such as the California Clean Energy Committee, make it their business to discover and force city jobs-housing balance to minimize regional traffic and pollution. It is inconceivable that the highly publicized and massive office build of the Apple Spaceship campus and The Hills At Vallco proposal / General Plan Amendment are not on the radar screen of these advocacy groups.

ENVIRONMENTAL IMPACT – IS CUPERTINO WORKING ON THE WRONG ISSUES?

THE MOST IMPORTANT TRAFFIC MITIGATING ENVIRONMENTAL IMPACT STATISTIC FOR CUPERTINO IS THE PERCENT OF ITS RESIDENTS WHO WORK IN CUPERTINO. If affordable housing and rents were the primary determinants then one would expect a reasonable number of highly paid engineering professionals at Apple to live here, at least rent. The fact is only 10% do, the same as live 40 miles away in San Francisco⁸. Obviously, other factors play an important role for where people hired in Cupertino opt to live.

Cupertino has long been a one-trick pony community that's main attraction is its excellent schools. Outside of the schools, Cupertino has very few standout features and several significant deficits, most importantly no downtown and the total lack of a social environment for the singles and millennials that compose the majority of the Apple and new Silicon Valley workforce. The significant disconnect between the demographics and lifestyle needs of the workforce of Cupertino, its residents and city offerings is certainly a major reason why Cupertino-based employees choose not to live here. VALLCO STANDS AS THE LAST HOPE FOR CUPERTINO TO CORRECT THIS PROBLEM. IDEALLY, THE REVITALIZATION OF VALLCO SHOULD BE CENTERED ON ATTRACTING THE YOUNGER GENERATION OF SINGLES AND MILLENNIALS WHO WORK HERE WITH THE BEST AND MOST ABUNDANT IN VALLEY OFFERING OF TRENDY AND FULLY ONLINE RESTAURANTS, COFFEE SHOPS, NIGHT CLUBS, SOCIAL MEETING POINTS, RETAIL SHOPS AND ENTERTAINMENT WITH COORDINATED URBAN HOUSING DESIGNED SPECIFICALLY FOR AND EQUALLY ATTRACTIVE TO THE TECHNOLOGY, ACTIVITIES AND LIFESTYLES OF THIS GENERATION...THE MOST COVETED PLACE TO LIVE (AND WALK TO WORK) FOR YOUNG APPLE EMPLOYEES. A vibrant retail center such as this would attract a healthy clientele weeklong and over longer hours, attracting also older generations and families who prefer "happening places" for entertainment and shopping as well. SAND HILL'S CURRENT PLAN TO REPLACE THE BULK OF THE RETAIL SPACE AT VALLCO WITH HIGH DENSITY OFFICE SPACE TOTALLY DEFEATS THIS POSSIBILITY AND CEMENTS, PERHAPS FOREVER, CUPERTINO'S INABILITY TO REVITALIZE THE CENTER AND INCREASE THE NUMBER OF ITS RESIDENTS WHO WORK HERE.

RISKS THAT OFFICE BUILD WILL PREVENT REVITALIZATION OF VALLCO

The risk factors against a successful revitalization of Vallco through the proposed Hills at Vallco development are extensive, obvious and underscore Sand Hill's inexperience in building and managing such a project. First, there is HIGH RISK THAT BOTH SHOPPERS AND RETAILERS WILL FIND THE HILLS AT VALLCO UNATTRACTIVE DUE TO VASTLY REDUCED RETAIL EMPHASIS (NO LONGER "DESTINATION RETAIL CENTER"), INCUMBERED ACCESS DUE TO HEAVY TRAFFIC CONGESTION AND EXCESSIVE MIXED USE COMPETITION FOR PARKING. These risks are underscored in the letter sent October 9, 2014 to Paul Brophy, Cupertino Planning Commission, by Sears' attorney Ivor Samson in which Sears analysis of the Hills at Vallco proposal forecast lower Sears revenue due to these factors⁹. Indeed, the proposed Hills retail space (discounting that allocated for concert area, public areas and innovation center) is far less than half of the current Vallco retail, and LESS THAN A QUARTER OF THE RETAIL SPACE OF ITS REGIONAL COMPETITOR AT WESTFIELD VALLEY FAIR^{10,11,12}. THE HILLS AT VALLCO IS NOT A 'REVITALIZATION OF VALLCO' AS A RETAIL CENTER BUT A TRANSFORMATION TO AN ENORMOUS OFFICE COMPLEX MATCHING IN OFFICE SPACE THE ENTIRE RETAIL SPACE OF VALLEY FAIR, BOTH 2M SF.

Shared parking is a significant and well documented risk for failure of mixed use developments and the risk at The Hills is particularly onerous. THE 10,000 HILLS OF VALLCO OFFICE WORKER VEHICLES REQUIRE MORE PARKING SPACES THAN THE ENTIRETY OF THE WESTFIELD VALLEY FAIR MALL,

INCLUDING THE NEW FIVE STORY PARKING STRUCTURE CURRENTLY UNDER CONSTRUCTION. THERE IS MAJOR RISK THAT COMPETITION FOR CONVENIENT, QUICKLY FOUND PARKING SPACE WILL DETRIMENTALLY FRUSTRATE THE HILLS AT VALLCO SHOPPERS. Assuredly, many of the retail parking spaces will be more convenient to office workers than the least convenient multi-story office parking spaces, assuming they are separated and designated as such. IT IS INCONCEIVABLE THAT RETAIL SHOPPERS WILL BE GATE-CHECKED OR GIVEN A PASS TO ENTER ANY RETAIL SHOPPING PARKING AREA TO DISTINGUISH THEM FROM OFFICE WORKERS WHO WILL TAKE THE MAJORITY OF HILLS PARKING SPOTS ON WEEKDAYS PRIOR TO THE OPENING OF MOST RETAIL SHOPS. THERE IS SIGNIFICANT RISK, THEREFORE, THAT WEEKDAY SHOPPERS WILL SUFFER CHRISTMAS-LIKE PARKING FRUSTRATION THROUGHOUT THE YEAR AT THE HILLS BECAUSE OF THE CO-EXISTENCE WITH 2M SF OF OFFICE SPACE. THIS ASSUREDLY WILL DECREASE RETAIL TRAFFIC AND POTENTIALLY DOOM THE RETAIL REVITALIZATION OF THE SITE.

Sand Hill Properties has no experience in building or maintaining the environmentally attractive 30 acre green toupee of The Hills at Vallco. Park maintenance will be a very expensive, budget-draining proposition. A small army of full-time gardeners, landscapers, arborists and other specialists must be employed year around to maintain the nearly 23 football fields of meadows, vineyards, orchards, organic gardens, children's play areas, walking and jogging trails promoted by Sand Hill. There is foreseeable risk that crew cutbacks during any challenging economic time would convert this centerpiece of the project to the area's greatest elevated eyesore. There is risk also that office businesses will find it unattractive or unbearable to have office windows that receive no natural sunlight due to the covering. Like the senior housing scenario at Main Street, THERE IS REASONABLE RISK THAT SAND HILL PROPERTIES WILL DISCOVER A NECESSITY TO DROP THE SIGNATURE PARK-LIKE COVERING OF THE HILLS EXPOSING THE UNATTRACTIVE 2M SF OF HIGH DENSITY OFFICE AND ITS PARKING STRUCTURES THAT LIE BENEATH.

A final risk is funding. BANKS CONSIDER MIXED USE DEVELOPMENTS RISKY for all of the reasons stated above. And THIS DEVELOPMENT IS MORE COMPLEX AND RISKY THAN MOST MIXED USE DEVELOPMENTS. When retail, office and residential units go vacant developers have trouble making loan payments. THERE IS REASONABLE RISK THAT SAND HILL PROPERTIES WILL NOT BE ABLE TO SECURE THE ENORMOUS LOAN REQUIRED TO CONSTRUCT THE HILLS AT VALLCO AS PROPOSED, ESPECIALLY GIVEN THE MAJOR ISSUES INTRODUCED BY THE ENORMOUS OFFICE SPACE COMPONENT, TRAFFIC, SHARED PARKING AND CONSEQUENT RETAIL SURVIVAL RISKS.

SAND HILL'S DECEPTIVE MARKETING AND POLLING

Sand Hill Properties has undertaken a significant and highly deceptive marketing campaign aimed at getting the bulk of Cupertino residents to submit written postcard mail-in support for the project. Undoubtedly, a statistic will be presented to the Council by Sand Hill showing vast resident support when the critical vote for rezoning is taken. The problem is that Sand Hill has not disclosed in its very seductive mailers, Hills at Vallco website and town meetings the fact that the bulk of Vallco revitalization, 2M sf, will be office space filled with 10,000 employees who will commute to Cupertino every work day. Such disclosure, of course, would kill the project by triggering a whole set of resident concerns including marginalization of the new shopping center, abhorrent traffic, added housing requirement and their collective impact on schools. Within my network, residents who've discovered the omission are furious over the deception, especially after having given their written

support of the project. Any resident approval statistic submitted by Sand Hill Properties should be dismissed by the Council.

WHY DEVELOPER'S PUSH OFFICE SPACE IN CUPERTINO- CITY OF PALO ALTO MORATORIUM

Why are we seeing so many developer proposals to rezone Cupertino retail to office space (Vallco, The Oaks)? CUPERTINO IS A MAJOR DEVELOPER TARGET IN SANTA CLARA VALLEY FOR CONVERSION DUE TO THE WINDFALL ANOMALY THAT OFFICE LEASE RATES HERE ARE NOW OVER 40% HIGHER THAN RETAIL LEASE RATES AND 40% HIGHER THAN OFFICE, RETAIL AND RESIDENTIAL LEASE RATES IN GENERAL IN SANTA CLARA VALLEY¹³. The current office lease rate in Cupertino is \$42.90 /sf/yr and skyrocketing at +24.3% annually, while the lease rate for retail is \$30.20/sf/yr and growing at less than half the office rate. The county average lease rate is about \$30 /sf/yr for both retail and office space. The applicable square footage is multiplied through multi-story office construction, making it far more profitable than single street level retail. THIS BRINGS SAND HILL PROPERTIES' MULTI-STORY OFFICE CENTRIC 'REVITALIZATION' DESIGN FOR VALLCO, ITS UNADDRESSED TRAFFIC AND ENVIRONMENTAL IMPACT PLANNING, ITS OFFER TO BUILD A FREE-TO-THE-CITY SCHOOL AND INNOVATION CENTER IN EXCHANGE FOR REZONING, IT'S EXPENSIVE AND DECEPTIVE MARKETING AND SURVEY CAMPAIGN INTO TOTAL FOCUS. SAND HILL'S REVENUE FROM JUST OFFICE SPACE LEASING AT THE HILLS ALONE SHOULD EXCEED \$100M ANNUALLY, MUCH MORE THAN IF 'REVITALIZED' TO THE INTENDED SHOPPING CENTER. The mission of a company is to be maximally profitable and THE HILLS AT VALLCO IS EXACTLY WHAT ONE MIGHT EXPECT FROM A DEVELOPMENT COMPANY DOING THE DESIGN.

Faced with similar growth and traffic issues and loss of retail space, the City of Palo Alto passed an emergency ordinance in May prohibiting the rezoning of ground-floor retail space into office. The move was made to preserve the City's "slow-growth residential philosophy" and "protect its resident's health, safety and welfare" ¹⁴. A similar philosophy and action is desperately needed in Cupertino.

A BETTER APPROACH TO VALLCO REVITALIZATION

In my opinion, the revitalization of Vallco should include two critical elements: First, an innovative, game change shopping destination sustainably competitive with Valley Fair, other regional successful shopping centers and downtowns; and second, integrated urban residential units designed, structured, regulated and incented to house within easy walking distance or inter-city shuttle the millennial and subsequent generations of Apple and other Cupertino-based employees who work at Campus 2, other Apple and Cupertino employee campuses. This design approach provides several most important city benefits. First, it CREATES THE 'REVITALIZED' VALLCO THAT RESIDENTS DESIRE. Second, it REDUCES COMMUTER TRAFFIC AND CARBON FOOTPRINT within Cupertino and the Bay Area. Third, the residential units and total lack of included office space will REDUCE ABAG, CEQA AND OTHER ENVIRONMENTAL ADVOCY GROUP PRESSURE FOR MORE HOUSING AND ITS CONSEQUENT EFFECT ON SCHOOLS AND TRAFFIC. Fifth, regulated to omit children, the residential element will have ZERO IMPACT ON SCHOOLS. Sixth, the high density residential units will provide an ATTRACTIVE PROFIT COMPONENT FOR THE DEVELOPER AND REZONE LEVERAGE FOR THE CITY TO MAKE SURE THE DESIGN IS DONE TO MEET THE NEEDS OF THE CITY AND ITS RESIDENTS.

The retail component should first include favorable numbers, quality and types of shops, including anchor stores like Macy's, and attractive ambience to create a "shopping destination" sustainably competitive to its primary competitor at Valley Fair. For the single and millennial generation, the mix should also include trendy restaurants, best in area sports bars and night clubs with evening bands and entertainment, theatres, sports stores, coffee shops and mobile centric eateries that provide nutritional, good value meals that can be ordered and paid ahead via mobile device by the young "don't-want-to-cook" residents for pick up on the walk home from work. A game change addition would include complete mobile device connection with every shopper, providing such things as locations of available parking, directions from current location to specific shops, shop search for desired retail items, shop information, sales and mobile coupons, mobile food and item ordering, show times and ticket ordering... all available on a center-specific mobile app that fully enriches the shopping experience. The center should contain Apple's flagship store, due to its next door location to the Apple Spaceship HQ. The mix of extensive retail and urban millennial housing provides a most attractive business environment with far fewer risk factors for attracting and retaining the best and most popular retailers.

The design of the residential component needs to be prioritized on two basic elements: first, its unparalleled appeal to young single and millennial Cupertino-based employees and, second, its full access integration with the retail center. Features should include built-in and upgradable mobile device home functionality, built-in secure Wi-Fi, wall-mounted flat panel TV, gas insert fireplace, in-suite dining and entertainment areas and street level bicycle lockers. Rents for Cupertino-based employees should be discounted and include perks like free or discount gym membership within the center. Some units should be furnished to attract new college hires.

In this scenario, the Apple Spaceship HQ and adjacent revitalized Vallco center will highlight the innovation of Cupertino, both in technology and green growth solutions.

I encourage the City of Cupertino to vote against rezoning Vallco and thereby disapprove of the proposed mixed retail-office Hills at Vallco design. The enormous office component is unnecessary, will only benefit the developer, will force enormous detrimental traffic impact on the city and neighboring communities and expose the City of Cupertino to potential CEQA litigation over gross jobs-housing imbalance. THE COUNCIL SHOULD KEEP IN MIND THAT WHILE AN AVERAGE CUPERTINO RESIDENT MAY BENEFIT FROM THE HILLS AT VALLCO REVITALIZATION TWO OR THREE TIMES PER MONTH ITS OFFICE SPACE WILL SUBJECT EACH RESIDENT TO DEBILITATING TRAFFIC EVERY DAY. An alternative retail-residential mixed use approach as outlined above is far better for Vallco revitalization. It offers far less risky development that lowers traffic congestion and the City's jobs-housing exposure. In short, the City should send Sand Hill Properties back to the drawing board. When you complete reading this letter, I would appreciate your replying to the email (e.g. received, thank you) to let me know that it's been received and read.

Best regards,

Kent Vincent
Cupertino

¹ Wikipedia, Empire State Building

² *Ramp Management and Control Handbook*, Federal Highway Administration, US Dept. of

Transportation

³ Cupertino General Plan Amendment Market Report Feb. 2014

⁴ *The Problems with the Hills at Vallco*, San Jose Mercury News Oct. 3, 2015

⁵ *Rolling Carbon: Greenhouse Gas Emissions from Commuting in New York City*. Transp. Alternative, Oct. 2008

⁶ *San Jose's general plan imperiled by greenhouse gas lawsuit*. Silicon Valley Business Journal, March 24, 2015

⁷ *San Jose's Traffic-Intense General Plan Held Unlawful*, California Clean Energy Committee, May 7, 2015

⁸ Jason Lungaard, State and Government Affairs, Apple

⁹ <https://drive.google.com/file/d/0B7RMc9DXGhUAUVhTQ1B1UU9tSVU/view?pli=1>

¹⁰ *The Hills at Vallco*, Cupertino.org

¹¹ Vallco 1.3M sf. The Registry, Bay Area Real Estate, August 27, 2015

¹² Wikipedia, Westfield Valley Fair

¹³ LoopNet, Sept. 2015

¹⁴ *Palo Alto passes emergency law to protect ground floor retail*, Silicon Valley Business Journal, May 12,

From: Mark Satter [mailto: [REDACTED]]
Sent: Tuesday, November 03, 2015 3:42 PM
To: Rod Sinks
Subject: SMALL BUSINESS OWNERS

Rod G. Sinks

Tel: 408.777.3194

Email: rsinks@cupertino.org



Mr, Rod

I like to bring it to your kind notice that Mr Peter pau the new owner of the mall is creating to many problem.

They want kick us out for no reason, first they say they will pay for relocation and now they are forcing us to close our businesses.

We have been there for almost twenty years we build goodwill and invested around 200K.

Please help us small business owners Vallco Mall

Regards

Moe Satter
[REDACTED]

From: Liang C [mailto:]
Sent: Thursday, November 05, 2015 12:34 AM
To: City Council; City of Cupertino Planning Dept.; David Brandt
Subject: City has Policy Power over Properties - Palo Alto fines Sand Hill \$1,000 per day for violation

Dear Mayor Sinks, Vice Mayor Chang and Councilmembers,

How much right does a city have on private properties?

The city in fact could be quite powerful as long as you are willing to assert your right.

The property owners do not have a right to do whatever they want with their property. That's the basics of Land Use law. The City Council should know that and practice that. The general plan, master plans and specific plans in every city can specify the height, setback, density, even architecture, materials used, what type of retail shops or business in a commercial property, and even what type of occupants in a residential property. **The City has police power on all properties in the city to ensure health, safety and welfare of the City.** For the welfare of the residents, access to affordable retail shops is essential. **Please do not use the property owner's right as an excuse to benefit Sand Hill or any other developer at the expense of health, safety and welfare of the residents.** Please exercise the City's police power to protect the City and the residents.

The City should look into ways to require a minimum percentage of operational retail space for the current or future Vallco or other mixed use projects. Otherwise, a developer who wants to turn any retail space into office could simply intentionally not find a good tenant to rent the space out.

Palo Alto is able to fine Sand Hill \$1000 per day just because a store is not occupied by a grocery store, promised as a public benefit.

"[The Land Use 101, a field guide](#)" by [cacities.org](#) states

"Virtually every reference guide on Municipal Law begins with the premise that **a city has the police power to protect the public health, safety and welfare of its residents.** See Berman v. Parker , (1954) 348 U.S. 26, 32 - 33."

"The ability to enact ordinances to protect the health, safety and welfare is important in the land use context because it confers very broad rights to adopt regulations that implement local land use vision and values,..."

"Land use and zoning regulations are derivative of a City's general police power... This power allows cities to establish land use and zoning laws which govern the development and use of the community.....The police power is not confined to elimination of filth, stench and unhealthy places. It is ample to lay out zones where family values, youth values, and the blessings of quiet seclusion and clean air make the area a sanctuary for people."

"One seminal land use and zoning case underscoring a city's police power was Wal - Mart Stores Inc. v. The City of Turlock , (2006) 138 Cal. App. 4th 273, 303 where, in response to concerns over the

impacts of big box stores, particularly Wal - Mart, the City of Turlock adopted an ordinance prohibiting the development of discount superstores."

"The court found the **police power allows cities to "control and organize development within their boundaries as a means of serving the general welfare."**

This article lists the many violations of Sand Hill just at Main Street alone, which the Planning Department, and thus the City, have chosen to ignore. The city did not exercise your police power. <http://bettercupertino.blogspot.com/2015/08/many-violations-at-main-street-sand-hill.html>

Below (end of the email) are some references to Sand Hill's violations in Palo Alto. **Palo Alto is able to fine Sand Hill \$1000 per day** just because a store is not occupied by a grocery store, promised as a public benefit.

Sand Hill is now forcing Vallco to become vacant before the Vallco redevelopment project is even approved. This should not be allowed. Vallco mall provides a service to the City, just as the grocery store in Palo Alto provides the service to their community.

Could the City investigate a way to request Sand Hill to keep Vallco operational? At least Sand Hill should not intentionally kill it. The mall provides retail services that's essential to the welfare of the residents. Before the redevelopment project is approved, Sand Hill should be required to keep the mall operational. Or at least 50% of the mall.

If the City couldn't put enforcement according to the current code, the City should look into ways to require a minimum percentage of operational retail space for the future Vallco or other mixed use projects. Otherwise, a developer who wants to turn any retail space into office could simply intentionally not find a good tenant to rent the space out.

In fact, this is the trick the previous Vallco owner and the owners before that have been playing. As long as Vallco doesn't do well, the City would turn Vallco into a more profitable office park. What incentive is there for any mall operator to provide the much needed retail service to Cupertino residents? None.

The property owner doesn't have a right to do whatever they want with their property. That's the basics of Land Use law. The City Council should know that and practice that. The general plan, master plans and specific plans in every city can specify the height, setback, density, even architecture, materials used, what type of retail shops in a commercial property. **The City has police power on all properties in the city to ensure health, safety and welfare of the city.** For the welfare of the residents, access to affordable retail shops is essential. **Please do not use the property owner's right as an excuse to benefit Sand Hill or any other developer at the expense of health, safety and welfare of the residents.** Please exercise the City's police power to protect the City and the residents.

Sand Hill's violations in Palo Alto:

- 2013: knocking down a historic building that they are supposed to preserve:

http://www.mercurynews.com/news/ci_24262337/developer-fined-942k-by-palo-alto (2013-10-08)

- A developer will have to pay \$94,200 for knocking down one of two historic buildings that were supposed to be rehabilitated as part of a project to overhaul Edgewood Plaza in Palo Alto.
- 2015: violation for empty grocery store
<http://www.paloaltoonline.com/news/2015/10/07/edgewood-plaza-developer-faces-growing-fine-for-grocery-vacancy>
- The developer of Edgewood Plaza is now facing a fine of \$1,000 per day for not replacing the vacant grocery store formerly occupied by [Fresh Market](#), which departed on March 31.
- [In August](#), the City Council added pressure on Sand Hill Property Company to replace Fresh Market by the end of September **by imposing a fine of \$500 per day. That fine increased to \$750 on Oct. 1 and \$1,000 each day after Oct. 1 until the property is brought into compliance** with an ordinance that requires the continued operation of a grocery store at the once-dilapidated Edgewood Plaza, located at [2080 Channing Ave.](#)
- The grocery store is a key component of a "planned-community" zone change that the city granted to Sand Hill in 2012. The zone change allowed the developer to construct a development that, in addition to the grocery store, includes two commercial buildings and 10 homes.

Sincerely,

Liang Chao

From: Liang C [mailto:[\[REDACTED\]](#)]
Sent: Thursday, November 05, 2015 12:49 AM
To: City Council; City of Cupertino Planning Dept.; David Brandt
Subject: Re: City has Policy Power over Properties - Palo Alto fines Sand Hill \$1,000 per day for violation

Here is the video from last night's oral communication. Please watch it again to remind yourself their testimonies.

<https://youtu.be/TF24T7G3jck>

These people may not be Cupertino residents, since they cannot afford to buy a house here. They are long-time small business owners of Cupertino. They have paid their business license fees and earned sales taxes for Cupertino in the past 20 to 30 years. They have served Cupertino residents in the past 20 to 30 years.

Please treat them with the same respect and courtesy that you would for large and wealthy business owners. These small business owners are also stakeholders of Cupertino. Their stake is even bigger since their whole life saving is on the line here.

Please do not let an out-of-town developer who have only profited from Cupertino to drive these people away and walk all over their right and dignity.

Thank you.

Liang

From: Liang C <[REDACTED]>>
Date: November 10, 2015 at 11:19:33 PM PST
To: Piu Ghosh <PiuG@cupertino.org<<mailto:PiuG@cupertino.org>>>
Subject: Fwd: City has Policy Power over Properties - Palo Alto fines Sand Hill \$1,000 per day for violation
Reply-To: [REDACTED]>>

Please forward this email to the Vallco EIR consultant team, Sand Hill people and anyone involved with Vallco project.

In the EIR scoping session, one of the consultants said "The property owner has a right to develop their own property." That's wrong. The city has the police power to decide what and how any property owner can develop their property for the public health, safety and welfare.

I hope that the EIR consultant does not make such incorrect statement to mislead the public any more. If the EIR consultant does not know the very basic of land use law 101, they should consultant their land use attorney and get the basic facts straight.

If they disagree, I would appreciate if they can point out any law that state otherwise.

Thanks.
Liang

From: Kent Vincent [mailto: [REDACTED]]
Sent: Thursday, November 05, 2015 6:55 PM
To: Rod Sinks; Barry Chang; Savita Vaidhyanathan; Darcy Paul; City of Cupertino Planning Dept.; Gilbert Wong
Subject: San Jose's Traffic-Intense General Plan Held Unlawful

Dear Councilmember,

I have forwarded to you on two occasions without response my letter detailing highly compelling reasons why the Hills at Vallco rezone request should be rejected by the Council. Here is one of the reasons: the Cupertino General Plan Amendment is likely unlawful as recently ruled in the case against the City of San Jose.

Kent Vincent
Cupertino

...

San Jose's Traffic-Intense General Plan Held Unlawful

Posted on May 07, 2015

The California Clean Energy Committee has successfully over-turned the City of San Jose General Plan due to the failure to adequately analyze impacts resulting from a lack of housing for people employed in the city. The City's recent update of its general plan would require 109,000 additional housing units to be built elsewhere in the region for employees working in San Jose.

The Association of Bay Area Governments (ABAG) described the effect of that kind of planning in its 2007-2014 Regional Housing Needs Plan—

In the Bay Area, as in many metropolitan areas, cities with employment centers have historically planned for insufficient housing to match job growth. This lack of housing has escalated Bay Area housing costs. Unmet housing demand has also pushed housing production to the edges of our region and to outlying areas. San Joaquin, Stanislaus, and San Benito counties have produced much of the housing needed for Bay Area workers. People moving to these outlying areas has led to longer commutes on increasingly congested freeways and inefficient use of public transportation infrastructure and land. Negative impacts on health, equity, air quality, the environment and overall quality of life in the Bay Area also result.

The City conceded that it is “very apparent” in the Bay Area that “it is the physical relationship between the location of housing and jobs . . . that significantly contributes to several of the primary impacts of concern in the region, particularly air pollution and the excessive consumption of energy and land resulting from an inefficient sprawling land-use pattern.”

In short, the proposed general plan update means more sprawl, more traffic, more costly regional transportation projects, more noise, more land consumed by transportation structures, greater contributions to climate disruption, more maintenance obligations for stretched government

budgets, more air pollution, more transportation expense for individuals, more time consumed sitting in traffic, and less time for family and leisure.

Moreover, the City has no plan in place to pay for the costs of dealing with the traffic its plan would produce.

The City exhausted an innovative set of planning tools just trying to keep pace with the impacts from new traffic generated by its general plan update. Despite those efforts, the City still fell considerably short of even holding off new adverse impacts.

According to the City, "Traffic and the environmental effects of traffic, such as air pollution, noise, and greenhouse gases resulting from induced population growth in other jurisdictions will result in significant environmental impacts."

The California Legislature has enacted legislation in an effort to this kind of local planning and to ensure that communities are designed to reduce the amount of driving that people need to do to carry on their daily activities. (See Sustainable Communities and Climate Protection Act of 2008.) The California Air Resources Board has set a target, calling for a 4 percent reduction in per capita vehicle miles traveled (VMT), to be achieved through improved local planning. The City of San José now proposes to head dramatically in the opposite direction. Its proposed general plan would increase daily vehicle miles traveled (VMT) from 19.8 million to 34.8 million by 2035. (See Final Program EIR at 882.)

Even if the effect of population growth is factored out, the City's general plan update still represents a dramatic 32% increase in per capita VMT.

The City, relying on faulty advice from the Bay Area AQMD, failed to disclose the impact on GHG emissions resulting from lack of adequate housing and increased traffic.

The California Supreme Court has made it quite clear that ignoring such impacts "results in an 'illusory' comparison that 'can only mislead the public as to the reality of the impacts and subvert full consideration of the actual environmental impacts,' a result at direct odds with CEQA's intent."

(Communities for a Better Environment v. South Coast Air Quality Management District (2010) 48 Cal.4th 310.)

From: Scott Ding [mailto: [REDACTED]]
Sent: Friday, November 06, 2015 3:34 PM
To: City of Cupertino Planning Dept.
Subject: The problem with The Hills at Vallco

Dear members of the city planning committee,

Sand Hill Property has sent us many flyers about the plan called "The Hills at Vallco". The more I look at them, the more issues I can think of with this project. I don't have to wait any reports come out to tell, just use my common sense.

It is a very bad idea to replace current 1.2 million square foot Vallco shopping mall with 2 million square foot office space + 800 residential units. I like the place is still mainly be a shopping, entertainment, and recreation center. Not a huge office space and housing hub.

Not mentioning current heavy traffic at Wolfe and 280, the new Vallco project and newly built Apple Campus 2 would create tons of traffic. This is going to be nightmare for the residents around Vallco area.

I have not received any details of solutions in addressing this huge traffic problem. I don't think there are any.

This project is not a win-win, it is only one win, which is the developer.

I found this article for your reference. Sometimes, an outsider's view can tell something we don't know about.

[Herhold: The problems with the Hills at Vallco](#)



Herhold: The problems with the Hills at Vallco

There's much that is seductive about Sand Hill Property's plan for remaking the Vallco shopping center in Cupertino as "The Hills at Vallco," essentially a new urba...

View on www.mercurynews.com

Preview by Yahoo

Scott Ding
[REDACTED]
[REDACTED]

From: [REDACTED]
Sent: Friday, November 06, 2015 4:32 PM
To: City of Cupertino Planning Dept.
Subject: Vallco - Request for Comments

I think a refreshed Vallco would be great. I like the idea of new stores, restaurants, and nicely landscaped walking paths. I do not, however, like anything about the proposed plan for Vallco. I think it is designed for the ego of the developer, not for the citizens of Cupertino who have worked hard to live in a very nice community.

I don't care what seismic engineering assurances are in the proposal - would you want your child inside Vallco under that "hilltop" roof in an earthquake?

Cupertino vehicle traffic is already becoming very difficult. I carefully plan my route and time of day just to go to Safeway. You are adding cars on the road with the Apple building(s) and Main Street. Just do the math - how many condos and offices at Vallco will create how many more cars on the road? The developer's promise of a shuttle is laughable. I am not going to take a shuttle to go from my home to CVS, Home Depot and Sprouts. Improving the Wolfe/280 exit will not fix traffic on Stevens Creek, De Anza Blvd., Homestead, Stelling, and all the other current traffic jam areas.

Perhaps most important - our schools are the crown jewel of Cupertino. We are proud of our exceptional students, and many of us are pleased with the associated property values. Overcrowding our excellent schools so we can have a shopping center like the one being proposed would be a shame.

It is my hope that the Cupertino decision makers will make thoughtful, moderate choices to maintain our pleasant environment.

From: Walter Li [mailto: [REDACTED]]
Sent: Friday, November 06, 2015 5:20 PM
To: City of Cupertino Planning Dept.
Subject: Cupertino: The Hills at Vallco

You have received this link to the Cupertino from:
Walter Li [REDACTED]

<http://www.cupertino.org/index.aspx?page=1365>

The following are my comments regarding The Hills at Vallco:

1. With the upcoming release of Apple Campus 2 and The Main Street, plus proposed new Apple campus near Wofle / Central Expwy, my major concern for The Hills is with traffic mitigation. With such a large project such as The Hills, I cannot see how Cupertino can approve it unless a very satisfactory traffic plan is to be in place. Otherwise, The Hills should not be approved in its currently proposed scale.
2. I am also concern about such a large project dragging on with development / construction delays, or worse, with cost over run / law suits, etc., thus affecting the traffic and normal functioning of City of Cupertino even more Cupertino must demand a guarantee with penalties from the developer(s) if the project cannot complete in time.

Thank you.

Walter
[REDACTED]

Walter Li

From: Joel Adam [mailto: [REDACTED]]
Sent: Friday, November 06, 2015 8:49 PM
To: City of Cupertino Planning Dept.
Cc: Joel Adam
Subject: input for Vallco EIR

Hello,

I will not be able to make the scope meeting for the Vallco IER so I wanted to provide my input in an email. I would like the EIR to cover the following topics:

- Impact on traffic in the Vallco area. Make sure this takes into account traffic due to the new Apple campus and expansion plans for the Hamptons
- Impact on schools due to the new residential units planned for Vallco: Eaton, Collins, Lawson, Cupertino High. Make sure this takes into account that all of the new units are planned to be rentals which will result in no increase to tax base of city and no additional money for schools from the special assessments attached to property taxes. Would like to see some portion if not all of the residential units be converted from rental to ownership to increase tax base and revenues for schools.
- Air quality impact during to construction
- Odors from restaurants once the new Vallco is built. Make sure the restaurants have filters in place to make sure the smells from the kitchens do not reach the surrounding neighborhoods. I live behind the Elephant Bar. For many years, smells from the kitchen of the Elephant bar could be smelled in the neighborhood surrounding Wilson Park. This was fixed by the addition of filters. Now, there are smells from the trash from the Marukai supermarket ...

Thanks,

Joel Adam
[REDACTED]

From: Gary Jones [mailto: [REDACTED]]
Sent: Saturday, November 07, 2015 7:02 AM
To: City of Cupertino Planning Dept.
Subject: The Hills EIR Comment

Will the EIR take into consideration the fact that the Mall was once a thriving center with substantial traffic and the area has been without that traffic for decades?

As to traffic, aren't we really talking about a differential traffic impact with the Hills from what the area was at one time, and what was originally planned for the area?

Gary Jones, Resident

Sent from my iPhone

Gary

From: Barbara Hurd [mailto: [REDACTED]]
Sent: Saturday, November 07, 2015 12:15 PM
To: City of Cupertino Planning Dept.
Subject: Hills at Valco

Concerned the project is too big for area. Traffic and parking will be a nightmare. Cannot be solved with shuttles and encouraging bikes/walking.

Barbara Hurd
[REDACTED]

From: Mona Schorow [mailto: [REDACTED]]
Sent: Saturday, November 07, 2015 2:28 PM
To: City of Cupertino Planning Dept.
Cc: Joan Lawler
Subject: LIMIT Development: The Hills at Vallco

Unfortunately, I'm unable to attend the upcoming meeting and feel strongly that additional development in Cupertino must be limited. Completion of the Apple campus and Main Street will increase the traffic; traffic already gridlocks some parts of the day. I don't live in the immediate area but the current gridlock makes parts of Cupertino inaccessible to me at commute times. Danger to pedestrians and cyclists grows. Cupertino doesn't have the infrastructure (subways, trains, buses) to effectively alleviate the traffic, parking, and density problems.

Smart growth. Not rampant overgrowth.

We need to deal with the current issues before exacerbating them.

Sincerely,

Mona Schorow

[REDACTED]

[REDACTED]

From: Michael Gor [mailto: [REDACTED]]
Sent: Sunday, November 08, 2015 1:54 PM
To: City of Cupertino Planning Dept.
Subject: Regarding Vallco Mall project

With regarding to the proposed Vallco Mall Residential & office project. I am concern about the number of residential units and its impact on the school, traffic and character of the city. The number of residential units should be minimized.

michael gor

Be kinder than necessary, for everyone you meet is fighting some kind of battle.

From: Sue Coatney [mailto: [REDACTED]]
Sent: Sunday, November 08, 2015 3:19 PM
To: City of Cupertino Planning Dept.
Subject: Comments on Hills at Vallco

Hello -

This email is in response to card received in the mail requesting environmental impact feedback on the proposed The Hills at Vallco project.

This project will have significant negative impact on the surrounding community and neighborhoods to Vallco.

There will be significant traffic impact of this project - there are 800+ rental units planned for this project. With 2 cars per unit, that's an additional 1600 cars on the road, which will jam already over-crowded streets. In addition, there is significant office space which is planned for this project - that also translates to even more cars. The traffic will increase the surrounding communities stress level, but it's also more air pollution, more car exhaust fumes, etc.

Yes, even if there is additional mass transit options, we all know that few people will actually take the bus.

There is also a huge issue of water. The rental & business units will all need water, not to mention the huge grass area they are planning. We already do not have enough water - we've all been asked to let our lawns die, take 5min showers, and to not flush the toilet. The Cupertino area just does not have the additional water resources to support huge grassy area or the 800+ rental units.

There is also an impact to the Cupertino schools, which in turn impacts the value of the existing Cupertino home-owners. Due to the units being rental units and thus only 1 land parcel, there will be no additional revenue from property taxes to support the schools, which will have an influx of additional students from the rental units. Declining school quality will have a negative impact on the Cupertino community as a whole.

Please vote against this project and protect both Cupertino and the surrounding neighborhood and communities.

Thanks,
Sue Coatney

[REDACTED]
[REDACTED]

From: Ruby Mitchell [mailto: [REDACTED]]
Sent: Sunday, November 08, 2015 5:52 PM
To: City of Cupertino Planning Dept.
Subject: Hill of Vallco Project Proposal

Planning Commission,

As a 43 year resident of Cupertino my concerns re: proposed Hills of Vallco Project are as follows:
Before any project is considered the following impacts should be weighed and put before the profit of developers at the cost of the quality of life of the residents of Cupertino.

Consider the total impact any project has on our environment including the following:
Availability of Emergency Services such as, Ambulance, Fire, and Law Enforcement Crowding of Facilities such as Library, Parks, Retail, Restaurants, Schools, Senior Center, and Sports Fields Noise Pollution Parking Availability Quality of Air Sewage Traffic Congestion and Pollution Transit Availability Water Availability And more!

I believe absolutely no further building of any housing or office space in Cupertino should be approved and allowed until the current and any projected problems have been solved and dealt with successfully. That means such problems as the traffic congestion has been solved and schools built and ready BEFORE approval of any project and BEFORE any building starts. It doesn't seem responsible to continue to put the cart before the horse on any further projects such as councils have allowed in the past. No changes should be allowed to any project, such as the loss of senior housing and increase in office space in City Center, once that project has been approved.

We also currently need more retail, increased parking facilities, and well planned and executed bike lanes in Cupertino before any new projects that increases the population of residents and businesses should be considered.

Thank you for your time and consideration.

Please do the right thing for the residents of Cupertino.

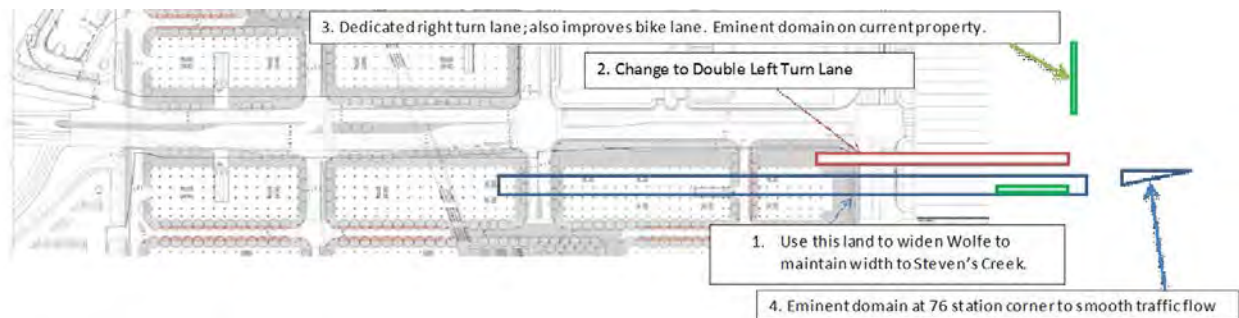
Ruby B. Mitchell
[REDACTED]

From: Urs Mader [mailto: [REDACTED]]
Sent: Sunday, November 08, 2015 6:01 PM
To: City of Cupertino Planning Dept.
Subject: Suggestion to improve Traffic for Vallco EIR

I have two Suggestions:

Improve the Wolfe/Steven's Creek Interchange:

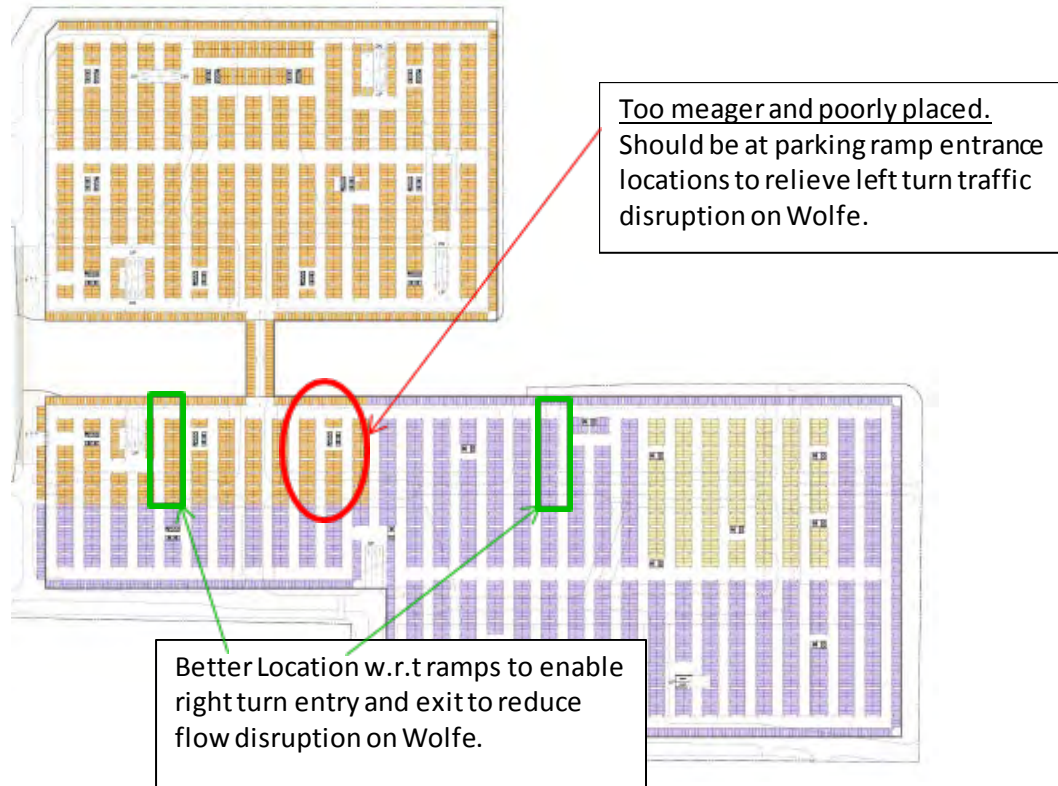
Please consider asking the developer to alter the section of Wolfe leading up to Steven's Creek by widening Wolfe leading into Steven's Creek. The Wolfe/Steven's Creek Interchange needs help already. Problem is that left turn lane onto Steven's Creek East backs up significantly. West-Bound Steven's Creek right turn also backs up and currently crowds the bike lane on Steven's Creek heading north.



I realize that this is not the primary artery in and out of "The Hills", but this is already a problem. Perhaps Sand Hill could foot the bill for the land needed at the 76 and the Kaiser building since there will be some amount of increased traffic due to their development.

Improve the Parking Tunnels under Wolfe to enable Entry/ Exits for Right Turn Traffic Flow:

I like the fact that "The Hills" has multiple entrance and exits from the garage to smooth traffic in and out of the property. This traffic will likely still affect through traffic across the property however and maintaining Wolfe's full width along the entire length hopefully will help with this. In this regard, it may help if Sand Hill's development relies more on "right turn" entrance and exit by providing a wider connector underneath Wolfe to facilitate this:



Urs Mader
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From: Delores [mailto: [REDACTED]]
Sent: Monday, November 09, 2015 8:12 AM
To: Rod Sinks; Barry Chang; Gilbert Wong; Darcy Paul; Savita Vaidhyanathan
Subject: Valco

Dear Cupertino Mayor Sinks and City Council Members,

I sincerely hope you are not putting the city of Cupertino at financial risk with this, what could be a Pie-in-the-Sky plan for San Hill Property Co. to build up Valco. Their litigation issue, their not so good standing with banks, this unbelievable risk during a drought...what are you thinking?

I have not attended meetings. I do not plan to attend meetings. My sincere feeling about the Council is/has been that the Public is listened to but not believed.

I think it would be wonderful if Cupertino has this attraction (Much like the Mall of America which attracts customers worldwide,) but, this plan appears as a Fantasy.

Cupertino is not Hollywood Land and I see this plan being partially done, as in Sunnyvale, and our city being left with an expensive eyesore citizens paid for.

I've seen no publication that tells me where the money is to come from. Why? Are you afraid that would really bring out a storm of protests?

Sincerely, Delores Carson, [REDACTED]

From: E Yee [REDACTED]
Sent: Monday, November 09, 2015 8:51 AM
To: City of Cupertino Planning Dept.
Subject: The Hills at Vallco - EIR Scoping Meeting

Please include traffic, parking, pollution, water, city services (i.e. library, police, fire department) usage impact in the Hills at Vallco EIR.

Thank you

From: Better Cupertino [mailto: [REDACTED]]
Sent: Monday, November 09, 2015 12:18 PM
To: City of Cupertino Planning Dept.; City Council
Subject: Vallco project does not qualify for relaxed CEQA requirement.

Dear experts in the Planning Department,

The PDA (Priority Development Area) identified by VTA (never confirmed by the City Council, by the way) identifies commercial areas along Stevens Creek and De Anza as PDA, which would allow development projects to be approved with relaxed CEQA requirement.

The Vallco site is not within PDA. We would like to confirm that the Vallco project would NOT qualify to use relaxed CEQA requirement, per SB743.

Thanks.

Legislative Changes to CEQA Ease Requirements for Urban Infill Projects

<http://realestatecounsel.net/2013/09/27/legislative-changes-to-ceqa-ease-requirements-for-urban-infill-projects/>

- SB 743 would allow projects to be built even if environmental impacts are significant and unavoidable. These are highlighted in the article.
 - Inadequate parking and aesthetic impacts cannot be used to challenge a project under CEQA if the project is “on an infill site within a transit priority area.
 - New guidelines will be developed to determine the significance of transportation impacts of projects in transit priority areas.
 - Automobile delay, “as described solely by level of service or similar measures of vehicular capacity or traffic congestion,” shall not be considered a significant impact on the environment under CEQA.
 - The adequacy of parking for a project shall not support a finding of significance.
 - Residential, employment center, or mixed use development projects in a specific plan area in which a prior environmental impact report (“EIR”) was prepared are eligible for a new CEQA exemption.
 - Review of “environmental leadership projects” returns to the superior court, as well as appellate court, but both rounds of review must be completed within 270 days.
 - Certain streamlining provisions to CEQA were added for the benefit of a planned entertainment and sports center project in the City of Sacramento.

From: Cailan Shen [mailto: [REDACTED]]
Sent: Monday, November 09, 2015 12:40 PM
To: City of Cupertino Planning Dept.
Cc: City Council; citystaff@cupertino.org
Subject: Concerns Regarding Vallco EIR from a Registered Voter of Cupertino

Dear Planning Commission and City Council members,

I am writing to you to express my concerns of the proposed Vallco project.

-- I would like the upcoming EIR to study traffic issue if there are 2 million sqft office at Vallco.

-- I would also like the upcoming EIR to study the possibility of keeping Vallco retail only.

Thanks for your consideration and please put this correspondence on public record.

Cailan Shen

From: Steve Kelly [mailto: [REDACTED]]
Sent: Monday, November 09, 2015 5:36 PM
To: City of Cupertino Planning Dept.
Cc: Sean Devaney
Subject: Re: The Hills at Vallco

RE: The Hills at Vallco-

Cupertino has a great opportunity to avert a **monumental rent increase** on tenants near the new Apple Campus by adding the needed housing in the Vallco Re-development project. Cupertino **must find room** for the 14,500 new or relocating Apple employees and all the new Vallco office employees. To do this it will require a change in the Retail, Office, and housing mix in the Vallco project.

As a housing expert, I would highly recommend Cupertino require a quadrupling in the housing from 800 rental units to 3,200 units and a reduction in office jobs from 8,000 to 2,000 jobs. This will stabilize local rents and reduce the traffic impact.

Now my plan would also require Cupertino Union re-open 1 or 2 closed school sites and a phasing in of housing as local school capacity is increased. Parents will like this change as walking distant to many local schools will be reduced.

If the needed housing is not added expect **far worse Traffic and Rental Rates to Soar!! Teachers, City Workers, The Elderly and young adults will see their rent to rise 35 to 50 %.**

Sincerely,
Steve Kelly
Home Owner & Real Estate Broker

[REDACTED]

From: Sujuan Cai [mailto: [REDACTED]]
Sent: Monday, November 09, 2015 9:49 PM
To: planning@cupertino.orf
Cc: City Council
Subject: regarding Vallco EIR

Dear Planning Commission and City Council members,

I'm writing to you to express my concerns of the proposed Vallco project.

I would like the EIR to study following issues if there're 2 million sqft office at Vallco,

1. Traffic issues.
2. The possibility of keeping vallco retail on site
3. The possibility of build an on-site middle/high schools at Vallco.

I don't think the idea shuttle buses is realistic if there're 10,000 people working at Vallco. Could EIR include any further research?

Thanks for your consideration and please put this correspondence on public record.

Best regards,
Sujuan Cai

[REDACTED]

From: RUI LI [REDACTED]
Sent: Tuesday, November 10, 2015 12:07 AM
To: City of Cupertino Planning Dept.; City Council; City Clerk
Subject: Re: Vallco EIRDear Planning Commission and City Councils

Hello,

As a local resident here in Cupertino area with my kids going to CHS, I'm writing to you to express my concerns of the proposed Vallco project. I would like the upcoming EIR to study the impact of Vallco development on local school as the schools are already overcrowded. Furthermore, the impact on the local roads going to be horrendous as both Apple new campus and Vallco will be adding tremendous burden on our local roads.

I strongly advocate to have Sand Hill Development to build a new high school onsite at Vallco to compensate and mitigate the negative impact it has on our local community and our children.

Thank you for your consideration and please put this correspondence on public record.

Rui Li

From: Amy Liu [mailto: [REDACTED]]
Sent: Tuesday, November 10, 2015 12:09 AM
To: City of Cupertino Planning Dept.; City Council; City Clerk
Subject: Vallco EIR

Hello,

As a local resident here in Cupertino area with my kids going to CHS, I'm writing to you to express my concerns of the proposed Vallco project. I would like the upcoming EIR to study the impact of Vallco development on local school as the schools are already overcrowded. Furthermore, the impact on the local roads going to be horrendous as both Apple new campus and Vallco will be adding tremendous burden on our local roads.

I strongly advocate to have Sand Hill Development to build a new high school onsite at Vallco to compensate and mitigate the negative impact it has on our local community and our children.

Thank you for your consideration and please put this correspondence on public record.

Amy Liu

From: Cathy Helgerson [mailto: [REDACTED]]
Sent: Tuesday, November 10, 2015 8:28 AM
To: Piu Ghosh; Cathy Helgerson; Liang C; Peggy Griffin; City of Cupertino Planning Dept.
Subject: EIR Vallco

Hello,

These are my comments Piu Ghosh please e-mail me and let me know if you received them.

Cathy Helgerson
CAP - Citizens Against Pollution

As an attached Word document...

TO: City of Cupertino, Community Development, Attn: Piu Ghosh – Senior Planner
From: Cathy Helgerson

Regarding: Vallco Shopping Center EIR – The Public's right to comment as follows:

The Vallco Shopping Center consists of the District Specific Plan and the Hills at Vallco Project.

I am against the 30 acre green roof as follow:

- 1) The weight of the water on the building grass, trees and plants when it rains and when it is watered we are in a drought this water even thou it is recycled can be used someplace else. The weight of the dirt and what will this all do to the structure of the building can it withstand all of the weight what about the wear and tear over the years how will all of it hold up?
- 2) Water that is stationary breed's mosquitos we were just sprayed with poison to kill off the mosquitos in Cupertino so how will this garden grow?
- 3) Kids playing in the water and on the wet grass problem with slipping and falling will the Vallo owners pay for any accidents and incidents this project is a safety hazard in more ways than one. How about people falling or jumping off the building all kinds of things could happen when people are up on top of building people jump off bridges and building all the time. Will the owner higher a guard and will he be able to stop any problems on this roof top?
- 4) The expense of replacing the trees, plants and grass as time goes on this money can be used for more important things even if the owner is paying for it. It is ashamed that this use of money to put this green roof could not be used to feed the hunger and homeless people that live in Cupertino and the surrounding areas.
- 5) Where will this recycled water come from and how will it be brought up to the roof water is water it has to come from some place even recycled water who will monitor that? I suspect that the builder will use regular water and will not worry about the expense if no one is watching.

6) Drainage who will monitor the amount of water held up on the roof what if we do have rain in future a great deal of rain will the drainage be sufficient?

List of titles given on EIR and Comments as follows:

Aesthetics: Yes, definitely building mass, and height, lighting, and possible glare to adjacent land use of course there will be problems of all kinds in these areas I am totally opposed to this project because of all of these adverse environmental effects. I feel very sorry for the people that will be living around Vallco because of the problems above and also I am sure more problems that will come up.

Air Quality: The Silicon Valley has terrible air quality and things for sure are not going to get any better ever unless we make sure that where there is or could be a problem or problems are looked at and resolved. The Vallco Projects as a whole will create air, water and soil pollution on land and in the sewer areas. Water recycled over and over has great problems and how will this water be treated as so not to cause a health problem. Children will play in water no matter where it is and it will be a health hazard and problem. The air pollution why would you really want to put people on top of a building with the poor air quality out there the higher you get the worse it is this will cause many health problems and even death. Staying inside on especially spare the air days are a must so why put people outside on top of buildings. The soil is polluted already because of Lehigh Southwest Cement and Quarry and their operations they do not even close down during spare the air days and are causing the pollution we have to live with. The BAAQMD does very little to really control the pollution from Lehigh Cement and Quarry and they will not be able to control the air pollution coming from the construction of the Vallco projects. The underground garage will also cause air pollution and there should not be any underground garages because of air pollution and also because of earth quakes.

Biological Resources – Trees and nesting birds – It is very important that the City keep trees of all kinds and also we must consider the nesting birds in these trees. We must have the City water the trees in order to keep them alive. Pollution contaminates not only people but trees Lehigh Southwest Cement is contaminating the trees and birds as well as humans and animal alike chopping down trees at a glance is no way to keep the population healthy remember that. Historical – Not sure how that will be a factor in the EIR but if there is any historical value of any kind I am for it save it for our future and our children.

Geology and Soils – Seismic (Earth Quakes) yes, I believe that any building or additional weight on the ground needs to be looked at and considered in regards to Earth Quakes. We live near the San Andres fault line and other fault lines that any real disturbances including Lehigh Southwest Cement and Quarry and the Steven Creek Quarry with a new pit and mining could cause the next major earth quake. More building and higher buildings with more weight on the ground does cause earth quakes.

Hazardous Soil Conditions – The soil should be tested to make sure that there is no hazards related to the soil of any kind this should be a given. If there is any contamination and I am pretty sure that there could be especially with lead on the soil it needs to be taken out and disposed of. The tearing up and new construction could be a serious hazard if not looked into regarding lead and other pollutants that could become air born and hurt the public health wise.

Underground Garages – Problem first with air pollution cumulating underground which will hurt humans and animals alike. The problem with a possible earth quake I do not think we should build underground garages at all in Cupertino and California.

Greenhouse Gas Emissions – the increase of people businesses and cars will bring more pollution and with that pollution goes health problems. The contribution of this pollution is helping to cause the drought here in the valley, the US and the world we need to stop polluting the air, water and soil.

Hydrology and Water quality – Whenever tearing down structures there is concrete to deal with and other building materials these are hazardous pollutants to the workers and to the neighborhood. It is well known that air pollution can fly for miles so it is well to say that concrete has Mercury in it and that this will poison, contaminate and pollute the public. Read the information given on a package of concrete that you or a contractor may purchase it mentions the hazardous warning on the label package so this must be considered when any property is under new construction. The rain water or any other water used to keep down the dust will wash into our groundwater and this will put a great impact on our water quality.

Land use - Tree conservation is important and Cupertino has already lost way too many trees and counting and this is due to the drought and also due to the new building and parking lot construction going on all over the city. It is very important that the City understand that planting new small tiny trees take time to grow and it will take years in the meantime we have lost the benefits that the trees bring. More people moving into an area will bring more pollution on all levels noise pollution, traffic problems and construction problems will cause hazards of all kinds for months and probably years.

Noise and Vibration – there will be a long period of time that the public will have to endure this problem traffic will have to be rerouted around the building project on Steven Creek and Wolf Rd. this will cause problems on other streets as well. The backup of traffic on 280 alone will be an absolute nightmare how will the City handle this problem only time will tell we need to know what the City plans.

Transportation – With 280 Wolf Exit and Street improvement this will close down 280 which will put a terrible impact on De Anza Blvd and the Lawrence Street entrance to the freeway on Steven Creek again how will the City of Cupertino handle this? The traffic we must remember will always be a great problem more people means more traffic problems.

Utilities and Service – Sanitary sewer, storm drain, water, and solid waste services will be tested to their limits and the question still remains is there enough resources provided by the Cupertino Sanitation Department and the SJ Water Treatment Plant? I for one am not so sure this project needs to be submitted to the Cupertino Sanitation Department for approval if there is not enough lines or space they can refuse the project all together I want proof that there is enough space and I want it in writing submitted with this EIR. This information should be provided by both the Cupertino Sanitation Department and also the SJ Water Treatment Plant before any building of this project takes place and it should be available to the public.

Summary – The people of Cupertino want what is best for all parties concerned and we are very worried that projects of this magnitude can cause undue suffering to the public therefore we would like a very clear and a justified review of all of the hazards of all kinds that could take place. It is up to the City of Cupertino to make clear decisions with all of the precautions that must take place to insure our safety and the safety of our families this should not go unnoticed. Please review my comments and take them into consideration. Thank You.

From: RD J [mailto: [REDACTED]]
Sent: Tuesday, November 10, 2015 8:47 AM
To: Rod Sinks; Barry Chang; Gilbert Wong; Savita Vaidhyathan; Darcy Paul
Cc: Varsha Joshi
Subject: Fw: Hills At Vallco

Resending this to the entire city council as I did not get a reply from Mr. Sinks. In addition, I note that the 800 or so units would pay a single parcel tax (ie less than most residents in the city). So how is this development a positive for anyone including schools? Please dig deeper and don't approve the environmental study tonight! Let's kill this before it becomes a bad idea for the city.

Rajeev Joshi

On Oct 5, 2015, at 1:06 PM, RD J [REDACTED] > wrote:

Dear Mr. Sinks:

As a long time Cupertino resident (>20 yrs) living in the Vallco neighborhood, I have seen the change at the Vallco mall going from bad to worse. The current project - Hills at Cupertino is an example of the "worse". It is a very poorly conceived idea for a number of reasons.

1. We don't need the extra 800 multi family housing especially when it adds to the congestion in the Miller - Stevens Creek corridor especially when the Apple Campus ramps up. Just a few months ago, to cover the distance from Miller to Lawrence took 5 mins, now it takes 20 mins with traffic lights at every 100 feet or so with the retail space in front of Tantau has yet to be constructed fully to add to the congestion.
2. That particular developer has a poor history of development projects with similar projects either unfinished or tied up in litigation - we would not want such a stigma in our city.
3. I am very surprised that the city council held meetings beyond midnight to pass these projects- don't you want to have these forums attended by the residents to voice their opinions and discuss them live?
4. Please don't show statistics that several people "overwhelmingly" support this project- for relevance please take a poll of residents within a 5 block radius of the project and see what their views are- they should have the heaviest of all votes.
5. The idea of having another elementary school near Collins is ludicrous- where will the children play? In Portal park- which will get annexed by the school (thus depriving the neighborhood of a park), not to speak of the congestion during school hours.
6. The idea of office space equivalent to the empire state bldg. in New York is absurd - this was supposed to be a bedroom community, please keep it so.

I clearly see my quality of life rapidly eroding if this project comes to pass.

Finally, I urge you and your leadership team of Cupertino to act responsibly - please stop the project NOW and not commission any environmental studies as we cannot afford those frivolous expenses- the residents in the nearby community have and will act again to overturn any decision you may make to support this project.

Sincerely,

Rajeev Joshi



From: Abu Wawda [mailto: [REDACTED]]
Sent: Tuesday, November 10, 2015 9:26 AM
To: City of Cupertino Planning Dept.
Cc: City Council; Rod Sinks; Barry Chang; Darcy Paul; Gilbert Wong; Savita Vaidhyanathan; Karen B. Guerin
Subject: Comments about The Hills at Vallco - EIR Scoping

Hi,

As a resident of Cupertino, I would like to comment on the Hills at Vallco rezoning proposal. I have huge concerns with the project. In particular I do not believe that rezoning Vallco for high-density housing (~800 apartments) is in the interest of the city and its residents. Here are my specific concerns:

1. Increased traffic and congestion due to additional residents. The argument that a lot of these apartments will be resided by Apple employees (and hence can just walk to work) is ridiculous. I work in the tech industry and most employees at companies like Apple do not want to live in apartments but rather end up buying houses. Also in the tech industry, there's a lot of turnover. Engineers frequently move from company to company. Traffic along Steven Creek between Lawrence and De Anza is already terrible.
2. Impact to local schools. I hear that Sand Hill Properties wants to build a new elementary school but what about middle school and high school? Cupertino High School is already crowded! There's no plan to address this.
3. Sand Hill Properties does not have a good reputation. Quite simply, I don't trust them. Look at their reputation with Sunnyvale. Did you see the article that was posted in the Mercury News regarding the project? Please see: http://www.mercurynews.com/scott-herhold/ci_28916780/problems-hills-at-vallco
4. Deceptive marketing. The Hills at Valco has been sending out information to the community regarding the project but there's no mention about the increase in office space and the new apartments!

While I do think it would be great if Vallco gets a makeover (it's certainly a sore eye), the answer is not by rezoning the mall for high-density housing and office space.

Thanks,

Abu Wawda
[REDACTED]

From: bchalam@yahoo.com [mailto: [REDACTED]]
Sent: Tuesday, November 10, 2015 2:51 PM
To: City of Cupertino Planning Dept.
Subject: Hills-at-Vallco EIR Scoping Comments

Hi

I would like to put the following on record in the city of cupertino.

Our concerns are

1. Cupertino Resident quality of life will suffer due to increased noise, traffic and pollution
2. Reduction of Retail income for City of Cupertino.
3. Delay in Reaching emergency services at Kaiser due to increased traffic
4. Lack of transparency to cupertino residents due to intentional early morning or late night approvals.
5. Sandhill has a bad reputation as he promised senior center in Main street and once the approval was given he walked all over the council members to do what he wants.
6. Overcrowding in Cupertino.
7. Lack of water supply for the new residents.
8. Traffic congestion at the school time.

Thanks

Balaji Seshachalam

[REDACTED]

From: Joe Cleaver [mailto: [REDACTED]]
Sent: Tuesday, November 10, 2015 3:42 PM
To: City of Cupertino Planning Dept.
Subject: Vallco Environmental Impact Study

Dear Planners:

Attached to this message is a letter focused on the planning of the Vallco renovation study.

Hope it is not too late.

Joe and Ann Cleaver

Attached as a Word document...

Joseph Cleaver
[REDACTED]
[REDACTED]

November 7, 2015

To: Cupertino City Council Members

Re: Environmental Study of Vallco Property

My wife and I have been residents of the city for over 35 years. We recognize its charm as others have: "Money" magazine listed it as one of its "Best Places To Live"; Cupertino was listed as one of "America's Best Small Towns"; It has ranked 7th in the list of the "Happiest" suburbs in the U.S. These are fine accolades. Nevertheless, we are very aware of the rampant population growth it has experienced within its narrow 11 ¼ square mile boundaries. From 34,300 in 1980 to 60,700 in 2014. This growth has put increasing strains on the city's school and street infrastructure. The population density today is 5,200 per square mile which compares to our neighbor's, Saratoga at 2,400 and Los Altos at 4,500.

Two factors have led to this growth. First, its excellent schools have attracted national and international attention, and families seeking the best for their children have come to Cupertino seeing it as a good stepping stone to higher education. Second, Cupertino has a unique proximity to the high technology job market. Neither of these factors show any signs of slowing down. What concerns me is that the increasing urban density brings with it pollution, noise, security, crime and an overall declining lifestyle. In point of fact, after 38 years of zero crimes, our neighborhood street has had 3 burglaries this past summer.

Now comes the "Hills of Cupertino" with its glamorous promotional literature that portends a nightmare to the already overcrowded intersections at 280 and Wolfe Rd, De Anza Blvd and

Lawrence. I don't see this as something the public has been asking for. Rather it appears to favor only the landlords who can profit from the high prices the land can offer and the developers who can combine office, retail space, multi-storied parking garages and greatly expanded housing. Much of this is unnecessary. Our city, as originally planned, has many neighborhood parks and has added the Stevens Creek Trail.

In my opinion, the green, grass covered hillside Sand Hill promises. is nothing more than a marketing vehicle to make us feel we're getting something we want. I am opposed to the Sand Hill Property's proposal and see it as an environmental nightmare.

Sincerely,
Joseph Cleaver

From: Peggy Griffin [mailto: [REDACTED]]
Sent: Wednesday, November 11, 2015 3:48 PM
To: City Council; City of Cupertino Planning Dept.; Aarti Shrivastava; Piu Ghosh
Cc: City Clerk; City Attorney's Office
Subject: Nov. 10, 2015 The hills at Vallco - EIR Scoping Meeting - PUBLIC MISINFORMED BY CITY!

Dear City Council, Planning Commission and City Staff,

PLEASE SUBMIT THIS INTO THE PUBLIC RECORD AND AS AN EIR SCOPING COMMENT FOR THE VALLCO SPECIFIC PLAN AND THE HILLS AT VALLCO PROJECT.

I attended last night's EIR Scoping Meeting at Community Hall on Tuesday, November 10, 2015 from 6:30-7:30 and later pm and I was appalled for these reasons:

1-MEETING SHOULD BE AT BEGINNING OF PROCESS-This meeting was 3 weeks into the process! This meeting and a "How to" meeting should have been done at the beginning or just prior to the beginning of this process!

2-MEETING FORMAT NOT PUBLICIZED-The format of the meeting was not discussed so expectations were that people could come and comment orally and also to ask questions and get answers.

3-CITY REP MISINFORMED THE PUBLIC!!! The people "running the show" should have been experts or at least qualified to answer questions. Instead, "Rick" (the man who let some people ask questions) misinformed the public. I was told he was the City Information Officer (not sure). He told the public that they could submit comments like "I am worried about the 2M sq. ft. of office". This is not true. Piu and Aarti tried to get him to be quiet!

The public does not trust the process. They left angry, frustrated **and misinformed** as a result of this meeting. Misinforming the public is WRONG! It negates this process and should be corrected immediately!

SUGGESTIONS TO CORRECT AND IMPROVE THE PROCESS:

1. Extend the comment period deadline by 4 weeks to allow

- a. An EIR information meeting where you tell people what the EIR will study (very quickly presented last night). Cover:
 - i. What part of the project you look at i.e. finished project, during construction, what about the 2 other parcels owned by other companies?
 - ii. What topics you look at
 - iii. How they should phrase/write their comment so it will be addressed.
 1. Give examples of good comments
 2. Give examples of inappropriate comments
 - iv. What alternatives you look at; how many; how can someone describe/suggest an alternative.

- v. Allow questions and answers – just let people line up and ask 1-2 questions then go back to the end of the line.
 - b. Post information online
 - i. comment examples (good and bad),
 - ii. brief list of areas covered
 - iii. slide presentation
- 2. **(VERY IMPORTANT) POST COMMENTS RECEIVED ONLINE-as you receive them!**
 - a. This will build confidence in the process.
 - b. People are worried their comments will be “lost”. Waiting for the Draft EIR to find out they never made it in is not acceptable.
- 3. **POST RESPONSES TO EACH COMMENT AS THEY ARRIVE**
 - a. Responses should be to EVERY comment so that the person can find out the answer.
 - b. Responses should be posted as they are received.
- 4. **Use someone who is knowledgeable on the EIR details to “handle the crowd”.**

Peggy Griffin



From: Lisa Warren [mailto: [REDACTED]]
Sent: Wednesday, November 11, 2015 6:00 PM
To: Piu Ghosh; City of Cupertino Planning Dept.; Aarti Shrivastava; David Brandt
Cc: City Clerk; City Attorney's Office; City Council
Subject: Re: The Hills at Vallco - Notice of Preparation and Notice to sign up!!

Piu,

I did not receive an email from you today to let me know that the presentation slides and materials from last night had been uploaded anywhere on the city's website.

I just looked

here <http://cupertino.org/index.aspx?page=26&recordid=1416&returnURL=%2findex.aspx> but nothing has been added. There was nothing here

either: <http://cupertino.org/index.aspx?page=26&recordid=1402&returnURL=%2findex.aspx>

Would you please tell me if the requested/promised items can be found anywhere on the city's website?

The request was for all Scoping Meeting's power point slides as well as for contact information for the gentleman who presented on behalf of David J Powers Associates - I am sorry, I don't have his name with me.

There are people who would like this information so that the comments that they submit can be better thought out.

With comments due by end of business day next Monday, November 16, we need access to this information as soon as possible.

Thank you.

Lisa Warren

From: Bryan Lanser [mailto: [REDACTED]]
Sent: Wednesday, November 11, 2015 6:25 PM
To: City of Cupertino Planning Dept.
Subject: The Hills At Vallco

Unfortunately I am unable to attend the EIR meeting tonight, but I want to make sure that my concerns have been taken into consideration.

I do not believe that Sand Hill Properties is being forthright with the realities that The Hills will impose in terms of traffic that that area.

Every night I drive 280 heading West and observe bumper to bumper traffic on 280 heading East near the Wolfe Road interchange. It is stop and go for the time period fro about 5PM to well after 7PM. And all of this is BEFORE THE NEW APPLE CAMPUS OR MAIN STREET CUPERTINO HAS OPENED.

I want to see a comprehensive traffic and parking plan that covers the following:

1. Traffic flow on an hour by hour basis along the 280 corridor on a typical weekday for not only the 10,000 workers who could potentially occupy the 2 million square feet of office space at The Hills along with the parking plan for upwards of 6,000 cars for workers.
2. Overlay on to this the additional 13,000 workers who will be populating the new Apple Campus once it is opened (approximately 8000 vehicles).
3. Overlay to this the additional X thousand RESIDENTS who will live at The Hills AND at Main Street Cupertino. Please show the parking plan for the residents vehicles (average 1.5 vehicles per residential unit).
4. Overlay to this the hundreds if not thousands of workers and customers who will be patrons of The Hills retail shops, as well as shopping at Main Street Cupertino both retail shops AND the office space there.
5. Overlay to this current residents and workers for the Stevens Creek / Wolfe Road gateway area.

I wish to be assured that the anticipated traffic in this area will not cause extended or total gridlock on 280. I don't care how many busses Apple plans to run, I want to see a car-based culture plan that alleviates this potential quadrupling of current traffic in this area.

I look forward to seeing these comprehensive traffic studies. I also ask that they be published in the Mercury News as well as the Cupertino Courier as this has the potential to affect the ENTIRE SOUTH BAY COMMUTE along the 280 corridor.

I highly suggest this project be put up to public vote as the impact will be large, and any negative impacts will likely be permanent.

Thanks very much for your attention to this matter.

Bryan Lanser (and others)

From: Liang C [mailto: [REDACTED]]
Sent: Wednesday, November 11, 2015 7:03 PM
To: City Council; City of Cupertino Planning Dept.
Subject: 30-acre rooftop park is not even big enough for 10,000 workers

Dear Councilmembers and Planning Commissioners,

The Hills at Vallco claims to provide 3.8 miles of trails on the rooftop. (Note that the rest of the 30-acre park is not accessible like a regular park. Only designated areas are accessible.)

3.8 miles equals 6.1 km = 61,000 meters.

Line up the 10,000 workers from the 2 million square feet of office. **Each person has to be 60 cm apart to just take a stroll at lunch on the-3.8 mile-long trail.** There is little room to just take a leisurely walk on the rooftop even for the 10,000 employees of The Hills at Vallco. No more room for the 2,400 residents of Vallco.

Let alone any room for Cupertino residents, even if the rooftop is built as promised.

Will these 10,000 workers and 2,400 residents compete for the limited parkland available in the area and the limited gym facilities in Cupertino?

Liang

From: Liang C [mailto: [REDACTED]]
Sent: Wednesday, November 11, 2015 7:31 PM
To: City Council; City of Cupertino Planning Dept.
Subject: Can Vallco compete with Valley Fair and even surpass it?

[Please include this in Vallco EIR comment.]

Dear Councilmembers and Planning Commissioners,

In order to revitalize Vallco successfully, we need to understand why Vallco has been struggling in the first place.

This article below compares the history between Vallco and Valley Fair to shed some light on the difference: Vallco has been operated by a string of inexperienced owners or owners who would prefer to turn it into something else more profitable to them.

As Greensfelder said in the Retail Strategy Report done in March 2014 for GPA:

"...while its competitors renovated...Vallco languished with incomplete development, defaults from prior ownerships, prolonged and unrealized redevelopment plans, management changes and other setbacks."

Does Sand Hill has the ability to revitalize Vallco? Or would Sand Hill just be another one of those inexperienced owners who have no idea how to run a successful shopping center?

The following article appears in Oct. 23 **Cupertino** Courier/Silicon Valley Community Newspaper.
(a scan of the paper)

<https://drive.google.com/file/d/0B7Rmc9DXGhUAcUlyUmdGODJvcU9EYkZsMm9MNWE3WTBWLXpR/view?usp=sharing>

Can **Vallco** compete with Valley Fair and even surpass it?

The location? Similar access to freeways.

The size? Similar. 1.3 million square feet versus Valley Fair's 1.5 million square feet.

Average household income? **Vallco** sits closer to more affluent communities in the west. The economy is among the strongest in the nation with a growing population. Shopping malls around **Vallco** are booming.

It is impossible to revitalize **Vallco** without learning the true causes behind Vallco's struggles.

The reason **Vallco** has floundered is because it had a string of inexperienced owners who do not know what it takes to operate a successful shopping center. Some are developers more interested in building housing or more profitable alternatives. Others either suffered financial troubles, unrelated to **Vallco**, or simply neglected it.

Can Sand Hill Properties (SHP) break the cycle? Given that SHP defaulted on a loan of merely \$108 million dollars in Sunnyvale Town Center. Given that the retail space of most SHP's projects are no more than 150,000 square feet.

Comparing and contrasting the list of owners of Vallico and Valley Fair, one can easily see that the two malls have dramatically different fates. One is an abused and neglected orphan and the other is a well-invested, well-maintained and cherished child.

Valley Fair has had two owners since 1986, The Hahn Company and Westfield Corp, both specialize in operating shopping centers. Westfield Corp. operates 38 shopping centers in the United States and abroad. They actively manage the centers by attracting top retailers and eliminating underperforming ones. They host concerts, fashion shows, festivals, and other events to attract customers. They continue to invest hundreds of millions of dollars to renovate the malls they operate.

Meanwhile, Vallico has bounced from from one inexperienced owner to another. One renovation attempt in 2005 started out by closing the lower level of the mall and ended with 24 percent occupancy. Some retailers claimed rent was raised and many shops were driven out.

Around the same time, the 2005 General Plan was amended and residential and hotel uses were added to the Vallico area, most likely under the influence of developers. Then, a part of Vallico was rezoned for-- condominiums. In 2006, a citizens' referendum—Measure D—overturned the rezoning. Soon after, Vallico was sold off in 2007 and the new owner went bankrupt in 2008. In 2009, Son Son Co., a Vietnamese food processing company, bought Vallico with \$64 million cash. No more investment since 2009, according to Vallico's management.

Vallico is an ill-nourished and even abused child, who has the potential to shine with the care of an experienced operator of retail centers. SHP has a unique chance to reinvent Vallico as a one-of-a-kind state-of-the-art successful regional shopping center to surpass Valley Fair and Stanford Shopping Center. Vallico could not only become one of the best shopping centers in the Bay Area, but also bring in millions of sales tax dollars to diversify the tax base in Cupertino.

From: Liang C [mailto:]
Sent: Wednesday, November 11, 2015 8:15 PM
To: City Council; City of Cupertino Planning Dept.
Subject: Brand New Shopping Center Only Costs \$350 Million Dollars to Build

[Please include this in Vallco EIR comment.]

Dear Councilmembers and Planning Commissioners,

I hope to share with you a wonderful brand new shopping center just built in Southern California: Village at Westfield Topanga.

It costs only \$350 million to build and it also provides many community amenities, including a swimming pool, a gym, basketball court and a community center. And it's anchored by Costco.

We don't need a humongous office park in order to revitalize Vallco. As one friend in commercial real estate told me, if a shopping center is built as a fringe benefit for a project, it is a guaranteed failure.

Would Vallco Shopping District live up to its name as a part of The Hills at Vallco?

Does Sand Hill have any strategy or experience operating a shopping mall?

Would Sand Hill be able to attract upscale shops as promised?

Has Sand Hill been able to furnish Main Street with upscale and vibrant shops that they've promised as the downtown of Cupertino?

What strategies are they using to attract shops to Main Street?

Would the same strategies apply to Vallco?

Would those strategies be able to operate and sustain a shopping center for the long run?

If I am allowed to dream, Village at Westfield Topanga, just opened on Sept. 11, 2015 is the kind of shopping center, I wish for. An Outdoor garden with a creek running through it and anchored by Costco. It has a swimming pool, a gym with a view, basketball court and a community center.

The best part. Guess how much it costs to build? \$350 million dollars.

Nice renderings here:

<http://www.malls.com/us/malls/the-village-at-westfield-topanga.html>

More detailed description here:

<http://www.4-traders.com/COSTCO-WHOLESALE-CORPORAT-4866/news/Costco-Wholesale--Village-at-Westfield-Topanga-An-economic-driver-and-downtown-for-the-Valley-21031856/>

...Just some points that I like:

+ The Village's main anchor tenant is Costco, on the south side of Victory at Owensmouth. The warehouse retailer that sells everything from fine wine to prescription drugs opened Saturday.

+ The new retail area consists of about 80 stores grouped into 11 categories ranging from restaurants to health and wellness, plus some service providers.

- + A clinic affiliated with UCLA Medical Center is part of the latter, as is a sprawling 24 Hour Fitness that anchors the south end of the property.
- + That three-story building has a large swimming pool on the second floor with windows that look onto a ridge line to the west, and the third-floor weight room offers a panoramic view of the Valley. There is also a basketball court.
- + The Village also has five health and fitness retailers, eight beauty and wellness retailers, five home furnishing stores, six jewelry and accessories stores, 11 clothing retailers, three electronics stores and financial firms and 12 specialty retailers.
- + This is also a bocce ball court, long birthday table that can be used for parties and a book exchange area.
- + Lighted areas will be available for events and entertainment day or night, including exhibits by local artists and year-round music performances.
- + Pets are welcome, and bike racks and lockers are available for free. There are also showers available for people who bike to work and need to freshen up before heading to the office or store.
- + According to another article, it also includes a 8,000-square-foot community center with catering facility.

We don't need a humongous office park that doesn't benefit anyone.

With the green toupee peeled off, the Hills at Vallco is simply San Francisco downtown transported to Cupertino with some ramps to connect to rooftop.

Any glimpse of green is at 8-story tall (except when viewing from Perimeter Road).

We don't want and we don't need a \$3-billion-dollar project.

I would rather that Sand Hill focus on how to design a shopping mall that people asked for (as their flyer shows). I would rather that Sand Hill does not spend so much money and time to pretend that they are building a shopping mall. They are building cell-block after cell-block of something, which appears to be downtown in a metropolitan area. Certainly not a cute downtown like Saratoga or Los Gatos.

We don't need a downtown in Cupertino. We need a true shopping center.

Sincerely,

Liang Chao

From: Liang C [mailto:]
Sent: Wednesday, November 11, 2015 9:30 PM
To: City Council; City of Cupertino Planning Dept.
Subject: Fwd: Vallco is 9-story tall. And the "green" rooftop park is mostly at roof of the 8th or 9th floor.

[Please include this in Vallco EIR comment.]

Dear Councilmembers and Planning Commissioners,

Did you know that Vallco will be as tall as 9-story buildings at 114 feet, which is even a bit taller than Cypress Hotel at the Corner of Stevens Creek and De Anza.

Not only that. Most of the 30-acre rooftop park will be at the roof of 8th floor of the 9th floor, according to the Parking Drawing.

From the street level, you can hardly even see a glimpse of the "greenery" at that height. And the height right next to the single-family homes near Perimeter Road will be 7 stories.

That's how massive The Hills at Vallco is. I hope you comprehend what kind of project you are going to approve in Cupertino, in place of the only remaining shopping center in Cupertino.

Here is the Parking Drawing. It gives a good overview of the building mass.

There are 11 pages. One for each floor. It goes from B1, B2, 01 (street level), 02... 09 (top floor).

<https://s3.amazonaws.com/the-hills-at-vallco/Parking-Drawings.pdf>

For orientation. The bottom is the west side near Perimeter road (Joanne Fabric). The left side is near 280. The right side is Stevens Creek.

Go to Page 11 for diagram P-0809 (9th floor).

You see the grey part with trails. That's the rooftop park.

Go to Page 10 for diagram P-0808 (8th floor).

Go to Page 9 for diagram P-0807 (8th floor). => Most of the grey part is gone, except near Perimeter Road and over Wolfe.

This shows that most of the "green" roof is on the roof of the 8th floor or 9th floor.

Cypress Hotel at the corner of Stevens Creek & De Anza is a 9-story building.

So, the entire 53-acre site of Vallco will be covered with buildings as tall as Cypress Hotel. The "green" rooftop would be barely visible at that height.

Single family homes adjacent to Vallco will be right next to a 9-story building with some green covering starting from 7-story tall.

There is barely any buffer.

Only the bottom side right next to Perimeter Road has some green at lower elevation.

So, it won't look like a "hill". We won't see much of the "green" rooftop unless you are in a helicopter.

Just imagine you are in San Francisco downtown with tall buildings all around you. Paint the rooftop of those buildings green. And that's The Hills at Vallco for you.

From: Kent Vincent [mailto: [REDACTED]]
Sent: Wednesday, November 11, 2015 10:03 PM
To: City of Cupertino Planning Dept.
Subject: Vallco EIR

Re: My letter to the City: "The Numbers: Why the Council Must Vote No on the Hills at Vallco"
November 11, 2015

MIXED USE PARKING AT HILLS AT VALLCO

At last night's EIR public meeting I heard a City perception that mixed parking would not be an issue at The Hills at Vallco because office parking and retail parking will be on opposite sides of the complex by design, office parking nearer the centroid of office build, retail parking nearer Stevens Creek Blvd. I want to dispel that this purposeful design will mitigate the very serious mixed use parking issue.

As mentioned in my letter, Wolfe Rd., its Hwy 280 interchange and office parking lots at Apple 2 and the Hills are going to be greatly impacted by the congestion of their collective 20,000 new daily commute vehicles that enter and depart Wolfe Rd. each work day during the relatively narrow 7-10 am and 4 - 7 pm commute hours. The Hills office commuters will naturally seek parking alternatives that shorten the commute time between their home and office desk. In many cases, this will involve taking the longer walk between their desk and intended retail parking spaces which have direct Stevens Creek Blvd. access. The rear and front parking areas will appear to office workers simply as alternatives just as rear and front parking areas do at Valley Fair. Keeping in mind that the 10,000 office workers at Vallco will consume more parking spaces than offered at the entirety of Valley Fair, the enormous parking demand by Vallco office workers will consume a detrimental portion, if not all, of the parking spaces intended for shoppers before retail stores open, which will make The Hills at Vallco unattractive as a retail center and risk its failure.

Respectfully,

Kent Vincent
Cupertino

From: Liang C [mailto: [REDACTED]]
Sent: Wednesday, November 11, 2015 10:12 PM
To: City Council; City of Cupertino Planning Dept.
Subject: Vallco Specific Plan - density, heights, setbacks and building planes

[Please add this to Vallco EIR comment.]

Dear Councilmembers and Planning Commissioners:

Since the public was never given a chance to comment on Vallco Specific Plan, I assume that now is the chance to comment.

Cupertino should consider updating its Municipal Code to govern density, heights, setbacks and building planes for mixed use projects when it is next to lower density residential homes or apartments.

This is in fact suggested by the ABAG guidelines. But Cupertino General Plan or Municipal Code did not follow it.

Please consider adopting an ordinance to govern mixed use zoning, since many sites in Cupertino are already zoned for mixed use.

All parcels along Stevens Creek and all parcels along De Anza are all zoned for mixed use already. Therefore, it is important to regulation mixed use zoning since many more future projects will be mixed use projects.

Other cities use FAR (Floor-area-ratio) to define how dense a mixed use project could be. But Cupertino has no such standard. The only limit is height, which in some way encourages developers to fill up a mixed use site with cell block buildings to maximize their usable square footage and result in unattractive designs.

Nineteen800 is one such cell-block type building and Marina is another. The Hills at Vallco consists of many blocks of rectangular cell block buildings, which is found only in downtown of big metropolitan areas. Certainly The Hills at Vallco doesn't fit to be a downtown of a small suburban city like Cupertino.

I would suggest that

- **Vallco Specific Plan to set a limit of FAR at 1.0.** Such a limit would encourage more open space as the building height increases and more attractive design with staggered building heights.

I would suggest that Vallco Specific Plan follows similar guidelines used in Palo Alto Municipal Code for their mixed use zoning (called Planned Community Zoning or PC Zoning). Specifically,

- **the maximum height within one hundred fifty feet of any R1, R2, or other residential zoning or P zoning with residential use shall be thirty-five feet.** (The same standard as Palo Alto's)

- **The minimum setback should be at least 10 feet and a solid wall or fence or landscaped buffer between 5 and 8 feet in height shall be constructed and maintained along the common site line.** (The same standard as Palo Alto's)

Palo Alto Muni Code 18.38 (Planned Community Zoning) contains:

18.38.150 Special requirements.

Sites abutting or having any portion located with one hundred fifty feet of any RE, R-1, R-2, RM, or any PC district permitting single-family development or multiple-family development shall be subject to the following additional height and yard requirements:

(a) Parking Facilities. **The maximum height shall be equal to the height established in the most restrictive adjacent zone district.**

(b) All Other Uses. **The maximum height within one hundred fifty feet of any RE, R-1, R-2, RM, or applicable PC district shall be thirty-five feet;** provided, however, that for a use where the gross floor area excluding any area used exclusively for parking purposes, is at least sixty percent residential, the maximum height within one hundred fifty feet of an RM-4 or RM-5 district shall be fifty feet

(c) Sites sharing any lot line with one or more sites in any RE, R-1, R-2, RM or applicable PC district, a minimum interior yard of 10 feet shall be required, and a solid wall or fence between 5 and 8 feet in height shall be constructed and maintained along the common site line. Where a use in a PC district where the gross floor area, excluding any area used exclusively for parking purposes, is at least sixty percent residential, the interior yard shall be at least as restrictive as the interior yard requirements of the most restrictive residential district abutting each such side or rear site line. The minimum interior yard shall be planted and maintained as a landscaped screen.

(d) On any portion of a site in the PC district which is opposite from a site in any RE, R-1, R-2, RM or applicable PC district, and separated therefrom by a street, alley, creek, drainage facility or other open area, a minimum yard of 10 feet shall be required. Where a use in a PC district where the gross floor area, excluding any area used exclusively for parking purposes, is at least sixty percent residential, the minimum yard requirement shall be at least as restrictive as the yard requirements of the most restrictive residential district opposite such site line. The minimum yard shall be planted and maintained as a landscaped screen, excluding areas required for access to the site.

(e) Sites sharing any lot line with one or more sites in any RE, R-1, R-2, RM or any residential PC district shall be subject to a maximum height established by a daylight plane beginning at a height of ten feet at the applicable side or rear site lines and increasing at a slope of three feet for each six feet of distance from the side or rear site lines until intersecting the height limit otherwise established for the PC district; provided, however, that for a use where the gross floor area excluding any area used exclusively for parking purposes, is at least sixty percent residential, the daylight planes may be identical to the daylight plane requirements of the most restrictive residential district abutting each such side or rear site line until intersecting the height limit otherwise established for the PC district. If the residential daylight plane, as allowed in this section, is selected, the setback regulations of the same adjoining residential district shall be imposed.

(Ord. 3683 §§ 12, 13, 1986; Ord. 3465 §§ 40, 44, 1983; Ord. 3418 §§ 2 and 3, 1983; Ord. 3130 §§ 11, 25(f), 1979; Ord. 3108 § 9,

Sincerely,

Liang Chao

From: Liang C [REDACTED]
Sent: Wednesday, November 11, 2015 11:41 PM
To: City of Cupertino Planning Dept.
Subject: Fwd: Vallco Architecture Drawing next to the single family homes by the "wall"

[Please add this to Vallco EIR comment.]

Below is the architecture drawing of The Hills at Vallco. It shows a 7-story building will be erected right next to single family homes within about the same distance as the next single-family homes. The impact on aesthetic view and privacy for homes within 500 feet of the property line, within a visible range, should be studied.

Whether or not these factors might affect the decisions on project approval, the impact of a 7-story or even a 9-story building on the surrounding neighborhoods should be studied and documented.

Please study:

- At what angle these homes can see the moon coming up before The Hills at Vallco is built?
- At what angle these homes can see the moon coming up after The Hill is built?
- How much of the ridge line would be blocked by The Hills?
- As the Sun comes up each morning, how much shorter the gardens of these single-family homes would be exposed to morning sunshine?

Since the very tall commercial building will be as close to the single-family homes as the next door neighbor, the invasion of privacy on these single family homes should be studied.

Please study:

- The range of sight of any visitor on the rooftop park during day time into the direction of single-family homes.
- The range of sight of any visitor on the rooftop park during night time into the direction of single-family homes.
- The range of sight of any maintenance worker on the rooftop park during day time into the direction of single-family homes.
- The range of sight of any maintenance worker on the rooftop park during night time into the direction of single-family homes.
- The range of sight of any visitor of the 7-story commercial building during day time into the direction of single-family homes.
- The range of sight of any visitor of the 7-story commercial building during night time into the direction of single-family homes.
- The range of sight of any maintenance worker, such as window cleaner, of the 7-story commercial building during day time into the direction of single-family homes.
- The range of sight of any maintenance worker, such as window cleaner, of the 7-story commercial building during night time into the direction of single-family homes.

As the commercial building might be lighted at night all night long as many other commercial buildings do for security reasons, please study:

- the impact of light pollution from the commercial buildings on single-family homes at night.
- the impact of light pollution from the additional street lights installed The Hills.
- the impact of the ability to observe stars from the gardens of single-family homes at night.

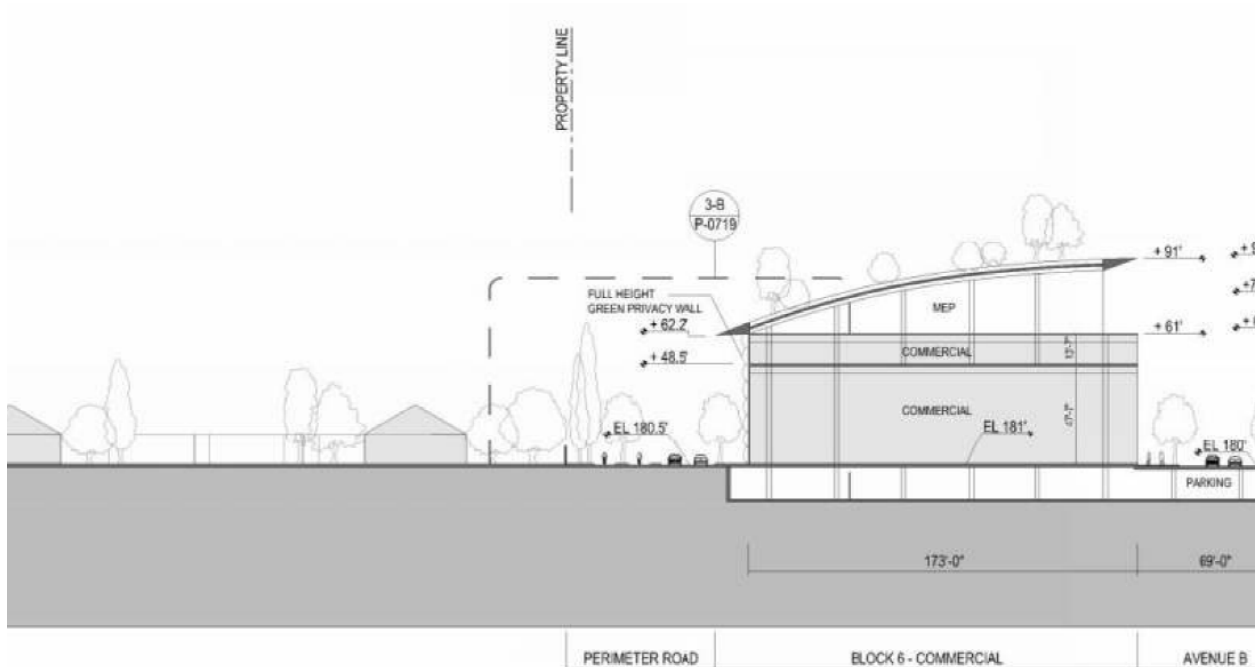
Also, during the construction of The Hills at Vallco, the following should be studied:

- the privacy of the single-family homes within visible range by construction workers.
- noise levels of construction equipment or digging equipment for underground garage.
- pollution from dust of digging or construction materials.

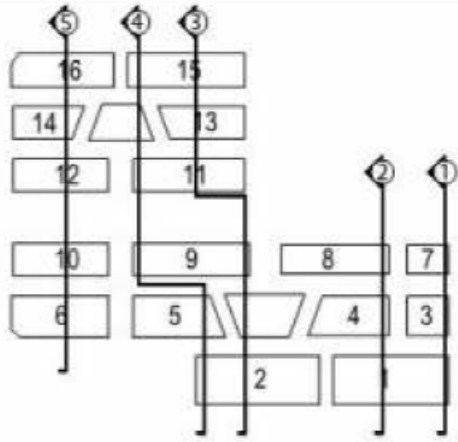
Thank you.

Page 13 of the Architecture Drawing: <https://s3.amazonaws.com/the-hills-at-vallco/Architecture-Drawings.pdf>

Slice view 5: (below section is the leftmost side of Slice view 5)
The Vallco building (Building 6) will be as far as the house of their nextdoor neighbor.
And it will be as tall as 90 feet, gradually increasing from 65 feet.
With 10-12 feet per floor, that's about 5 to 7 stories tall.



Slice view 5: (Left is North. Stevens Creek is on the right. So, Slice View 5 shows the height next to single-family homes, next to the wall).



From: Liang C [mailto:]
Sent: Thursday, November 12, 2015 1:13 AM
To: City of Cupertino Planning Dept.
Subject: Options to Study - sizes of shopping centers, operators, separate or integrated, housing and office

RE: Comments for Vallco EIR Scope

Please evaluate the option of renovating Vallco as a regional shopping center with 1.2 million square feet of space for retail, dining and entertainment, like the Village at Westfield Topanga, just opened in September 2015 and cost only \$350 million to build.

And please evaluate the option of Vallco Shopping Center, operated by expert shopping mall operators, like Westfield, Simon Property, General Growth Properties (GGP), Federal Realty, Taubman Centers, Rouse Properties, Macerich, DDR Corp., Starwood Retail Partners, Caruso Affiliated, just to name a few.

Specifically, please study:

- Vallco rebuilt as a regional shopping center (1.2 million square foot) and operated by one of the expert shopping mall operators. (Assuming that such arrangement is possible. For example, Simon Property leases the land of Stanford Shopping Center from Stanford University by paying a leasing fee and 25% of net income.)
- Vallco rebuilt as a regional shopping center (1.2 million square foot) and operated by other non-expert shopping mall operators, such as Sand Hill or previous Vallco manager.
- Vallco rebuilt as a lifestyle center (625,000 square foot) and operated by one of the expert shopping mall operators.
- Vallco rebuilt as a lifestyle center (625,000 square foot) and operated by other non-expert shopping mall operators, such as Sand Hill or previous Vallco manager.
- Vallco renovated, but keeping the existing structure and footage and operated by one of the expert shopping mall operators.
- Vallco renovated, but keeping the existing structure and footage and operated by other non-expert shopping mall operators, such as Sand Hill or previous Vallco manager.

Please also evaluate these options on the viability to run a successful shopping center:

- The shopping center part is separate from most of the housing and office park.
- The shopping center part is integrated with the housing and office park.

Please evaluate these options for housing:

- No housing.
- 200 units of housing.
- 389 units of housing (same as allocated in Housing Element).

Please evaluate these options for office:

- No office.
- 60,000 square feet of commercial office space (same amount as Santana Row) - for smaller service businesses or afterschool classes.
- 120,000 square feet of commercial office space (1/10 of retail space, same ratio as Santana Row) - for smaller service businesses or afterschool classes.

Thanks.

Liang Chao

From: Jenny Chiu [mailto:]
Sent: Thursday, November 12, 2015 1:39 PM
To: City of Cupertino Planning Dept.
Cc: City Council; citystaff@cupertino.org
Subject: Regarding Vallco EIR

Dear Planning Commission and City Council members,
I'm writing to you to express my concerns of the proposed Vallco project. I would like the upcoming EIR to study:

I would like the EIR to study the possibility of build an on-site school at Vallco, the builder need to response for the increase of number of students in the near future instead of just moving students around campus and have the property tax payers pay for the price later on.

If Sand Hill can't bring any benefit to the community, then the proposed project should be stopped.

Thanks for your consideration and please put this correspondence on public record.

Sincerely,

Jenny Chiu

From: [REDACTED]
Sent: Thursday, November 12, 2015 8:07 AM
To: City of Cupertino Planning Dept.; City Council; [better-cupertino](#); [REDACTED]
[REDACTED]
Subject: EIR scoping for the Vallco District

To begin with, I have two general comments.

The EIR is either premature or its scope is not fairly defined. Since the major property owner's proposal is not what the area is zoned for, it should not be the sole, or primary focus of an EIR, with other options mentioned only in passing. A significant segment of this community wants to see a successful retail/dining/entertainment center on the premises (and a referendum was won in the past on this very issue). Therefore, a fair comparison must be drawn between the impact these options would have on the environment and quality of life of Cupertino (and neighboring cities). The review should be defined as an EIR of the Vallco District, not the "Hills of Vallco."

Secondly, although the consultants are from a respected agency, it is unseemly to have an evaluation prepared entirely by consultants working for, and closely with, the city government and, especially, the applicant. We need independent, outside experts, possibly chosen together with community representatives, to participate in the review.

Now, as far as the content of the review is concerned, the impact of alternate forms of development in the Vallco District should be focused, inter alia, on the areas below. Attention should also be directed to the effects of large-scale development in general on the environment and quality of life in Cupertino.

A. Traffic, including congestion and resulting air pollution, both on Wolfe Road **and on 280**. Compare:

Traffic now, at peak hours;
Traffic when Apple and Main Street are operational;
Additional impact on traffic of various uses of the Vallco site.

Bear in mind that traffic peaks at different hours at malls and at office parks. How will any promised improvements for access to 280 from Wolfe Road affect traffic **on 280**? And will traffic then back onto Wolfe Road anyway? (cf. the Lawrence/237 East interchange, where at times traffic cannot enter 237 and backs onto Lawrence).

B. Availability of water. Right now, there is a drought and residents are being requested by the City government to restrict water use in various ways. If serious drought conditions persist, how will there be enough water to support intensive growth? If we return to "normal" NorCal water conditions, but water is gifted to an office park (and apartments beyond the housing element requirement) will the residents still have to monitor the length of our showers? What does this mean for the quality of life of Cupertino residents? *Compare recommended water usage for Cupertino residents under various conditions of drought and levels of development.*

C. Other effects on quality of life:

Heights and densities in what is now mostly a pleasant, low-rise suburban atmosphere;

Loss of actual and potential retail. Cupertino now has no major department store or appliance store, nor some of the better shops that an affluent city would expect. Given the office and residential development on the east side of Wolfe Road, calculate the size of this large new "captive" market for a well-run retail-dining-entertainment complex. Analyze and the likely success factors of a mall operated by professionals (not real estate speculators).

Is it necessary to raze Vallco entirely? What would be the environmental impact of such large-scale destruction? Valley Fair is very successful as an indoor mall, especially since we do have winter here and cool evenings. Could part of the property be opened out while some of it remains indoors?

What would be the fiscal value to the city of a shopping center vs. a "mixed use" development which is largely an office park?

Phyllis Dickstein



From: Michelle Marie [mailto: [REDACTED]]
Sent: Thursday, November 12, 2015 9:35 AM
To: City of Cupertino Planning Dept.
Subject: The Hills NOP-comments

Hi,

Regarding The Hills NOP, please find my comments below. Thanks.

Michelle Dunn
[REDACTED]
[REDACTED]

Air Quality: will an analysis of operational AQ emissions be presented? Which BAAQMD CEQA guidelines will be used as thresholds/guidance (May 2011)?

GHG Emissions: are GHG emissions going to be quantified? Will construction GHG emissions be quantified (since CalEEMod will be run) and will operational emissions be quantified? Will GHG reduction measures be quantified? What's the approach – consistency with the city's CAP? If so, what is the approach to determine significant impacts (if the project will be XX% BAU for yr 2035/2050 w/reduction strategies? (how will "consistency with the City's CAP" be determined?) Which thresholds will be used since BAAQMD guidelines do not have any GHG emissions? (other Air Districts defer to other GHG thresholds. i.e., MBUAPCD sometimes defers to SLOAPCD GHG thresholds which has construction and operational thresholds). How will construction-related GHG emissions be analyzed – which thresholds will be used?

Non-CEQA comment but along the same lines, will there be designated space for a grocery store to further reduce trips?)

Energy: for this analysis will CEQA Appendix F, Energy Conservation, be used to frame the section and be used to create significance thresholds?

Transportation: Since the NOP is currently released and under CEQA the existing conditions at the NOP release is the baseline, how will the EIR address cumulative traffic impacts of the Hills @ Vallco with relation to Apple's new campus (and the anticipated significant impacts related to traffic)? What additional mitigation measures (I assume the traffic impacts will not be mitigatable to LTS when looking at Cumulative + project scenario.

Public Services: in regards to the new school upgrades, is this location known? What other improvements will be done as a result of the development? will additional fire/police services be necessary to provide for the additional residential uses and/or for school upgrades?

Utilities/Services Systems: Although not a CEQA issue, who will shoulder the cost of potential additional utilities/service system upgrades to meet the needs of the project?

Cumulative: what level of detail will be provided for the Cumulative analysis regarding regional impacts (AQ, GHG, Transportation)?

Will a benefit analysis of this development be prepared (re: GHG benefit of the mixed use/green roof, transportation hub, economic/fiscal, etc.)?

Will there be an Urban Decay section in the EIR pursuant to Section 15131(a) and per Attachment B – Contract Amendment 1 (David Powers & Assoc. contract)? It's not mentioned in the NOP.

It seems the Applicant is providing most/all of the supporting technical studies. Who is preparing these studies? Will peer-review comments be incorporated into the Applicant-prepared studies? What is the QA/QC process to ensure this is completed?

From: sean devaney [mailto: [REDACTED]]
Sent: Thursday, November 12, 2015 10:10 AM
To: City of Cupertino Planning Dept.
Subject: The Hills at Vallco

RE: The Hills at Vallco

I am really concerned about the current plans to redevelop Vallco along with the building of the new Apple campus. As the plans for Vallco are currently drawn up it appears that there is not enough housing to go along with all the new office space. I believe that without more housing pressure will be put on our already tight housing market driving up rents.

An additional concern is that our already bad traffic will become much worse than it is now. I fear Homestead, Wolf and Stevens Creek will become gridlocked.

In summery I believe the Hills at Vallco needs twice as much housing than is now planned, less office space and a plan to ameliorate traffic.

Thank you,

Sean Devaney
Santa Clara,CA

From: Ping Ding [mailto: [REDACTED]]
Sent: Thursday, November 12, 2015 1:59 PM
To: City of Cupertino Planning Dept.; Piu Ghosh
Subject: Vallco Mall

Dear Council Staff,

This letter is regarding the rezoning Vallco for the proposed Hills at Vallco Mall location. Before I present my concerns on environment, I would like to invite council members to visit either Blaney Ave, Steven Creek Blvd, De Anza Blvd, or Wolfe Rd during traffic hour. Then, I believe council members can understand our pain.

The 2M sf of office build proposed for The Hills at Vallco will increase the total number of employees who work in Cupertino and commute from other cities to over 47,000, nearly doubling the population of Cupertino every work day and making Cupertino's growth imbalance one of the primary causes of traffic congestion, transportation infrastructure cost and air pollution in the Bay Area. The exhaust from these commuter's vehicles alone will produce 700 tons of CO2 greenhouse gas daily. 20,000 new commute vehicles will converge on Wolfe Rd. from Apple Campus 2 and the Hills at Vallco office space alone. The Hwy 280 interchange at Wolfe even when doubled in ramp lanes will only be capable of handling 1400 to 3600 of these vehicles per hour during commute hours, meaning the vast majority of the new commute traffic will be directed into the neighborhoods of Cupertino and Sunnyvale. The severe nature of this is owing to the unnecessary office build at the Hills at Vallco. Adjusting the General Plan to accommodate the Hills office build and its 10,000 new office jobs without a counter-balancing increase in housing exposes Cupertino to the same court mandated job-housing balance imposed on the City of San Jose's General Plan Amendment this year, where the court mandated one home for each office space job created. Given the enormous office build at Apple Campus 2, any mixed use revitalization of Vallco should be retail-residential only not retail-office and be intended to housing Cupertino-based employees, particularly at Apple Campus 2, to reduce traffic congestion in the city.

The proposed Empire State Building equivalent OFFICE SPACE FOR THE HILLS AT VALLCO WILL LIKELY ADD 10,000 OR MORE COMMUTE VEHICLES TO WOLFE RD. This is based on the Silicon Valley standard 200 sf (square feet) and one commute vehicle per employee. The Empire State Building (2.1M sf) is the second largest office building in the U.S. following the Pentagon. It houses 1000 businesses collectively employing 23,000 workers¹.

To visualize the traffic impact, note that 10,000 commute vehicles parked in two lanes of Hwy 280 with 5 feet gridlock spacing extends 20 miles on its own (one car each lane every 21 feet), the distance between Wolfe Rd. and Crystal Springs Reservoir. Add another 10,000 commute vehicles from the adjacent new Apple Campus 2 and the two-lane congestion doubles to 40 miles, the distance from Wolfe Rd. to San Francisco. THIS 40 MILES IN TWO LANES OF NEW COMMUTER VEHICLES WILL ENTER AND DEPART THE CITY OF CUPERTINO AT WOLFE RD. DURING COMMUTE HOURS EVERY WORK DAY, ABHORRENTLY ADDING TO THE TRAFFIC CONGESTION THAT ALREADY EXISTS.

The Hwy 280 interchange at Wolfe Rd. is woefully incapable of handling the added commuters, even if onramps are doubled from one to two lanes. The State of California sets its metering lights to allow 350-900 vehicles per hour to enter a freeway per onramp lane². The rate depends on freeway traffic congestion. Assuming the state expands the onramps in each direction to two lanes, the Wolfe Rd. interchange will only be capable of releasing 1400 to 3600 vehicles per hour onto Hwy 280 when metering lights are on. Apple Campus 2 will need all of this to handle its 10,000 vehicles over the 4 – 7 pm commute period, excluding all other existing traffic and eventual new traffic from Main Street and Vallco retail. ADDING 10,000 COMMUTE VEHICLES FROM THE PROPOSED HILLS AT VALLCO OFFICE SPACE WILL REQUIRE 5.5 – 14 HOURS TO VACATE THE PARKING LOTS OF JUST THE APPLE CAMPUS 2 AND HILLS AT VALLCO OFFICES ONTO THE FREEWAY ALONE DEPENDING ON METERING. Obviously, this isn't going to happen. THE BULK OF THE 40 MILES OF TWO-LANE NEW COMMUTE VEHICLES WILL BE DISTRIBUTED THROUGH THE STREETS OF CUPERTINO AND SUNNYVALE, CONSUMING AND GRIDLOCKING EVERY NEIGHBORHOOD THROUGHWAY AS COMMUTERS SEEK FASTEST COMMUTE ROUTES. The increased congestion on Stevens Creek Blvd., De Anza Blvd. and Homestead Rd. in concert with the doubling of traffic flow entering the 280 onramp lanes at Wolfe Rd. will certainly back southbound Hwy 280 traffic from the current backup point near the Hwy 85 interchange into Los Altos Hills on the southbound home commute. THIS WILL MAKE FOOTHILL EXPRESSWAY THE NEW LOGICAL FIRST FREEWAY RELIEF POINT OFF-RAMP FOR SARATOGA, LOS GATOS AND CAMPBELL COMMUTERS, as the currently free right-hand exit-only lane leading to De Anza Blvd on 280, will be fully immersed in the extended 280 congestion zone. THIS WILL CONGEST FOR THE FIRST TIME STEVENS CANYON RD. AND THROUGH STREETS SUCH AS MCCLELLAN RD, BUBB RD., LINDA VISTA DR., HYANNISPORT DR., SANTA TERESA AVE, WILKINSON AVE, COLUMBUS AVE, TERRACE DR., REGNART RD., MONROVIA AND BYRNE AVE IN THE WEST OF BUBB NEIGHBORHOOD.

BY VIRTUALLY ANY STATE OR REGIONAL ENVIRONMENTAL METRIC, THE CITY OF CUPERTINO SHOULD NOT BE AUTHORIZING ANY REZONE TO OFFICE SPACE, NOW OR INTO THE FORESEEABLE FUTURE. THE COMPLETION OF APPLE'S CAMPUS 2 WILL PUT CUPERTINO'S JOBS-HOUSING RATIO COMPLETELY OUT OF BALANCE. Of the 31,800 people employed in Cupertino only 5100 live here³, meaning 84% OF CUPERTINO'S WORKFORCE, 26,700 EMPLOYEES, COMMUTE HERE EVERY WORK DAY FROM OTHER CITIES. IN CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AND ABAG TERMS, CUPERTINO'S GROWTH IMBALANCE IN OFFICE DEVELOPMENT IS A MAJOR CAUSE OF THE COUNTY'S TRAFFIC CONGESTION, TRANSPORTATION INFRASTRUCTURE COSTS AND AIR POLLUTION. With the projected growth of 14,600 Apple employees AT THE COMPLETION OF CAMPUS 2, CUPERTINO JOBS GROWTH WILL SOAR TO NEARLY 46% OVER A 2-3 YEAR PERIOD DURING A PROTRACTED PERIOD WHEN CUPERTINO HOUSING IS GROWING ONLY 1.4% ANNUALLY³. Using the same statistics Cupertino-based employees commuting from other cities at that time will reach at least 39,000.

THE PROPOSED OFFICE SPACE AT THE HILLS AT VALLCO IS EQUIVALENT TO NEARLY A QUARTER OF ALL OF THE OFFICE SPACE IN THE ENTIRETY OF DOWNTOWN SAN JOSE⁴. If the 2M sf Hills At Vallco office space is approved and using the 84% statistic, THE NUMBER OF CUPERTINO-BASED EMPLOYEES FROM EXISTING, APPLE CAMPUS 2 AND HILLS AT VALLCO OFFICES COMMUTING FROM OTHER CITIES INTO CUPERTINO EACH WORK DAY WOULD BE EXPECTED TO EXCEED 47,000, A FLAGRANT CEQA AND ABAG IMBALANCE. IF WE PARKED THAT NUMBER OF VEHICLES ON HWY 280 IN TWO LANES, AS IF THOSE COMMUTING FROM OTHER CITIES WERE WAITING AT A GATE TO ENTER

CUPERTINO EACH MORNING, THE VEHICLE BACK-UP WOULD EXTEND 94 MILES, THE DISTANCE FROM WOLFE RD. TO ROUGHLY SANTA ROSA! Assuming an average roundtrip commute of 25 miles and a standard 1.22 lbs CO2 emissions per mile⁵, THE TOTAL CO2 EMISSIONS FROM THOSE CUPERTINO-BASED EMPLOYEES COMMUTING FROM OTHER CITIES WILL BE OVER 700 TONS DAILY, 150 TONS DUE TO THE APPROVAL OF THE HILLS OFFICE SPACE ALONE.

The City of Cupertino cannot afford to ignore the environmental impact and job-housing imbalance issues incurred in the community and region by its General Plan and its development projects. In April of this year, a CEQA suit by the California Clean Energy Committee against the City of San Jose successfully over-turned its General Plan for failing to address the jobs-housing imbalance of its planned office space development. THE COURT FAULTED SAN JOSE FOR NOT PLANNING ENOUGH HOUSING TO ACCOMMODATE THE JOBS CREATED BY ITS GENERAL PLAN, PUSHING HOUSING AND TRAFFIC INTO OTHER COMMUNITIES TO ACCOMMODATE THOSE JOBS. THE COURT ORDERED SAN JOSE TO INCREASE ITS HOUSING UNIT ALLOCATION BY THE ENTIRE JOBS-HOUSING IMBALANCE SHORTFALL (109,000 HOMES) AND TO PAY THE ENTIRETY OF THE \$300,000 SUIT LEGAL COSTS^{6,7}. The proposed Hills At Vallco project and accommodating Cupertino General Plan Amendment exposes Cupertino to the same jeopardy. The city of Cupertino, its schools, infrastructure and lack of available land cannot accommodate the housing needed for the jobs that will be created by the Hills at Vallco, let alone Apple Campus 2. Environmental advocacy groups, such as the California Clean Energy Committee, make it their business to discover and force city jobs-housing balance to minimize regional traffic and pollution. It is inconceivable that the highly publicized and massive office build of the Apple Spaceship campus and The Hills At Vallco proposal / General Plan Amendment are not on the radar screen of these advocacy groups.

Please listen to the cupertino neighbor's voice! Please save our home! Please protect our health from uncontrolled traffic and pollution!

Regards,

Ping Ding

From: Jason Holder [mailto: [REDACTED]]
Sent: Thursday, November 12, 2015 3:09 PM
To: City of Cupertino Planning Dept.
Cc: Liang C; Peggy Griffin; Stuart Flashman
Subject: DPEIR for Vallco Specific Plan and The Hills Project: Better Cupertino NOP Comment Letter

Dear Ms. Ghosh,

Please find the attached comment letter concerning the scope of environmental review for the above referenced Draft Program EIR, submitted on behalf of Better Cupertino.

Thank you,

--

Jason W. Holder
Holder Law Group

Attached as a PDF Document...

Holder Law Group holderecolaw.com
339 15th Street, Suite 202
Oakland, CA 94612
(510) 338-3759
jason@holderecolaw.com

November 12, 2015

Via U.S. Mail and Email

City of Cupertino, Community Development Department
Attention: Piu Ghosh, Senior Planner
10300 Torre Avenue
Cupertino, CA 95014
Email: planning@cupertino.org

Subject: Notice of Preparation – DEIR for Vallco Shopping District Specific Plan and The Hills at Vallco Project

Dear Ms. Ghosh:

On behalf of Better Cupertino, an unincorporated association of concerned residents of the City of Cupertino (“City”), this letter provides preliminary comments on the City’s Notice of Preparation (“NOP”) of a draft program environmental impact report (“DEIR”) for the Vallco Shopping District Specific Plan and The Hills at Vallco (collectively, the “Project”).¹

The proposed Project is located the intersections of N. Wolfe Road and Stevens Creek Boulevard and North Wolfe Road and Vallco Parkway. The Project would encompass approximately 58-acres. The Vallco Shopping Mall currently occupies the Project site.

The Project includes two components: the proposed Vallco Shopping District Specific Plan and The Hills at Vallco project. The NOP indicates that the Specific Plan may include the maximum amount of development authorized in the current General Plan. This level of development includes “a maximum of 1.2 million square feet of commercial uses (minimum 600,000 square feet of retail uses with a maximum of 30% of entertainment uses), 2.0 million square feet of office uses, 339 hotel rooms, and 389 residential dwelling units.” While the NOP states that The Hills at Vallco project would implement the Specific Plan, it proposes 800 residential units (i.e., 411 more units than currently allowed under the General Plan). The Hills at Vallco project, as proposed, also includes “a 30-acre green roof with public and private open space and recreational areas, two town squares, ancillary uses/amenities for the proposed residential and office uses, a transit center, a central plant, and parking facilities (including underground,

¹ These comments are based upon the limited information concerning the proposed Project provided in the NOP. Better Cupertino representatives may supplement these comments orally at scoping meetings and in follow-up written comments when additional information concerning the proposed Project becomes available.

structured, and surface parking).” The Hills at Vallco project may also include certain off-site improvements.

According to the NOP, the Project has the potential to cause a number of significant short-term, long-term and cumulative environmental impacts. The City has determined that an EIR is required.

1. The DEIR must adequately analyze the Project’s potentially significant impacts to City transportation, recreation, and school facilities, consider secondary impacts, and analyze a reasonable range of Project alternatives.

The Draft Program EIR must include thorough analysis of the following potentially significant environmental impacts that could affect the City and its residents:

- 1) Impacts of conversion of non-residential development intensity to residential uses;²
- 2) Impacts to water supplies caused by the Project directly, as well as cumulative impacts to water supplies caused by this Project together with other past, present, and probable future projects;
- 3) Weekday and peak traffic impacts on all surrounding roads and intersections;³
- 4) Weekend and off-peak traffic impacts on Stevens Creek Boulevard and North Wolfe Road and impacts on recreation facilities including City parks as a result of additional residential, commercial, and retail uses;
- 5) Secondary impacts caused by increased traffic, including air quality impacts and increased greenhouse gas (GHG) emissions;
- 6) Impacts to schools and other public services caused by the influx of new residents, including but not limited to:

- The direct impacts on school facilities that this Project will cause,⁴

² Because the Project proposes more residential units than authorized in the General Plan, the DEIR must analyze the impacts of this additional intensity. Residential uses have different impacts than nonresidential uses. For example, the traffic intensity and patterns differ with residential uses and residential uses increase demand for schools and recreational facilities.

³ Please note: because the Governor's Office of Planning and Research has not finalized its updated CEQA Guidelines implementing SB 743, the weekend and weekday traffic impact analyses must analyze Project-related traffic impacts using both the standard Level of Service and the modern Vehicle Miles Travelled methodologies.

⁴ For example, because Collins Elementary School and Cupertino High School are within ¼ mile of the Project site, CEQA § 21151.4 applies and the DEIR must analyze the effects Project-related air emissions may have on students at those schools. (See *also* CEQA Guidelines, § 15186.)

-
- The potential to open the wall separating the Project site from the neighboring community (at Merritt Drive, Amhurst Drive, or Wheaton Drive) to provide a "safe route to school," and
 - Cumulative impacts to schools caused by this Project in combination with other projects in the Sunnyvale, Santa Clara, San Jose area, including traffic impacts caused by assignment to overflow schools;⁵
- 7) Construction-period and operational impacts to the large double row of Ash trees along Stevens Creek Blvd. and along Wolfe Road and any other protected trees;⁶
 - 8) Public service impacts to neighboring residents, including any reduced police, fire, or ambulance services or increased response times;⁷
 - 9) Seismic-related hazards associated with the proposed 30-acre green roof;
 - 10) Aesthetic and visual impacts to neighboring communities, including but not limited to:
 - Obstructed views and increased shadows caused by the Project's tall buildings, and
 - Nighttime light pollution;
 - 11) Loss of solar access to areas beneath green roof and the alternative of using Project roofs for solar energy generation;
 - 12) The Project's direct and indirect secondary effects associated with the increase in traffic and recreation impacts to the City including but not limited to increased demand for limited parking, increased demand for police, fire and other City services, and the related strains on the City's limited facilities and resources;
 - 13) Impacts stemming from additional office development and displaced retail uses, including, but not limited to:
 - Growth-inducing impacts,

⁵ The City must consult with Cupertino schools (CUSD and FUHSD) when developing the analysis of school impacts. (See PRC, §§ 21083.9(b), 21153; *see also* CEQA Guidelines, 14 CCR §§ 15041(b), 15082(c), 15086(c)-(d), 15096.)

⁶ Please include analysis of the disturbance to tree roots during construction, as well as the loss of sunlight and any reductions in percolating water after the Project is built.

⁷ For example, the Project may increase emergency response times by creating a barrier between residents of west Cupertino and the Kaiser Hospital facility at Lawrence Expressway and Homestead Road.

- Displacement of lower income residents (and increased traffic caused by such displacement and the associated increase in commuting),
- Increased travel to other more distant retail locations,
- Increased traffic to freeways and local streets caused by large buses ferrying employees to new office developments,
- and potential inconsistencies with the goals of SB 375;

14) Cumulative weekday and weekend traffic impacts and cumulative direct and secondary impacts to parking, police, fire and other City services as a result of past, proposed, and approved uses within the City; and

15) Consideration of a reasonable range of Project alternatives, including:

- A revitalized mall that includes minimal or no physical changes to the existing Vallco Shopping Mall but includes incentives and other strategies to maximize tenant occupancy,
- a reduced development alternative that includes reduced office and residential use development,
- a balanced growth alternative that would attempt to match the proposed new residential development in both amount and housing cost (i.e., market rate, moderate income, low income, very low income) to the expected amount and demographics of the additional employment that would be associated with the new commercial development, and
- A conventional layout alternative that would comply with existing City standards for development and open space and would use rooftop areas for solar energy generation.

Please include all technical support for the above analyses in appendices to the DEIR.

2. Better Cupertino Requests Notice of All Future City Actions Concerning the Proposed Project.

Pursuant to Public Resources Code, section 21092.2, we also request notice of all stages of environmental review for the Project and any and all actions that the City proposes to take on this Project. Please send any and all notices via email to the following persons:

- a) The undersigned, at jason@holderecolaw.com;
- b) Co-counsel Stu Flashman at stu@stuflash.com;
- c) Client representative Liang-Fang Chao and [REDACTED]; and
- d) Client representative Peggy Griffin at [REDACTED].

Additionally, please send paper copies of notice documents solely to the undersigned.

* * *

If you have any questions concerning these comments, you can reach me at the phone number and email address provided in the above letterhead.

Sincerely,
Jason W. Holder

cc: (via email only)

Stu Flashman ([REDACTED])

Liang-Fang Chao ([REDACTED])

Peggy Griffin ([REDACTED])

From: David Ranney [mailto:XXXXXXXXXX]
Sent: Saturday, November 14, 2015 9:32 AM
To: City of Cupertino Planning Dept.
Subject: Comments on Vallco

Dear Sirs:

It is my understanding that this is the address to send any comments residents may have on the proposed Vallco development.

My primary concern is the sudden influx of students into Cupertino High School from the planned 800 residential units. Cupertino High is already a crowded school, and I worry that adding many more students will hurt its effectiveness.

In past projects developers claimed that condos didn't produce as many students per household as houses. However, Cupertino is a highly sought after school district, so I think that assessment is inaccurate in this case.

Property values in Cupertino hinge on the quality of the schools. If word gets out that Cupertino schools are overcrowded I think everyone will suffer for it.

In case you need the information, I have lived in Cupertino for 15 years. My address is 19841 La Mar Drive. Feel free to respond if you need any further information.

--

- Dave

From: Louie Alicea [mailto: [REDACTED] t]
Sent: Saturday, November 14, 2015 7:08 PM
To: City of Cupertino Planning Dept., [REDACTED]
Subject: Fw: Better Cupertino WG

On Saturday, November 14, 2015 4:34 PM, Louie Alicea [REDACTED] wrote:

To: City of Cupertino Planning Dept.

My family have been long time residents of Cupertino since 1984.

We do not want to add 7 story buildings with family homes at the Vallco site. **We want our privacy.**

We do not want the wall opened for public access to our neighborhood.

Our schools are maxed out already.

Vehicle traffic has become very congested in Cupertino the past few years, and this is going to become overwhelming when the new Apple complex is completed.

Public Safety is unable to keep up with controlling frequent speeders and violations throughout the city. Drivers are constantly running Red Lights/Stop Signs on a regular basis. Bicycle riders from Apple do not obey the laws and guidelines when riding through the neighborhoods already.

We don't see a plan for Senior living, which needs to be addressed.

We hope you can come up with a plan that we can all live with. We are tired of hearing the construction that has been going on in that area for over 10 years.

By the way, We are still waiting for our street on Merritt Drive to be finally repaired and paved.

Regards, Louie Alicea

From: Carl Hampe [mailto: [REDACTED]]
Sent: Sunday, November 15, 2015 7:44 AM
To: City Council; City of Cupertino Planning Dept.
Subject: Comments on the Vallco EIR

Dear City Council members,

We live on the second street over from Vallco shopping center on Denison Avenue, and we're very concerned about the impacts that the proposed Sand Hill development plan might have on our quality of life here. We have been residents here since 1989, and have seen the negative impact that recent development projects in Cupertino have had on our local environment. We have lost most of the confidence that we had in our city government due to its partiality to supporting greedy developers over the needs and rights of its citizens.

The recent negative impact consists of slowed traffic on the streets we most frequently use, strains on our school system's ability to serve our children's needs, increased air pollution from additional traffic, and increased crime of all kinds in our city. And this has all happened during a time when economics has made it more difficult for our city and county service providers to deal with the additional growth.

We haven't yet seen the impact's that Apple's new complex will have to our immediate area, and yet the city council is trying to push through a perverted Vallco "revitalization" project right next to the Apple complex without sufficient community input that will entirely change the nature of our neighborhood.

We are primarily concerned about the following potential impacts of Sand Hill's plan for the development of the Vallco property:

1. Additional traffic congestion in our area
2. Additional air and noise pollution
3. Additional crime
4. Loss of privacy due to our proximity to proposed tall buildings
5. Reduced availability of close-by shopping
6. Reduced effectiveness of our schools

One other particular concern that we have is that with all of the additional people moving through this part of the city that there will be pressure on the city to open up additional thoroughfares coming right through our neighborhood to reduce traffic flow on Stevens Creek Blvd. This would greatly increase our local traffic congestion, air and noise pollution, and crime. We ask the council to ensure that this will not be done.

We feel less safe and happy than we did when we first moved here. We watch our neighbors move out of Cupertino because of the expected impacts. We used to think that this was one of the best communities in the Bay Area, but we now see it becoming more and more like the less desirable places. We feel that our quality of life in this community is becoming worse by the day.

We hope that you will listen to our plea for a more sane and safe plan for Cupertino city development.

Sincerely,

Carl and Sharon Hampe

From: Liang C [REDACTED]
Sent: Sunday, November 15, 2015 9:23 AM
To: City of Cupertino Planning Dept.
Subject: Comment on Vallco EIR - impact on civic services should be based on real data

RE: Comment for Vallco EIR

Please study the impacts on civic services, such as library, police, fire station, medical emergency services based on real data.

Please study the impact on medical services, emergency and otherwise. The non-resident population would increase the demand for medical services since medical offices are open mostly only during working hours.

Even though the city doesn't provide any service for ambulances, the response time of an ambulance often means life or death even by just one second. Please study the response time of emergency vehicles to various points in Cupertino since traffic congestion could delay an emergency vehicle to reach a residence on the other side of the town.

Please study not only facility and personnel needs, but also the impact on level of service. Especially, the response time for medical, police, fire emergencies. And the response time during peak hours in average and also worse case scenarios. Any delay in response time could mean life or death for both the resident and non-resident population. Please study the realistic impact supported by real data.

Please please study the impacts of non-resident population on these civic services since the employees do spend more than 8 hours a way in Cupertino and they need the parks and recreation services, police, fire and medical services as any other resident.

Please include cumulative impact, including ongoing projects like Apple Campus 2 and Main Street, and also proposed projects, like Marina, Hamptons, Oaks.

Please provide real data and statistics to support your claim or conclusion, instead of any undocumented personal communication, as it has been done for the EIR of GPA.

If any personal communication is documented through email, it should be provided in the appendix for reference.

e.g. Personal communications between Ricky Caperton (PlaceWorks) and Derek Wolfgram, Deputy County Librarian for Community Libraries, April 4, 2014.)

e.g. Personal communication between Ricky Caperton (PlaceWorks) and Cheryl Roth of the Santa Clara County Fire Department on April 24, 2014.

e.g. Personal communications between Ricky Caperton (PlaceWorks) and Captain Ken Binder, Division Commander, West Valley Patrol, April 11, 2014

Please do not make assumption that employees generated do not add any impact without providing sufficient data to back it up, such as the following:

e.g. EIR of GPA states: "Although the proposed Project would result in an increase in employees throughout Cupertino as well, only residents within Santa Clara County can apply for a library card; therefore, the following analysis considers expected population increases, and not employment generation as a result of implementation of the proposed Project."

Most of the employees in Cupertino are probably Santa Clara County residents also. If the EIR would claim that most residents are NOT Santa Clara County residents, statistics should be given to support that claim. In fact, even non-resident of Santa Clara County can hold a library card, according to an official from Santa Clara County Library:

"All public libraries in Santa Clara County allow free reciprocal borrowing regardless of address. Currently 45,312 non-resident have a library card from our system. This is 18% of our total library cards.

In the EIR for GPA, the impact level for fire station and police are also derived without any data. With 30% increase in residence population and 50% increase in non-residence employee population, the EIR concludes that there will be no additional staffing needs for fire station or police. But the conclusions were only based on "personal communication" with no document and no data to support it.

For example, based on personal communications, the EIR concludes that there is no need to expansion for police for 30% increase in residence population and 50% increase in non-residence employee population.

e.g. "However, the West Valley Patrol Division has confirmed that future development under the General Plan would not result in the need for expansion or addition of facilities." (Personal communications between Ricky Caperton (PlaceWorks) and Captain Ken Binder, Division Commander, West Valley Patrol, April 11, 2014.)

If there is no need to expand, a written letter should be provided so that whoever makes the statement would be responsible for the claim. And attempt should be made to estimate the realistic impact of population increase and to explain using data why there will be no significant impact.

Thank you.
Liang Chao

From: Ruiwei Wang [mailto: [REDACTED]]
Sent: Sunday, November 15, 2015 12:01 PM
To: City of Cupertino Planning Dept.
Subject: the Hills at Vallco mall (Comments from R Wang)

Dear Cupertino city planning,

My name is Ruiwei Wang, I have lived in Cupertino for over five years at following address:
[REDACTED]

I am concerned according to the initial design of the hill, about the following factors:

1. My house is only 400 feet away from the 'Wall' that separate Vallco mall and my neighborhood. The impact on aesthetic view and privacy will be damaged by the proposed 'building 6' if the building it over 35 feet in heights. My house is one level house, We can be seen and lost our privacy.
2. Pollution from commercial building on our single family houses: Not only from the dirt and chemicals produced during the construction, but also turning on the light all day/night will pollute the air, and we are only 500 feet from the wall, and about 1000 feet from the construction site. Our lung will be greatly damaged by the air pollution.
3. Invasion of privacy on the maintenance worker on the rooftop park during the day time into the direction on our property.
4. Ability to see the moon: before The Hills at Vallco, we can see the moon coming up at 30 degree angle, but suppose that the building 6 is 6 stories, we can only see the moon coming up at 65 degree or further.

We have purchased the home based on the fact of a low occupancy, clean air environment, and have been paying property tax all the years. we can't let the new planning destroy, damage the environment of the neighborhood.

Please consider our concerns and satisfaction about the new planned The Hill. we wish to see a reasonable, more environment friendly design.

thanks

Ruiwei Wang
[REDACTED]

From: Liang C [mailto: [REDACTED]]
Sent: Sunday, November 15, 2015 12:58 PM
To: City of Cupertino Planning Dept.
Subject: Comment on Vallco EIR - impact on housing demand

RE: Comment on Vallco EIR

Please study the impact on the demand on housing market and rental price, since this will determine where the new workers will live and how long they will have to commute in and how congested the highway will be.

Please study where the new workers will reside in since there is not much available housing units in Cupertino or surrounding cities.

Please include in your study all ongoing office construction within at least 20 miles radius since all of workers in these buildings will add to the demand on housing and the demand on transportation for commuting. And please include all proposed office construction also.

Please study the impact on rental prices from studio to 1 bedroom to two bedrooms. The rental rate is already more than \$4,000 for 2 bedroom apartments. Cupertino has about 32,000 workers. The addition of 14,000 workers from Apple Campus 2 and 1000 from Main Street plus 10,000 from Vallco will essentially increase the working population by 50%. Thus, the demand on rental partment might increase by 50% also. How many of the current residents will be displaced when the rent goes even higher?

Please use realistic numbers of 2010 or later to estimate the number of employees that can be accommodated in a given office space. The space per employee maybe 300 square feet 20 years ago. It has become 200 square feet 10 years ago. And nowadays the space per employee has become 150 square feet per employee. Please use a realistic standard.

In 2010, ABAG estimates an increase of 4,421 housing units by 2040. ABAG also estimates that the office space will increase by 43,300 square feet per year.

However, Cupertino will have an addition of 3.5 million square feet of new office space opening in 2017 from Apple Campus 2 alone.

Main Street already added 260,000 square feet of office space, just opened in 2014.

The Hills at Vallco will add another 2 million square feet of new office space.

That's 5.76 million square feet of additional new office space on top of the current housing demand and commute flow.

(Note: Apple Campus 2 may have only added 750,000 square feet in terms of office allocation in Cupertino's General Plan. But the fact remains that the 3.5 million square feet of new office will be added on top of the current housing demand and commute flow.)

$3,500,000 \text{ s.f.} / 43,300 \text{ s.f. per year} = 80.8 \text{ years}$

$5,760,000 \text{ s.f.} / 43,300 \text{ s.f. per year} = 133 \text{ years}$

The office space added to Apple Campus 2 is equivalent to 80.8 years of office according to ABAG's estimation of 43,400 s.f. per year of office growth.

The office space added from Apple Campus 2, Main Street and Vallco will be equivalent to 133 years of office growth according to ABAG's estimation of 43,400 s.f. per year of office growth.

How many housing units will be required by ABAG to compensate for 133 years of office growth by the next Housing Element cycle in 2023?

$133 \text{ years} / 25 \text{ years} = 5.32.$

Would we be required to build 5.32 times more housing units then?

If that's an over estimate, please provide a more realistic estimate based on real data.

Thanks.

Liang Chao

From: Edward Ford [REDACTED]
Date: November 15, 2015 at 4:44:59 PM PST
To: "PiuG@cupertino.org<mailto:PiuG@cupertino.org>"
<PiuG@cupertino.org<mailto:PiuG@cupertino.org>>
Subject: Vallco Eir Public Comment
Reply-To: Edward Ford <[REDACTED]>

Here attached are our comments. Will also do a hand delivery to City Hall.
Ed and Suzanne Ford

Attached as a Word document...

Edward Ford

[REDACTED]

[REDACTED]

13 November 2015

City of Cupertino, Community Development Department

Vallco EIR comments

Attn: Piu Ghosh

1. This proposed development is so massive that it needs **much** more truthful and accurate information than has been in the deluge of post cards and ads from Sand Hill Development (SHD). It needs to be broken down in details at a series of public meetings to truthfully understand it and how it is within the Cities General Plan plus how it will affect the entire area. The elephant is too big to swallow and the PR/mail from SHD hides the real development impact on our city. Schedule open meetings.
2. Cupertino has multiple developments in process, planned and botched. The in process and planned are Main Street, Apple, The Hills and the Oak's plus what others? **Let us see them all.** Infrastructures all need to be deeply examined and clearly defined. Where is the water and sewage going to come from and go to? Have the agencies that provide water, sewage, gas and electric, fire, safety, health care etc. been contacted for impact? Will they need to upgrade their capacities? Who will pay for those upgrades? If the answer is the taxpayer then you need to be upfront. These are serious environmental concerns that most of us

never look at because they are not visible or surface as explosions in San Bruno or water leaks that collapse streets with loss of lives and assets in big \$\$'s to individuals.

3. SHD was/ is involved with the botched Sunnyvale development – correct? Are they going to put a **really** high insurance policy in place to cover this? We in Cupertino do not need an endless path of Vallco failed developments into taxpayers picking up the bill. If they fail we will have a bankrupt blight that in the end we taxpayers must fix. The EIR concern is that SHD does not have a positive track record for success. Who will pay for safety in this area though out? Are new fire stations and Sheriff offices to be built in near /intimate proximity to all of the major projects? Called and visited Sheriff and they told me that they would need more \$\$ =understaffed. Same story at fire stations. Suggest a more detailed analysis by City of Cupertino and when you do that please do not say every thing is OK. Document and be able to substantiate.
4. Traffic analyses: this is beyond belief i.e. where is that analysis???? If we have Apple with 20,000 or more employees who as yet have not developed a “beam me up and down Scotty” system, 12,000 vehicle trips per day to Main Street, 68,600 vehicle trips per day for The Hills and whatever for the Oak’s. Add in all the apartments from Hampton and those opposite Penney’s and the number is way greater than 100,000. If these calculations are wrong show what you have in detail. Where are the roads, gas stations, charging stations, buses, and maintenance (cleaning floors and toilets) going to come from? Buses from Gilroy and Morgan Hill for all the workers? They cannot afford to live here so they must add more transit trips in and out. Add these in and you approach 150,000. Provide us with an unbiased analysis that can stand litmus test of truth and accuracy i.e. no JD Powers reports of what you want to present.
5. My wife and children plus eleven grandchildren have been in or near Cupertino for almost 50 years. We have had the privilege to travel to many parts of the world. The developed countries and even undeveloped countries have better transit systems then we. My wife walked from our home up to Stevens Creek to catch a bus to San Jose State to complete a degree in Political Science. That is more than 20 years ago. Nothing has really changed. There is limited public transit that would get us to grocery, clothing, bolts and nut for home repairs. Is VTA or whomever involved in unplugging the sewer of traffic that all these projects/\$\$\$ for developers will create? Is Caltrans/State of CA watching and saying they have stacks of \$\$'s to fix all road, traffic lights etc.? Is this create a problem and ask for taxpayer bonds to fix? If so let us see all reports.
6. City of Cupertino has not fixed any traffic/safety issues on our little street so what confidence do all of us on Wilkinson Ave have that you could fix traffic /safety for these

massive projects? You are the Lead Agency with no check and balance by a non-biased independent review board that is not cherry picked. **Do not do a slick Willey like FUHSD.** Transparency needs to be on the table now.

7. This plan shows a total decline in ability to have access to retail shopping. There will be no anchor stores. Sears, Macy's and Penny's will be demolished. All the mall shop owners like Edward's Shoe's, who has supplied our children and grandchildren for many years are now evicted. Where are we to go for quality products? It is not on line shopping. Driving to Stanford or Valley Fair is really not pleasant so we do not do that. Kohl's and Target are not the answer to quality clothing unless you want us to dumb down and buy stuff that does not fit. Point is that these plans affect our environment with developments poorly planned at the community's expense. These plans have a negative effect on our lives. We will have more difficulty to get to health care. We use Kaiser and they are drowning with traffic. If you needed an ambulance they could not get here during school arrival departure hours. So what? Die and be happy that SHD made\$\$\$\$. Suggest a time out to see a total vision of community that is balanced and not driven by developer greed. Please tell us how you are going to address all of these concerns.

Sincerely, Edward and Suzanne Ford

From: Liang C [mailto: [REDACTED]]
Sent: Sunday, November 15, 2015 5:42 PM
To: City of Cupertino Planning Dept.
Subject: Comment on Vallco EIR - impact on civic services - more

RE: Comment on Vallco EIR

Many resident feel that the increase in burglary rate and even heard about a case with gunshot last week.

Please study the number of incidents of various types in Cupertino and surrounding cities.

Please study the impact of the added population and especially non-resident population on the police incident rates.

This project will put Cupertino on a path to urbanization. Please compare the crime rate of Cupertino with the crime rate of urban cities. Please also compare the investment in police force of Cupertino against that of other urban cities.

Many resident feel that traffic around schools is getting worse as the number of students attending each school increases.

Cupertino schools were designed as small neighborhood schools, but they are now double in the number of enrollment per school.

There is no funding for enough crossing guards to protect the safety of children walking or biking to school.

There is not enough police around to ensure safety around schools by warning dangerous driving behavior today.

As the traffic gets more congested, there will be more impatient parents and more accidents might happen.

Please provide data on traffic accidents in Cupertino citywide and around schools.

Please provide data on bicycles and pedestrian accidents, especially during school peak hours.

Please compare the data with other urban cities to estimate the increase as Cupertino becomes an urban city by building Vallco.

Please exam routes to school from different parts of the attendance area in CUSD and FUHSD to study the amount of extra vehicles during peak hour. Please exam traffic safety, air pollution and noise on these routes to schools.

Many residents already feel that there are not enough books in the library. Whenever one wants to borrow a book, most likely all volumes in Cupertino Library are all out on loan. One can either make a request and wait a few days; or one has to drive down to Saratoga Library or Campbell Library where most books are available on shelves.

Please evaluate the impact on the library usage by the amount of time a library patron has to wait to get book requests fulfilled. Please evaluate the amount of library books in Cupertino library stay on shelf to allow direct access by library patrons.

When no such data is available, please indicate that you cannot evaluate this aspect of the impact because of insufficient data. Please do not simply conclude that there is no significant impact on the library services when there is a large increase in residence population and worker population.

From: Liang C [mailto: [REDACTED]]
Sent: Sunday, November 15, 2015 6:16 PM
To: City of Cupertino Planning Dept.
Subject: Comment on Vallco EIR - impact on loss of retail

RE: Comment on Vallco EIR

Please study the impact on the loss of a regional shopping center, which provide a large variety of stores of various sizes and varying categories in one place. Cupertino hasn't had a good shopping center for a long time, but it doesn't mean Cupertino doesn't need one.

GPA Retail Strategy Report shows Cupertino residents are shopping outside of Cupertino for different consumer goods and services. Not only Cupertino residents have to drive further longer to waste gas and time, Cupertino also does not capture the sales taxes generated.

Please study the option of having a fully revitalized shopping center that can compete and even surpass Valley Fair. Vallco has a great location and affluence demographics and at the heard of a booming Silicon Valley economy. The only reason that Vallco hasn't done well is because it is mismanaged. Please study the option of inviting a professional shopping mall operator to revitalize Vallco.

The Macy's at Valley Fair occupies 396,000 sq ft, and Macy's Mens and Home occupies 316,000 sq ft. The entire retail space at The Hills at Vallco will be 625,000 sq.ft., which is only 87% of the space of Macy's in Valley Fair.

When visiting a large department store or a large shopping center, a family can often purchase multiple items and also dine and entertain within one trip. However, when a shopping center only has a limited selection of stores or when a department store only has a limited selection of goods, one family has to make several trips in order to fulfill their shopping needs. Families also tend to carpool when going to a large shopping center. But families would make separate trips when visiting smaller shops.

So, The Hills at Vallco only contains a reduced retail space of 625,000 sq. ft. And most of the stores will be tailored towards the worker population from Apple Campus 2 and its own office park and residents, according to Sand Hill's description. How many stores will serve the shopping needs of Cupertino residents and the surrounding cities, who are mostly working families? The loss of retail options for families' with kids should be studied.

When a regional shopping center is take away from Cupertino, Cupertino residents will have to drive further to other regional shopping centers to satisfy their needs in order to access a wider variety of goods. Cupertino residents will also have to make multiple trips to smaller shops to buy less number of items in each trip. That generates more greenhouse gas emission and more time wasted on the road and adding to the more congested traffic.

Please study the impact on additional trips generated due to the loss of access to a large regional shopping center of 1.2-million-square-foot at Vallco.

Please use realistic figures when estimating retail space available in The Hills at Vallco.

Deduct the space taken for entertainment, such as AMC, Bowling Alley, athletic clubs, and civic uses, such as innovation center, community center and transit center.

Thus, the true retail space available for shops and restaurants is only 400,000 sq. ft., which is as large as Macy's in Valley Fair (not even counting the part for Mens and Home).

Thanks.

Liang Chao

From: Peggy Griffin <g[REDACTED]>>
Date: November 15, 2015 at 7:16:36 PM PST
To: Piu Ghosh <PiuG@cupertino.org<mailto:PiuG@cupertino.org>>
Cc: 'Grace Schmidt' <cityclerk@cupertino.org<mailto:cityclerk@cupertino.org>>
Subject: Vallco EIR Scoping Comments - impact on Aesthetics

SUBJECT: Vallco EIR Scoping Comments – impact on aesthetics

IMPACT ON AESTHETICS

1. Currently, people can see the hills from many locations throughout the Vallco and surrounding areas. Due to the height and density of the Hills-at-Vallco project, views of the “real” hills, the sunset, the sunrise, the moonrise will be blocked. The existing Montebello Condominiums at the corner of Stevens Creek and De Anza Blvd. block the views of the hillside of homes as far away as 1/3 of a mile!

Please study the impact to all homes within at least a 1/3 mile distance surrounding this project area. This should also include homes in Sunnyvale.

Please study the impact on gardens and landscaping due to the possible loss of early morning sun or late afternoon sun.

2. Currently, the area is known and loved for the double row of Ash trees that line the sidewalks along Stevens Creek Blvd and Wolfe Roads.

Please study the impact of the potential loss of these trees. It is not the same to plant a 36” box tree! These trees are large mature trees that provide shade and a calm, relaxing atmosphere in which to walk.

3. The project proposes a huge “roof” over a large part of the area. This will prevent views of the “real” hills, the sunset, the sunrise, the moonrise from most of the locations within the project unless they climb on the “rooftop”.

Please study the impact of this project on new residents, office workers and visitors.

4. There are 2 parcels at the back of the Vallco Specific Planning area, one is the site of a proposed Hyatt Hotel, the other is in the northwest corner by the Perimeter Road wall and I-280. These are not owned by Sand Hill Properties but are directly and indirectly impacted by this project. The enormous height and density of the project will block any views these sites have of the hills, the sun, etc.

Please study the aesthetic impacts of this SHP project on the other properties within the specific planning area.

5. There are currently apartments and condominiums in the South Vallco Park area that will end up being towered by the proposed project. They currently have views of the hills, sunsets, sunrise, moonrise and of the trees.

Please study the impact on these units.

Sincerely,
Peggy Griffin



From: Peggy Griffin <g[REDACTED]>
Date: November 15, 2015 at 7:35:39 PM PST
To: Piu Ghosh <PiuG@cupertino.org<mailto:PiuG@cupertino.org>>
Cc: 'Grace Schmidt' <cityclerk@cupertino.org<mailto:cityclerk@cupertino.org>>
Subject: Vallco EIR Scoping Comments - Impacts

SUBJECT: Vallco EIR Scoping Comments - Impacts

Many homes in our area do not have air conditioning. In the hot summer months, they rely on the wind to cool their homes. On very hot days, the afternoon breeze comes through and blows the hot air out of our homes. The height and density of this project will prevent the wind from reaching the homes that rely on it to stay cool.

Please study the impact of this project on the ability of homes to remain cool.

If homes can no longer rely on the wind to cool down their homes then they will be forced to get air conditioning which will increase energy usage and greenhouse gases.

Sincerely,
Peggy Griffin
[REDACTED]

From: Xiaowen Wang [mailto: [REDACTED]]
Sent: Sunday, November 15, 2015 7:50 PM
To: City Council; City of Cupertino Planning Dept.; City Clerk; Piu Ghosh; Aarti Shrivastava
Subject: Vallco EIR comments

Dear Planning Commission and City Councils,

I am writing to you regarding the Vallco project approval process.

First, I really hope that we can compose a comprehensive and accurate EIR. I would like that you could pay special attention to the following items beyond the regular environmental evaluation.

1. The housing impact of any proposed office project. It is a well known fact now that ABAG calculates the RHNA based on employment projection which is directly linked to any office development in the city. It is extremely misleading and irresponsible to overlook the possible housing impact of office project. Technically it should be easy to directly use the RHNA formula from ABAG to estimate the housing units of office project. I would like that the EIR can include such numbers to evaluate impact on schools, traffic and any other public services.

2. The traffic impact should be studied of all surrounding areas not just the road directly connected to the project. It is foreseeable that after the congestion at 280, Wolfe, De Anza and Stevens Creek, the traffic will be overflowed to the secondary road, such as Homestead, Bollinger, Blaney and Tantau. It is important to look at the impact to these secondary roads and their surrounding residential neighborhood. Not only the traffic delay should be studied, the noise and air pollution should also be considered. Moreover, notably, there are several schools on these secondary roads, Collins, Eaton, Sedgwick, Lawson, Hyde and Cupertino High. The safety around these schools during rush hour should be thoroughly studied.

3. The environmental impact during project phasing should be studied more carefully. The current proposal includes massive destruction and rebuilding. How the project phasing would have tremendous impact on the surrounding neighborhood. For example, the two level parking lot would unearth a huge amount of dirt, which could cause various environmental problems.

4. One unique part of the proposed project is the big green roof. The roof should be carefully studied regarding its

- water usage
- seismic hazard
- fire hazard
- emergency service

5. The light pollution problem. The proposed project is substantially higher than the surrounding neighborhood. The reflection during the day and light during the night could be very disturbing to the residential neighborhood.

Second, other than different environmental impacts, different project scope should be studied. Such big project could be subject to changes to a lot of factors, it is important to consider different options for the project. I think that other than the current proposal, we should also consider

1. keep Vallco as a pure retail site
2. rebuild Vallco as a public service site, such as school, park or library
3. retail with 389 housing as allocated per housing element

Finally, please take time and effort to collect the data and make sure the accurate data is put in the report. As I have reported, the GPA EIR has quite some factual error. I hope such error would not appear in this report.

Please put these comments in the public record of Vallco EIR.

Sincerely,

Xiaowen Wang
Cupertino resident

From: Peggy Griffin <[REDACTED]>>
Date: November 15, 2015 at 8:27:24 PM PST
To: Piu Ghosh <PiuG@cupertino.org<mailto:PiuG@cupertino.org>>
Cc: 'Grace Schmidt' <cityclerk@cupertino.org<mailto:cityclerk@cupertino.org>>
Subject: Vallco EIR Scoping Comments - impacts on Air Quality

SUBJECT: Vallco EIR Scoping Comments – impacts on AIR QUALITY

When studying all the impacts of air quality, please pay special attention to areas where the young, the elderly and the sick may be located such as:

- Public schools
- Private schools
- Day cares
- Pre-schools
- Senior centers
- Residential homes used as assisted living
- Hospitals (Kaiser Hospital at Homestead and Lawrence Expressway for one)
- Urgent care facilities
- Parks and open areas where people congregate and exercise

Due to the close proximity of Vallco to Sunnyvale, Santa Clara and San Jose, the above sensitive areas should be considered regardless of the city it resides in but within a specified radius of at least 2 miles if not farther. The material from the cement plant on the far west side of Cupertino finds its way to the east side of town.

1. Vallco Shopping Mall was constructed in the early 1970's. Asbestos was one of many materials used during that time in building materials. The demolition of the existing mall will cause many of these materials to be released into the air.

Please study what materials, in addition to asbestos, will be in the structures to be demolished and their impacts on our air quality.

Please take into consideration the afternoon winds that often occur and the distance these materials can be carried throughout our city.

2. During the construction of this project, a lot of dirt and trees are going to be dug up, a lot of cement and construction materials will be brought in and used.

Please study the possible materials found in the dirt that may be released into the air as a result of the excavation and removal process.

Please study what materials will be used, how they will be applied and their impacts on our air quality during the construction process.

3. After construction, the project plans propose a huge "roof" over a large part of the area. Odors, car exhaust, "breathing fumes" from new construction materials and from decaying materials can build up under the roof.

Please study the impacts of this roof on the air quality at all levels (floors) of the project from the deepest underground level to the floor just under the roof.

4. Please study the impacts of items #1-3 on children and people with asthma.

Sincerely,
Peggy Griffin



From: Xiaowen Wang [mailto: [REDACTED]]
Sent: Sunday, November 15, 2015 8:29 PM
To: City Clerk; City of Cupertino Planning Dept.; City Council; Piu Ghosh; Aarti Shrivastava
Subject: Vallco Economic Impact Report

RE: Vallco EIR Scoping Comments

Dear Planning Commission and City Councils,

I am writing to request a economic impact report on Vallco.

It is undeniable that Vallco redevelopment would have adverse impact on the environment. However, it is not a complete picture with just environment impact report. We need the following data points to comprehensively evaluate the project.

1. Tax revenue comparison between different project options. The tax revenue of the Vallco before redevelopment should serve as the base for this comparison. Also this study should include tax composition and distribution. What portion is the retail tax or property tax? In what proportion the tax revenue can be used in the city or flow into the school district?
2. City spending on different project options. What is the cost of public service provided by the city and school district such as sewer, police and fire, sanitary and school? This study should also use the current cost as the baseline.

We can only know the financial impact of the redevelopment by looking at both cost and benefit. We can then evaluate the overall benefit of any project proposal could offset the adverse impact on the environment.

Please put this request as part of public record of the Vallco EIR scoping comments.

Sincerely,

Xiaowen Wang

From: Peggy Griffin <[REDACTED]>
Date: November 15, 2015 at 8:39:13 PM PST
To: Piu Ghosh <PiuG@cupertino.org<mailto:PiuG@cupertino.org>>
Cc: 'Grace Schmidt' <cityclerk@cupertino.org<mailto:cityclerk@cupertino.org>>
Subject: Vallco EIR Scoping Comments - impacts on Air Quality (more)

SUBJECT: Vallco EIR Scoping Comments - impacts on AIR QUALITY (more)

Homes along I-280 and CA-85 are constantly showered with black particles from the freeway. This material covers outside furniture, the ground, our gardens. The wind blows it into our homes to become black dust in our house. We breathe it whether we're inside or outside. As the traffic has increased over the years, this material has increased. Some say it's particles from the tires. Others say it's exhaust particles. Whatever it is, we live and breathe it everyday and it is getting worse! It cannot be healthy to breathe this stuff.

Please study the impacts of the increased traffic as a result of the 2 million square feet of office, 800 housing units, on top of all current and proposed projects in Santa Clara County on our air quality throughout the city and neighboring cities.

Please study particles from car tires and exhaust as a result of the impact of this increased traffic.

Sincerely,
Peggy Griffin

[REDACTED]

From: Peggy Griffin [REDACTED]
Date: November 15, 2015 at 9:11:39 PM PST
To: Piu Ghosh <PiuG@cupertino.org<mailto:PiuG@cupertino.org>>
Cc: 'Grace Schmidt' <cityclerk@cupertino.org<mailto:cityclerk@cupertino.org>>
Subject: Vallco EIR Scoping Comments - impacts on Biological Resources

SUBJECT: Vallco EIR Scoping Comments – impacts on Biological Resources

The large trees covering the Vallco Specific Plan area (large Ash, large evergreens) are home to large birds. Many flocks roost at night in these large trees. There are fewer and fewer large trees in this area due to the development projects. There are very few places nearby where these birds can go. When we lose birds, our insect population increases – particularly mosquitos which can lead to increased exposure to disease.

Please study the impacts of the demolition noise, disturbance of large vehicles and cranes, the excavation and construction on these birds and other animals.

Please study the impacts of displacing gophers, rats, squirrels, opossums and raccoons on the animals themselves and on the neighboring homes where they will migrate.

Sincerely,
Peggy Griffin
[REDACTED]

From: Peggy Griffin <[REDACTED]>
Date: November 15, 2015 at 9:35:42 PM PST
To: Piu Ghosh <PiuG@cupertino.org<mailto:PiuG@cupertino.org>>
Cc: 'Grace Schmidt' <cityclerk@cupertino.org<mailto:cityclerk@cupertino.org>>
Subject: RE: Vallco EIR Scoping Comments - Hazards and Hazardous Materials

SUBJECT: Vallco EIR Scoping Comments – Hazards and Hazardous Materials

When studying all the impacts of hazardous materials, please pay special attention to areas where the young, the elderly and the sick may be located such as:

- Public schools – including the proposed Nan Allan school site
- Private schools
- Day cares
- Pre-schools
- Senior centers
- Residential homes used as assisted living
- Hospitals (Kaiser Hospital at Homestead and Lawrence Expressway for one)
- Urgent care facilities
- Parks and open areas where people congregate and exercise

Due to the close proximity of Vallco to Sunnyvale, Santa Clara and San Jose, the above sensitive areas should be considered regardless of the city it resides in but within a specified radius of at least 2 miles if not farther. The material from the cement plant on the far west side of Cupertino finds its way to the east side of town.

1. Vallco Shopping Mall was constructed in the early 1970's. Asbestos was one of many materials used during that time in building materials. The demolition of the existing mall will cause many of these materials to be released into the air.

Please study what materials, in addition to asbestos, will be in the structures to be demolished and their impacts of exposure to them.

Please take into consideration the afternoon winds that often occur and the distance these materials can be carried throughout our city.

2. During the construction of this project, a lot of dirt and trees are going to be dug up, a lot of cement and construction materials will be brought in and used.

Please study the possible materials found in the dirt that may be released as a result of the excavation and removal process.

Please study what materials will be used, how they will be applied and the impacts of exposure to them during the construction process.

3. After construction, the project plans propose a huge "roof" over a large part of the area. All the pictures show the edge of the roof without a fence.

Please study the impacts of this roof as a safety hazard for people and materials falling off the roof.

4. Please study the impacts of the hazardous materials on all populations including people with asthma.

Sincerely,
Peggy Griffin

A solid black rectangular redaction box covering the signature area.

From: Jenny Zhao [mailto: [REDACTED]]
Sent: Sunday, November 15, 2015 9:51 PM
To: City of Cupertino Planning Dept.
Cc: City Council; citystaff@cupertino.org; Jenny Zhao
Subject: Regarding Vallco EIR

Hi City Planning and City Council members,

I am writing to you with big concerns about the proposed Vallco project. I would like the following to be included in the upcoming EIR, and EIR must be done by an independent, highly reputable firm.

***Traffic impact, especially the traffic on Wolfe and Stevens Creek during rush hours and school dismissal hours, with the proposed 2 million sf office space.

***Schools, the cost of adding space for additional kids in our school, not only the classrooms, but also the staff, facilities, playgrounds, sports fields, etc. These additional costs should be absorbed by the community members.

***Do a comprehensive survey to see how many people would really use the shuttle bus to commute.

***Park space. A "green" roof top can't be seen from the ground, therefore it shouldn't even be considered as green space.

Thanks,
Yong

From: Liang C [mailto: [REDACTED]]
Sent: Sunday, November 15, 2015 10:05 PM
To: City of Cupertino Planning Dept.
Subject: Comment on Vallco EIR - impact on future development in Cupertino

RE: Comment on Vallco EIR

Please study the impact of The Hills at Vallco on the future development of Cupertino.

Please study the capacity of the sewage and water system to sustain future development in Cupertino before a major expensive system expansion. Would The Hills at Vallco use up all capacity in the system so that any future development is not possible without expensive system upgrade?

The massive development of 2 million square feet of office, way beyond the capacity of Cupertino, could prevent future development in Cupertino for the next 25 years since all the infrastructures are either saturated or overflowed by this development. Any future development would require significantly expensive infrastructure expansion; thus, preventing any more development in Cupertino.

Please study the capacity of more office development in other areas of Cupertino.
Please study the option of spreading office development to other areas of Cupertino, instead of within one block of Apple Campus 2, one of the largest office park in Silicon Valley.

A major corporation (with sales office in Cupertino to generate sales tax) would prefer a separate campus for brand recognition and also for security reasons. Please study the possibility of any major corporation to set up a stand-alone office in the future, once The Hills at Vallco is built.

With 2 million square feet of office from Vallco, the office space in Cupertino will increase by 50% within 5 years. And together with 3.5 million s.f. from Apple Campus 2 and 260,000 s.f. from Main Street, that's equivalent to 133 years of office growth from the analysis below:

In 2010, ABAG estimates that the office space in Cupertino will increase by 43,300 square feet per year.

Cupertino will have an addition of 3.5 million square feet of new office space opening in 2017 from Apple Campus 2 alone.

Main Street already added 260,000 square feet of office space, just opened in 2014.

The Hills at Vallco will add another 2 million square feet of new office space.

That's 5.76 million square feet of additional new office space on top of the current commute flow.

(Note: Apple Campus 2 may have only added 750,000 square feet in terms of office allocation in Cupertino's General Plan. But the fact remains that the 3.5 million square feet of new office will be added on top of the current housing demand and commute flow.)

$3,500,000 \text{ s.f.} / 43,300 \text{ s.f. per year} = 80.8 \text{ years}$

$5,760,000 \text{ s.f.} / 43,300 \text{ s.f. per year} = 133 \text{ years}$

The office space added to Apple Campus 2 is equivalent to 80.8 years of office according to ABAG's estimation of 43,400 s.f. per year of office growth.

The office space added from Apple Campus 2, Main Street and Vallco will be equivalent to 133 years of office growth according to ABAG's estimation of 43,400 s.f. per year of office growth.

The transportation infrastructure has a limited capacity since the highway is limited by the number of lanes and even the proposed BRT lines could only transport a few hundred people per day. It is very costly and time consuming to expand the capacity of transportation infrastructure. Therefore, allowing 2 million square feet of office in one project practically means taking away the possibility of future office development in Cupertino by 2 million square feet. Other property owners in Cupertino with lands already zoned for office or mixed use with office would not be able to build more office.

A major corporation (with sales office in Cupertino to generate sales tax) would prefer a separate campus for brand recognition and also for security reasons. It is unlikely that a major corporation would want to rent office space in The Hills at Vallco. Yet, since The Hills at Vallco took away the capacity of Cupertino to accommodate more office in the next 133 years, would the infrastructure of Cupertino be able to sustain more office development, especially by a major corporation?

From the EIR for GPA, the capacity for sewage system is already up to the limit, specially in the Wolfe and Blaney area. Even if Cupertino is able to acquire more capacity at this point. How much more can the system take?

Liang Chao

From: Peggy Griffin <[REDACTED]>
Date: November 15, 2015 at 10:05:28 PM PST
To: Piu Ghosh <PiuG@cupertino.org<mailto:PiuG@cupertino.org>>
Cc: 'Grace Schmidt' <cityclerk@cupertino.org<mailto:cityclerk@cupertino.org>>
Subject: Vallco EIR Scoping Comments - Groundwater

SUBJECT: Vallco EIR Scoping Comments – Hydrology and Water Quality

1. Groundwater impacts - Due to the massive digging required by this project, please study
 - a. the impact on the groundwater table
 - b. the massive pumping out of the water table as well as resultant contamination
 - c. the impacts on local wells
2. Water supply –
 - a. the EIR should analyze increased water demand and whether it will increase stress on the Santa Clara Valley Water District, the local water wholesaler, or the State Water Project, the eventual source of SCVWD's water.
 - b. How will water for the green roof park area be provided? How will it be stored and treated?

Sincerely,
Peggy Griffin
[REDACTED]

From: Frank Geefay [mailto: [REDACTED]]
Sent: Sunday, November 15, 2015 10:09 PM
To: Piu Ghosh; City of Cupertino Planning Dept.
Cc: [REDACTED]
Subject: The Hills at Valco EIR Scoping Public Comment

Smart Growth Considerations

When reviewing to approve any major development for the city, at the very least the City must consider its impacts upon the community and its sustainable growth impacts. The principles embodied in "[Smart Growth](#)" are an excellent guide that the City should apply. This is a movement which many cities throughout the nation have adopted. It has its roots in Europe. Car traffic is universally the most adverse impacting factor upon growth due to its combined physical, financial, and social impacts: traffic congestion; the space occupied on roadways and parking spaces; its demand on energy and fossil fuels; its production of greenhouse gases and air pollution; the cost of infrastructures to support its use; and its toll on human lives, especially the young. Thus in any city planning involving growth traffic must be the greatest consideration in mitigate its consequences in order for a development to have growth sustainable impact.

Traffic Mitigation

Not only is its immediate impact important but also its future impact on limiting growth elsewhere. So even though the development being considered may not in itself saturate traffic flow the increase in traffic created by it may hinder further effective city developments. Heavily trafficked roads as a result of a development may also hinder later mitigation measures making such measures far more costly, time consuming, and compromised. If a development increases traffic to near saturation levels during peak hours, partial road closures for maintenance, accidents, and road improvements may cause great hardships to those whom it serves and provides a living. This may also be problematic when other developers want to use the same road and freeway infrastructures making further developments unfeasible. Thus there must always be significant extra road capacity to mitigate these eventualities. It is simply shortsighted to use the best case scenario to decide upon the feasibility of a development.

Apple's Impact

Apple's Campus II will house about 14,000 employees resulting in an estimated 8,000 additional cars to freeways and local streets. The 280 freeway exit onto Wolf Road is being widened to accommodate Apple's increased traffic burden in addition to their buses and van-pools. This may provide some marginal amount of overcapacity assuming there is no further growth on that site, an unrealistic expectation due to Apple's rapid growth. Originally they had estimated 13,000 employees but in the intervening year that number has increased by 1,000 employees.

Sand Hill Proposal and potential Impact

The current plans for Vallco recently submitted to the City by Sand Hill Development for 2,000,000 square feet of office space, 800 units of varied housing, retail, and other amenities will add an estimated 10,000-12,000 cars on the same freeways, freeway exits, and roadways as Apple Campus II just one block away. Then Main Street will soon open nearby with more offices, housing and retail adding more cars. Apple alone requested the freeway exit widening now underway. Did Caltrans anticipate Vallco's 10,000-12,000 additional cars and those from Main Street when planning the freeway exit widening more than one year earlier? Is there adequate over capacity to handle partial

road closures from accidents, maintenance, and improvements with upwards of 22,000 combined new and existing cars during peak hours? Is there adequate roadway capacity for additional businesses in the near future such as at The Oaks, Target, Marina, Cupertino Village, etc.?

The Proposal

It is most prudent to develop Vallco in a growth sustainable manner that does not significantly impact traffic flow to allow for future growth elsewhere in the city, has a positive impact upon the quality of life of our residents, and is a profitable and acceptable development option for Sand Hill Development. I do not view this situation as an all or nothing proposition. I propose an alternative plan based largely upon sustainable *Smart Growth* principles for traffic mitigation that also promotes community development that I believe will benefit all parties. Each component of this proposal serves to offset the adverse impact of other elements or complement those that don't. If done optimally to mitigate traffic it might actually reduce overall peak traffic loads below Apple's projections alone while still accomplishing all the things just mentioned.

The Details

The percentages stated are only suggestions. The proportions of each sub-element should be adjusted to what is most sustainable and makes greatest sense for this community to thrive within itself. The overall size of Vallco is also up for discussions and can vary from 2,000,000-3,000,000 square feet or so. *It is always better to avoid a problem rather than create one then attempt to mitigate it later.* It will cost far less in the long run with more optimal results. I envision Vallco as a *self-contained community within a community*:

1. Business (50%):-
 1. Retail;
 2. Entertainment, gaming and sports recreation centers;
 3. Quality Restaurants and lower-end food courts;
 4. Hotel;
 5. Offices - doctors, lawyers, realtors, tax preparation, escrow, loans, after-school tutors, etc. (no more than 20% of businesses).
2. Housing (40):-
 1. Studio - target single Apple employees;
 2. Single Bedroom - target married Apple employees;
 3. Multiple Bedrooms - target Apple and other families with children;
 4. Senior Housing - far more than the 40 units Sand Hill suggested. If they can build 40 units they can build far more. It would be kept separate from the other housing within easy walking distance to the green garden roof and could also include assisted living.
3. Child Care (10%):-
 1. On sight School K-9 for onsite residents;
 2. High School club/meeting area and media center;
 3. Playground for school and children on the green roof;
 4. On sight Library (also for adults);
 5. Daycare Center for Vallco residents and shoppers.
4. Mobility Alternatives:-
 1. Shuttle Bus for Vallco residents to:

1. Public Transportation hubs;
 2. Caltrain;
 3. To High Schools and DeAnza College for students;
 4. To other businesses throughout town for those employed elsewhere in the city.
2. Bicycle Facilities:
 1. Protected Class IV bikeways down the length of Stevens Creek Blvd. to Vallco to safely accommodate riders of all ages and abilities;
 2. Bicycle lanes and parking throughout Vallco;
 3. Bicycle loaners or bicycle shares at the parking lot entrance to Vallco shopping.
3. Pedestrian Friendly:
 1. Nice pleasant easy to walk sidewalks between locations with separate paths marked for bicycles;
 2. Lockers at various locations to temporarily store things;
 3. Water fountains spread throughout the walking paths and inside large retailers;
 4. Benches and tables for people to rest, eat, or read between shopping.
4. Long secured bicycle/pedestrian enclosed bridge leading directly from the studio and single bedroom housing to the Apple Campus II building (joint project between Apple and Sand Hill Dev.).

Everything will be conveniently within walking distance for occupants and visitors at Vallco consistent with the principles of *Smart Growth*. There is plenty of diversity in land use elements to complement one another and provide for all the needs of this community within a community and for the profitability of the developer and the sure success of Vallco with minimal impact upon traffic loading in combination with Apple Campus II. This could also serve as a sustainable best practice model that other cities may want to adopt as a major mixed use development that for a change mitigates traffic.

1. **Business** is at the heart of this community within our city. Retail, entertainment, sports, restaurants, and offices would have a captive community of housing occupants to serve as customers/clients in addition to other residents from Cupertino. The hotel would serve guests of residents as well as Apple and other businesses in town with convenient shuttles to other businesses. The emphasis should be to serve the needs of Cupertino residents. Serving visitors from other communities is secondary as this creates more traffic especially during holidays. What will attract Apple employees to buy housing here is a broad base of businesses tailored to the needs of Apple employees and young high tech adults as well as families and kids. A vibrant retail is what residents want most complemented with a broad range of quality dining experiences and a mix of entertainment and sporting/recreational challenges and modest office services.
2. **Housing** units to address the needs of Apple employees within walking distance of the new Apple Campus II and other local high tech companies range from studio to single bedroom housing. It is important that retail, eateries, entertainment, and recreation be attractive to

young Apple and high tech employees. Multiple bedroom family housing would be available for families with children with child care amenities. There would also be far more senior housing than suggested by Sand Hill to take care of a growing senior population separated from the other housing elements for quiet and privacy. Seniors would have easy access to the green area on the roof to take walks and enjoy the out of doors. This senior housing may also include assisted living. Sand Hill could partner with a senior housing specialist. All ages would be accommodated conveniently close to everyone's daily need. It may be possible for young adults, their parents, and grand parents to live in Vallco within walking distance of one another so they can all easily visit one another and keep an eye on their aging seniors while seniors visit or care for grandchildren.

3. **Child Care** facilities such as a K-9 School, Library, Day Care Center, and a park and play area on the green roof would provide for a full range of child care needs for residents living in Vallco. The Library and Day Care Center would also be available for shoppers and Cupertino residents. The Library would have an added benefit of reducing the load on the Library at the Civic Center, the busiest in the County, and free up parking there. Everything would be a short walk from everything else with safety and security for children.
4. **Mobility Alternatives** to nearby work and public transportation will be readily available through shuttle buses and protected Class IV bicycle lanes. Shuttle buses could be used for high school and DeAnza College students as well. An agreement could be made with FUHSD that a lottery or other process would distribute high school students throughout the district or something similar. This will avoid overcrowding a single school withing a single school zone. Bicycles could be made available at the entrance of the shopping area so that they could be borrowed or rented through Bay Area Bike Share and ridden throughout Vallco or for simply carrying heavier loads. Of course walking will always be an option to go everywhere withing Vallco as well as to the shuttle transit center.

A long secured bicycle/pedestrian enclosed bridge leading directly from the studio and single bedroom housing units to the Apple campus (joint project between Apple and Sand Hill) serving as a perfect and sustainable path to bridge housing needs directly to Apple employees. There would be a people mover like in airports also located on this bridge. Exits leading below to convenient locations such as bus stops, bicycle lanes, and walking paths would descend through elevators in the support shaft structures of this bridge.

Win-Win Proposition

All of these interrelated elements could actually reduce traffic from the Apple employees living at Vallco, solve further overcrowding schools, provide residents and Vallco occupants with a vibrant shopping/dining/entertainment experience with legal, doctor, realtor, and other office services without overwhelming traffic, provide sufficient housing units to satisfy the city's housing needs as well as ABAG housing requirements with a captive customers/clients for retail and offices, provide amenities for families, provide senior housing without impacting traffic our schools, provide family housing with children and supportive facilities, provide hotel lodgings for Apple visors, Vallco residents visitors, and other visitors with hotel taxes all going to the city, and providing a very profitable and successful investment for Sand Hill Development, a sustainable proposition for

all. Everyone gets most of what is most important to them. And it is sustainable allowing for future growth in the city without overburdening traffic or anyone else, a win-win for all.

Office vs. Housing

As a side note if the city grants Sand Hill all the office space it requests for Vallco, most of it will likely go to Apple offices, Apple vendors, and Apple contractors due to its proximity to Apple Campus II. This does nothing to help the city diversify its business revenue stream portfolio as it is still tied to Apple. Housing however is probably more profitable to Sand Hill than offices and will always be in great demand with or without Apple and fulfill a critical shortage without negatively affecting ABAG's future housing allocations as does office space. Perhaps it will bring in a little less tax revenues for the City but it will otherwise be of greater benefit to the community without overburdening our local schools or traffic. This proposal will have the greatest overall benefit to the community. I hope this will have significant overriding consideration from the City even above the City's desire for a more diversified revenue stream.

Best Regards,
Frank Geefay
Cupertino Resident

From: Liang C [REDACTED]
Sent: Sunday, November 15, 2015 10:29 PM
To: City of Cupertino Planning Dept.
Subject: Comment on Vallco EIR: impact on overbuilding of office space in a very short time

RE: Comment on Vallco EIR

The Market Study done in 2014 for the GPA in fact shows **only a demand of 805,428 square feet of office by the year 2035**. The estimated demand for office space in Cupertino is 43,300 square feet per year. **The 2,000,000 square feet is the equivalent of 46.2 years of office growth** in Cupertino. Not only the proposed Hills at Vallco will devastate the traffic condition, **it will kill any chance of another major corporation to settle down in Cupertino**. The capacity of our traffic infrastructure is very limit since there is literally no mass transit.

Please study the impact of the oversupply of office space in the long run on housing, employment, transportation, quality of life, especially when the infrastructure to support it cannot catch up in the short term.

The area might be able to handle a reasonable growth of office space over 20 or 30 years. However, when 2 million square feet of office is built before the other 2.5 million square feet of office has not even finished construction, the accumulated impact is hard to estimate.

Please study any other area or city that has seen such high growth rate in office space, namely 50% growth of office space in 5 years, and compare its impacts.

[Market Study Does Not Support Two Million Square Feet of Office at Vallco](#)

The Market Study done in 2014 for the GPA in fact shows **only a demand of 805,428 square feet of office by the year 2035**. The estimated demand for office space in Cupertino is 43,300 square feet per year. **The 2,000,000 square feet is the equivalent of 46.2 years of office growth** in Cupertino. Not only the proposed Hills at Vallco will devastate the traffic condition, **it will kill any chance of another major corporation to settle down in Cupertino**. The capacity of our traffic infrastructure is very limit since there is literally no mass transit.

Market Study: True Office Demand by 2035 is Only 805,428 sq. ft. Not 3.5 Million.

Table 34: Projected Office Demand, Cupertino, 2013-2035

| | 2020 | 2035 |
|--|-----------------------------|-----------------------------|
| Minimum Demand Estimate | | |
| Gross Demand (sq. ft.) (a) | 303,061 | 952,477 |
| Less: Entitled Office Development (sq. ft.) | 147,050 | 147,050 |
| Net New Office Demand ABAG Projections (sq. ft.) | 156,011 | 805,428 |
| Sq. Ft. Required for New Corporate Campus (sf. ft.) (b) | 2,000,000 | 2,000,000 |
| Net New Square Footage of Apple Campus 2 (c) | 750,000 | 750,000 |
| Total New Demand for Office Space | 2,906,011 | 3,555,428 |

True Office Demand

For non-existent major employer

Already vested

- **ABAG Projection: Annual demand for office is only 43,294 sq. ft.**
- **2,000,000 sq. ft. office = 46 year of office demands!**

Reference: GPA Market Study, Page 90, Table 34 Projected Office Demand, 2013-2035
CRSZaction.org and BetterCupertino.org

During the General Plan Amendment (GPA) Process, the City of Cupertino hired the consulting firm BAE Urban Economics to conduct a Market Study. Like reading all such consultant reports, ordered by the City, wise readers look at the data collected in the report and derive informed conclusions on their own. The conclusion derived by these consultant reports are often quite biased, and one should read it with caution. The office demand analysis is one such example.

On Page 83 of the Market Study, it shows that the "**estimated demand for office space in Cupertino averaging approximately 43,300 square feet per year**". After accounting for projects currently entitled or under construction, this suggests that minimum net office demand will total approximately 156,000 square feet by 2020 and 805,400 square feet by 2035, as shown in Table 34."

ABAG projection is regarded as aggressive by many already. However, **the Council directed the staff to add "2-3 million square feet of office"** when the GPA process was initiated from Aug. 21, 2012 Council Meeting. Therefore, the consultants have to find a way to deliver the expected "**office demand**".

The Market Study argues:

Table 34 factor in the capacity to accommodate the proposed Apple Campus 2 along with another new corporate campus equivalent in scale to the recent projects shown in Table 33, in addition to the minimum demand estimates that were developed based on projected employment. As shown, this results in a net new demand of approximately 2.9 million square feet by 2020 and 3.6 million square feet by 2035. **Given the recent shortage of**

office spaces in Cupertino containing more than 10,000 contiguous square feet, a new recommended office allocation could also allow for multi-tenant office developments, which could create the space needed for mid-size companies to grow in Cupertino as well as accommodate a new major technology company or future expansion of an existing firm.

Even if a new corporate campus is expected, Table 33 (below) shows the office square footage is mostly under 1.5 million. Even though there is only a shortage of 10,000 contiguous square feet of office, the consultants from BAE Urban Economics concluded that Cupertino has an additional office demand of 2 million square feet, which is quite a stretch. And Table 34 shows the **ballooned** total office demand of 3.5 million. Take away the 2 million for a non-existent corporate office. Take away the 750,000 square feet already allocated to Apple and under construction. **The true office demand is only 805,428 square feet by 2035.**

Besides Cupertino City Council can always initiate a new GPA process to grant an additional 1.5 million or 2 million square feet of office space if ever another company wants to settle down in Cupertino. There is no need to pre-allocate it in the General Plan.

And there is certainly no way to justify giving this 2,000,000 square feet of office to Vallco at all. A major corporation headquartered in Cupertino brings in sales tax plus property tax and a brand name recognition, like Apple brings to Cupertino. Yet, 2,000,000 square feet of office at Vallco merely brings in property tax.

Two million square feet is the equivalent of 46.2 years of office growth in Cupertino. $(2,000,000/43,300=46.2)$ All cramed in one location within one block from the 3.5 million square feet of office in Apple Campus 2, which include 750,000 extra square feet on top of the original allocation for HP. That's another 17.3 years of office growth. $(750,000/43,300=17.3)$

More than 60 years of office growth all squeezed into one block area to be built within the next 5 years. Will Cupertino ever have the capacity for another major corporation in the near future? Not likely.

The capacity of the traffic infrastructure is limited in Cupertino since there is no true mass transit. VTA doesn't have any plan in the next 25 years to introduce light rail or any other transit that can transport tens thousands of people. Therefore, the amount of office space that Cupertino can accommodate is also limited since Cupertino already has insufficient housing.

Allocating 2,000,000 square feet office to Vallco is essentially grabbing the space from other property owners in town, whose properties are already zoned for office. These other property owners won't even be able to build a small amount of office as a result since roads leading into Cupertino would be extremely congested. It is simply not fair to other property owners.

Table 33: Corporate Campuses Recently Proposed by Silicon Valley Tech Companies

| Company | Building | |
|-------------------|------------------|----------------------------------|
| | Size (sq. ft.) | Location |
| Apple | 3,400,000 | Cupertino |
| Google | 1,100,000 | Mountain View (Bayfront NASA) |
| Gilead Sciences | 2,500,000 | Foster City |
| Samsung | 680,000 | North San Jose |
| NVIDIA | 1,000,000 | Santa Clara |
| VMware Inc. | 1,500,000 | Palo Alto Stanford Research Park |
| | New Construction | 450,000 |
| | Renovation | 1,050,000 |
| Facebook Inc. | 1,475,890 | Menlo Park |
| | East Campus | 1,035,840 |
| | West Campus | 439,850 |
| SRI International | 1,300,000 | Menlo Park |

Sources: Silicon Valley Business Journal, 2013; Bloomberg Business Week, 2013; The Registry, 2013; City of Cupertino, 2013; Facebook, 2012; BAE, 2013.

REFERENCE:

1. [City of Cupertino GPA Market Study](#), prepared by BAE Urban Economics, Feb. 13, 2014
2. Job Growth Projection Chart, BetterCupertino Blog [We Support Sensible Growth, Planned Growth](#)

[CRSZaction.org](#) and [BetterCupertino.org](#)

Paid for by Cupertino Residents for Sensible Zoning Action Committee, PO Box 1132, Cupertino, CA 95015, FPPC #1376003

From: Peggy Griffin [REDACTED]
Date: November 15, 2015 at 10:58:10 PM PST
To: Piu Ghosh <PiuG@cupertino.org<mailto:PiuG@cupertino.org>>
Cc: 'Grace Schmidt' <cityclerk@cupertino.org<mailto:cityclerk@cupertino.org>>
Subject: Vallco EIR Scoping Comments - Noise, Traffic, Emergency Response impacts

SUBJECT: Vallco EIR Scoping Comments -

The traffic on I-280 and CA-85 has gotten so bad that the following occurs every day:

- Noise levels have increased so that insulation does not cut the noise level inside the home anymore.
- Even at night now the noise is high. It doesn't die down anymore.
- Everyday there seems to be an accident on I-280 between Foothill Expressway and Lawrence Expressway.
- The large employee buses and cars are ditching the freeways and hauling down side streets in Cupertino and Sunnyvale to get to the De Anza Blvd and Wolfe areas.
- Apple employees are parking up and down our neighborhood streets to avoid having to get out on Mariani and De Anza Blvd.

With the addition of 2,000,000 square feet of office that the Hills-at-Vallco is proposing, on top of existing and upcoming projects in the area (Apple 2, Main Street, Agilent re-development, etc.) please study the impacts of traffic on

- Noise during commute times as well as at off-peak hours in the evening and during the day
- Increased accident rates
- Response times to those accidents

When looking at traffic, please look at these points as bailing points and the subsequent traffic on the local streets as a result of cars

- CA-85 and El Camino
- CA-85 and Fremont Ave.
- CA-85 and Homestead Road
- I-280 and Foothill Expressway
- Foothill Expressway to Stevens Creek Canyon Road

Please study the impacts of traffic as described above on

1. Noise levels along CA-85, I-280, Foothill Expressway, El Camino Real, Fremont Ave, Homestead Road, Mary Ave., Hollenbeck/Stelling, Saratoga-Sunnyvale Road/De Anza Blvd, Wolfe/Miller, Tantau Ave, Lawrence Expressway from El Camino to Prospect since Prospect goes into the Cupertino hills.
2. Increased accident rates along those roads listed in #1
3. Increased emergency response times along those roads listed in #1.

Please study the impacts of traffic on cell reception. Many people have dropped their land lines and are only using cell phones. When the traffic increases, more people are using their cell phones and the capacity of the cellular companies is stressed. It is very common now to not be able to complete a call while on De Anza Blvd during rush hour. This impacts emergency response and the ability of residents, workers and commuters to report an emergency. This can effect fire, ambulance, etc. Please study all cellular carriers.

Please study the impacts of 10,000 additional workers in the Vallco area on cell reception. This can impact emergency response due to lack of capacity to complete a call.

Sincerely,
Peggy Griffin

A solid black rectangular redaction box covering the signature area.

From: Yu Ying [mailto: [REDACTED]]
Sent: Sunday, November 15, 2015 11:01 PM
To: City of Cupertino Planning Dept.
Subject: Comment on Vallco EIR:traffic study

RE: Comment on Vallco EIR

As a resident living near Stevens Creek Blvd and Wolfe Rd, I am very concerned about the traffic situation if the plan proposed by SHP gets approved with 800 residential and 2 million square feet of office.

Please study

1. how much time it takes a car to reach Homestead Rd. from Bolinger Rd along the north bound of Miller/Wolfe Rd between 8-9am week days;
2. how much time it takes a car to reach Homestead Rd from Atherwood Ave. which requires a left turn on to Miller Rd between 8-9am week days;
3. how much time it takes a car to reach Bolinger Rd from Homestead Rd along the south bound of Miller/Wolfe Rd between 5-7pm week days.

Note that, when the Vallco project completes, the new Apple II campus will be hosting 14,000 employees every week day. I would like the EIR to study the traffic caused by both of these two huge projects, which is the actual traffic situation that impacts residents' daily life. A study on the traffic introduced by the Vallco project alone doesn't reflect how worse the situation can be in reality, and is not convincing at all.

Please include my request as record for Vallco project.

Best Regards,

Yu (Cupertino Resident)

From: Liang C [REDACTED]
Sent: Sunday, November 15, 2015 11:11 PM
To: City of Cupertino Planning Dept.
Subject: Comment on Vallco EIR - No development project without Traffic Mitigation Fee Program

RE: Comment on Vallco EIR

The EIR for GPA specifically requires the City to commit to implement a Traffic Mitigation Fee Program. The General Plan was also amended to include policies to collect Transportation Impact Fee.

Due the massive impact of The Hills at Vallco, the project should not be approved before the Traffic Mitigation Fee program is in place. In fact, no other development project should be approved before the Transportation Impact Fee is adopted.

EIR for GPA, Sec. 4.13 Page 53:

"Mitigation Measure TRAF-1: The City of Cupertino shall commit to preparing and implementing a Traffic Mitigation Fee Program to guarantee funding for roadway and infrastructure improvements that are necessary to mitigate impacts from future projects based on the then current City standards. As part of the preparation of the Traffic Mitigation Fee Program, the City shall also commit to preparing a "nexus" study that will serve as the basis for requiring development impact fees under AB 1600 legislation, as codified by California Code Government Section 66000 et seq., to support implementation of the proposed Project. The established procedures under AB 1600 require that a "reasonable relationship" or nexus exist between the traffic improvements and facilities required to mitigate the traffic impacts of new development pursuant to the proposed Project."

"The fees shall be assessed when there is new construction, an increase in square footage in an existing building, or the conversion of existing square footage to a more intensive use. The fees collected shall be applied toward circulation improvements and right-of-way acquisition. The fees shall be calculated by multiplying the proposed square footage, dwelling unit, or hotel room by the appropriate rate. Traffic mitigation fees shall be included with any other applicable fees payable at the time the building permit is issued. The City shall use the traffic mitigation fees to fund construction (or to recoup fees advanced to fund construction) of the transportation improvements identified above, among other things

that at the time of potential future development may be warranted to mitigate traffic impacts."

General Plan Policies on Transportation Impact Fee:

Policy M-10.1: Transportation Improvement Plan

Develop and implement an updated citywide transportation improvement plan necessary to accommodate vehicular, pedestrian and bicycle transportation improvements to meet the City's needs.

Policy M-10.2: Transportation Impact Fee

Ensure sustainable funding levels for the Transportation Improvement Plan by enacting a transportation impact fee for new development.

Each project with EIR only mitigate direct impact of the project on the surrounding areas. However, there are cumulative impacts of the projects on other parts of the city that cannot be mitigated or even measured in relation to only one project.

Transportation Impact Fee provides funding to mitigate such cumulative impacts citywide.

If The Hills at Vallco is not required to pay for Transportation Impact Fee at the time of project approval, the significant impact of the project on the traffic infrastructure will significantly increase the Transportation Impact Fee needed for future project since a lot more mitigation measures would be needed to attempt to improve the Level of Service to "less than significant" level from "significant and unavoidable" if at all possible.

Please study the list of extra mitigation measures and thus the amount of mitigation fees needed citywide to mitigate the impact of The Hills at Vallco.

Liang Chao

From: Peggy Griffin <[REDACTED]>
Date: November 15, 2015 at 11:21:41 PM PST
To: Piu Ghosh <PiuG@cupertino.org<mailto:PiuG@cupertino.org>>
Cc: 'Grace Schmidt' <cityclerk@cupertino.org<mailto:cityclerk@cupertino.org>>
Subject: Vallco EIR Scoping Comments - misc

1) traffic analysis - EIR should analyze using both the current level of service methodology currently in use and the vehicle miles travelled methodology that has been released in draft form by the Office of Planning and Research. If either approach indicates significant impacts, the impacts should be considered significant.

2) What will be the electrical and gas supply for the new project?

a) How much will the project increase greenhouse gas generation?

b) How will greenhouse gas generation be mitigated?

3) What will be the growth-inducing impact of the project?

a) Will the project result in increasing the pressure on the local housing market, resulting in increased housing sale and rental prices and forcing lower income households out of the area, increasing their commute distances to reach jobs in the area?

4) What will be the cumulative impact of this project plus other objects in and around Cupertino, especially the nearby Apple campus expansion?

5) What will the seismic safety impacts of the large green roof park area be?

a) Has such a large green roof project been done previously in a seismically active area like Cupertino?

Sincerely,
Peggy Griffin
[REDACTED]

From: Peggy Griffin [REDACTED]
Date: November 15, 2015 at 11:47:33 PM PST
To: Piu Ghosh <PiuG@cupertino.org<mailto:PiuG@cupertino.org>>
Cc: 'Grace Schmidt' <cityclerk@cupertino.org<mailto:cityclerk@cupertino.org>>
Subject: Vallco EIR Scoping Comments - conflicts with the General Plan

SUBJECT: Vallco EIR Scoping Comments – conflicts with the General Plan

The proposed project and specific plan for Vallco conflict with many of the Policies and Strategies of the Cupertino General Plan as listed below.

1. With 2,000,000 sq. ft. of office, this project will significantly increase the imbalance that already exists to a point that may put the City at risk for penalties.

[cid:image002.jpg@01D11FFF.FFB37E90]

Policy LU-1.X: Jobs/Housing Balance. Strive for a more balanced ratio of jobs and housing units.

2. The immense size and density of the project conflicts with these GP policies.

[cid:image004.jpg@01D11FFF.FFB37E90]

[cid:image011.jpg@01D11FFF.FFB37E90]

- Policy LU-12.4: Hillside Views. The Montebello foothills at the south and west boundary of the valley floor provide a scenic backdrop, adding to the City's scale and variety. While it is not possible to guarantee an unobstructed view of the hills from every vantage point, an attempt should be made to allow-preserve views of the foothills from public gathering places.
- Policy LU-27.78: Protection. Protect residential neighborhoods from noise, traffic, light, glare, odors and visually intrusive effects from more intense development with landscape buffers, site and building design, setbacks and other appropriate measures.

NOTE: This particular strategy is specific to the Vallco area – note the “human scale”. There is nothing about this project this is of human scale!

[cid:image012.jpg@01D11FFF.FFB37E90]

- Strategy LU-19.1.9: Building Form. Buildings should have high-quality architecture and an emphasis on aesthetics, human scale, and create a sense of place. Additional heights may be approved in specific areas by the City Council as part of the Community Benefits Program and per heights allowed in the Community Form Diagram (Figure LU-1). Taller buildings should provide appropriate transitions to fit into the surrounding area.

3. During demolition, excavation and construction residents will be exposed:

[cid:image013.jpg@01D11FFF.FFB37E90]

- **Policy HS-6.2: Proximity of Residents to Hazardous Materials.** Assess future residents' exposure to hazardous materials when new residential development or ~~childcare facilities~~sensitive populations are proposed in existing industrial and manufacturing areas. Do not allow residential development or ~~childcare facilities~~sensitive populations if such hazardous conditions cannot be mitigated to an acceptable level of risk.

Sincerely,
Peggy Griffin



From: Liang C [REDACTED]
Sent: Sunday, November 15, 2015 11:50 PM
To: City of Cupertino Planning Dept.
Subject: Comment on Vallco EIR - Vehicle Minutes/Hours Traveled

RE: Comment on Vallco EIR

Please study the amount of extra time residents and workers need to spend on the road due to the massive office park from Apple Campus 2 and Vallco.

For highway access, please study the **Vehicle Hours Traveled (VHT)** to understand the amount of extra time vehicles spent on the freeway.

Vehicle Miles Traveled (VMT) is not a true measurement of traffic congestion since it doesn't take into account of the speed vehicles take to travel at all. The longer a vehicle spent on the road the more greenhouse gas emission it generates. Whenever a vehicle travels lower than 50 miles per hour, it emits more greenhouse gas. The more time vehicles spent on the road and increase the amount of time when accidents might occur. The more time each driver spent on the road, also increase the stress level and impact the health of drivers.

The EIR for GPA provided the average speed of each segment of the freeway. Please convert that to the time it takes to go through each segment. Please provide the time it takes to travel from different points of freeways within 30 mile radius.

The EIR for GPA only studied freeway segments within the City of Cupertino and at most one exit outside of Cupertino. However, 84% of Cupertino workers do not live in Cupertino. Many travel long distance from their home to Cupertino. The Hills at Vallco and Apple Campus 2 will double the number of workers who commute into Cupertino. They won't be living within one exit of Cupertino.

Please extend the study of freeways to a 20-mile radius to provide the LOS data for those road segments and also the time it takes to go through the segment. This way, a worker or a resident can figure out how much longer their commute time will increase.

For local streets, please study the amount of time from different corners of Cupertino to reach schools, libraries, Quinlan center and other common destinations. The LOS is one possible measure for one intersection. But one often need to travel through multiple intersections. At some intersections it takes extremely long to make a left turn and that adds to the local travel time. When the total amount of time it takes to go through artery streets, such as Stevens Creek or Wolfe, is longer than expected, people tend to take a short cut and use other streets, such as McClellan and Blaney. But these secondary streets are not equipped to handle the added traffic and these vehicles taking short cut tend to have impatient drivers who are driving at a higher speed. And that leads to more risks on traffic accidents. And there are more bicycles on these secondary streets, which add to the risks of fatal accidents.

Please study the impact on secondary streets when the artery streets have too many intersections with low LOS, and especially the impact on traffic accidents.

The more time it takes to travel on freeway or local street also increases the emergency response time that emergency vehicles need to get to hospitals. Cupertino doesn't have its own major hospitals. Our patients need to go to El Camino hospital in Mountain View or Good Samaritan Hospital in Los Gatos. Residents often need to drive by themselves to send a sick relative to the hospital. The time it takes to reach hospitals should be studied.

Many services, such as plumbing, gardening, cleaning services, etc. for Cupertino residents are provided by companies in San Jose or other areas. The longer time it takes for these service workers to reach Cupertino, the less likely they want to serve Cupertino residents, or the more they will charge the residents. And the longer time Cupertino residents have to wait for these services.

Liang Chao

From: Liang C [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 12:15 AM
To: City of Cupertino Planning Dept.
Subject: Comment on Vallco EIR - impact on emergency response time should be based on real data.

RE: Comment on Vallco EIR

Please study the emergency response time for fire protection, police and especially medical emergency with real data.

With an increase of 30% residence population and 50% worker population, the EIR of GPA concludes that
"TRAF-4 Implementation of the proposed Project would not result in inadequate emergency access."

This conclusion is derived simply by mentioning a bunch of General Plan policies, which are often not enforced. There is no real data on the current response time and no data on the predicted response time. No data on the expected expansion needed to provide service to the added population.

The traffic analysis shows that LOS of local streets and freeways would become much worse to the worst level of "Significant and Unavoidable" impact. And yet, the data from traffic analysis is not used at all to evaluate the emergency response time.

Merely reference to a bunch of General Plan policies is not an acceptable way to evaluate the impact.

For example, the following is EIR for GPA Section 4.13. Page 63.

"Because the proposed Project is a program-level planning effort, it does not directly address project-level design features or building specifications; however, the General Plan includes polices that once adopted would ensure efficient circulation and adequate access are provided in the city, which would help facilitate emergency response. Within the Health and Safety Element, Policy 6-8, Early Project Review, would direct the City to "involve the Fire Department in early design stages of projects requiring public review....."

"Ongoing implementation of the General Plan policies and the City's engineering standards would ensure that adequate emergency access is provided in Cupertino. Therefore, impacts associated with the implementation of the proposed Project would be less than significant."

This is not good enough. For emergency response time, please study the real impact using real data. Do not use any personal communication or policies that have not been implemented yet.

Please study the amount of time for residents to reach the nearest hospital in a private vehicle in the event of non-life threatening emergency.

For example, the amount of extra delay in each intersection is already calculated in the LOS study of local streets. The average speed of freeways and delay on freeway on-ramp and off-ramp are also available in the traffic study. Such data could be used to compute the amount of time to reach a hospital from different areas of Cupertino.

Please study the impact on emergency response time for an ambulance to reach a home and from the home to the nearest hospital.

Liang Chao

From: Liang C [REDACTED]
Sent: Monday, November 16, 2015 12:39 AM
To: City of Cupertino Planning Dept.
Subject: Comment on Vallco impact - bike path and pedestrian safety

RE: Comment on Vallco EIR

Please study the impact on bike paths on all artery streets that are logical shortcuts of freeway exits to reach Vallco when freeways or the exits or entrances are congested.

Please study the impact on bike paths on all secondary streets that are logical shortcuts when artery streets are congested.

Please study the impact on bike accident rates in relation to increased volume of vehicles.

Please study the impact on bike accident rates in relation to increase volume of vehicles at intersections making left or right turns.

Please study the impact on bike accident rates in relation to increase volume of vehicles when a bike is making a right turn, left turn or simply straight.

Please study the impact of accident rates involving pedestrians at intersections when the vehicle volume increases.

Liang Chao

From: Jon . [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 12:39 AM
To: [REDACTED]; City of Cupertino Planning Dept.;
Piu Ghosh; City Clerk
Subject: Comments For Vallco EIR

Cupertino Planning Department,

Below are my comments for the Vallco Hills EIR task. Due to the increasing traffic problem in Cupertino, and we still have yet to see the actual impact of the Apple Starship, Rose Bowl, Main Street, etc, this EIR is of the utmost importance and must be very comprehensive and complete. The usual Cupertino EIRs that I have read are not sufficient for a project of this magnitude. And I believe the Cupertino Planning Department has not historically shown that it truly understands the current traffic implications nor the future implications on a growing city. A projects effects today on the "LOS" impacts says nothing about how todays traffic impact will affect the cities traffic as more development occurs each year through 2040. At some year before 2040, the absolute maximum capacity could be reached and at that point, the city would have stalled vehicle movement like San Francisco. The Cupertino Planning Department must make sure that there is sufficient traffic capacity available for growth through 2040 as a minimum.

Vallco Hills EIR traffic tasks that need to be performed

Being a licensed California engineer, I believe the Traffic LOS is a overly simplistic method of defining the effects of a development on the local traffic vicinity. In this day with the traffic problems that we have, the traffic analysis needs to be much more detailed and complete. Things that need to be done are:

1. The traffic capacity for all roadway segments between all traffic lights on Stevens Creek, DeAnza Blvd, Wolf Road, Homestead Road, Tantau, and Lawrence Expressway. This means "the time for each signal cycle duration" (light turns green until the light turns red" how many vehicles can start from a stopped position and pass through the intersection before the red light. Then the time for all cars going in the perpendicular direction before the light turns green again. This information must be specific and include all traffic turn lane lights, pedestrian crossing, etc.
2. Then this cycle needs to be multiplied to achieve the capacity for a one hour period to determine the absolute maximum vehicle capacity/hr . . . no more vehicle counts could be added because more vehicles would only add to a growing line that would not pass.
3. But these calculations result in a Absolute Maximum vehicle capacity. This does not allow for any traffic issues like stalled vehicles, accidents, emergency vehicle passage, etc. And to be a proper analysis, it must state what is considered an acceptable running condition like 70 percent or 80 percent, virtually no running condition should have standard operation at 100 percent.
4. Then the current vehicle counts for each roadway segment must be measured for a "today baseline"; how many vehicles are passing on each segment during each hour, between 6am and 9pm.

5. Then the computed impact on the “today” vehicle counts must be made for the Vallco Hills project and needs to include all other current projects, proposed projects, expected projects, and expected growth in a year over year analysis through the year 2040. If Cupertino roads cannot continue to handle expected growth through the year 2040 without exceeding the allowable traffic capacity, then the Vallco Hills project is not acceptable in its current form and size.
6. Another requirement is that the analysis must be complete and cover all developments within a minimum 5 mile distance to all Cupertino borders because there are many other projects outside of Cupertino that are also adding massive amounts of traffic that will travel across the Cupertino borders and onto the described Cupertino roads; examples, Montebellow (825 residences at Lawrence Expressway and Monroe), Unnamed Project submitted request to Santa Clara (725 residences at El Camino and Lawrence Expressway), Projects on El Camino, Projects in Sunnyvale, etc.

This might seem like a lot of work but it must be done so that Cupertino can truly determine the effect the Vallco Hills project will have on the Cupertino roads over time. To say our current roads can accommodate the Mega Density Vallco Hills project today and not project out how our city traffic will fare due to this project through the year 2040 would be grossly inadequate.

As additional information, I have read in the Main Street EIR that that development will produce 12000 vehicle trips per day and have also read in another EIR that the capacity for a two lane road is 15000 vehicles per day. And although the Main Street EIR does give hourly vehicle trips, we need a hourly capacity for each road segment for comparison. A daily capacity for a road comparison does a disservice to the actual problem that needs to be understood.

Feel free to provide comments on my assertions but by all means, a very complete and very detailed traffic analysis through the year 2040 needs to be done.

From: Liang C [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 2:11 AM
To: City of Cupertino Planning Dept.
Subject: Comment on Vallco EIR - impact on overflow parking to the neighborhood

RE: Comment on Vallco EIR

Please study the impact of overflow parking demands on neighboring streets, such as Portal and other side streets, and shopping centers, especially the center with JoAnne Frabric and United Furniture across the street.

Please study the impact of overflow parking demands on neighboring streets of the new K-5 elementary school at Nan Allen Elementary site.

It is well known that the parking stalls required for office park, residential or mixed use sites in the zoning code is well below the needed amount, since the zoning code makes an unrealistic assumption on the number of people who uses alternative methods of transportation. As a result, the neighborhood streets often become parking lot for the nearby mixed use sites.

One resident just spoke on Nov. 3rd about Apple employees at Infinity Loop taking up street parking near Lawson. As a result, parents cannot park near school and are forced to double park to pick up students. The local residents do not want the city to turn the street into a permit parking zone since it means added cost for the residents and added trouble for their guests.

The neighborhood streets around Biltmore Apartments are always full 24-7 to the point that even a guest cannot find a parking space.

Apple Campus 2 with expected employees of 14,000 and a commitment to provide alternative transportation for 40% of them, including carpool. So, the expected number of single-driver vehicle is 8,000. The number of parking stalls provided in Apple Campus 2 is 10,980 parking spaces, according to its EIR.

The Hills at Vallco provides only 9,175 vehicles, the very minimum required by the Zoning Code. Let's see how much would actually be needed.

The Hills at Vallco contains

- 2 million square feet of office, which will house about 10,000 workers. If 20% car pool or use alternative means (which is already higher than the average from 2010 census), it will need 8,000 parking spaces.
- 800 housing units, which would require 2 cars per unit or more (if multiple young singles share one apartment or any family has a teenager of driving age). Thus, it will require 1,600 spaces.
- 625,000 square feet of retail space. Per 1,000 square feet of retail space is recommended to have 5-10 parking spaces. Thus, 3,1250 to 6,250 parking space is recommended.

- According to "[Site Design, Parking and Zoning for Shopping Centers](#)" from Planning.org: "the recommended standard of 10.0 car spaces per 1,000 square feet of net retail area (or a parking ratio of 3:1, i.e., three square feet of parking area for every one square foot of retail sales area)."
- [Loss in Value due to Inadequate Parking](#): "The shopping center could accommodate the peak holiday shopping during Thanksgiving and Christmas when the merchants make up to 50% of their profit for the year. If a business can not accommodate its customers during that time, then the property may not have adequate parking and the property may suffer from obsolescence. Other studies have been done which show a need of 5 parking spaces for every 1,000 square feet of building area."

The total parking spaces needed is $8000+1600+3125 = 12,725$.
The 9,175 parking spaces at Vallco is only 72% of needed space,

When other shopping center needs extra parking, it overflows to the next one or two streets.
When The Hills at Vallco overflows, it will overflow to the next 10 to 20 streets since the project is more than 10 times bigger than any other shopping mall in Cupertino.

Since there is little mass transit and even less ridership in Cupertino, any assumption of the number of visitors or workers who take public transit has to be realistic.
Note that even in San Jose where there are light rail, the ridership is still low since the VTA transportation network does not cover enough areas so that most people still had to drive.
Any solution to solve the last mile problem is still experimental, such as Uber or Lyft. The EIR impact analysis should not be based on unproven future trend. It should be based on real data and real transportation method available today or in any committed plan.

Therefore, the effect of overflow parking from The Hills of Vallco needs to be studied using realistic data in every day situation and also worst case situation during Christmas shopping season.

The impact of difficulty of parking on the accessibility of retail shops and other amenities at The Hills at Vallco should be studied.

The impact of difficulty of parking on the willingness of customers to visit shops and other amenities in The Hills at Vallco should be studied.

The impact of difficulty of parking on the sales volume of the shops during Christmas season when most retail shops make 50% of their sales should be studied since it affects the sustainability of the shopping center at Vallco.

The impact of difficulty of parking on community events, like Farmers' Market, hosted at The Hills at Vallco should be studied.

Where will the Farmers' Market be held? Since most farmers sell their produce right off their truck. Would there be space for the farmers to drive up their truck into the Farmers' Market?

Liang Chao

From: VERONICA LAM [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 7:23 AM
To: City of Cupertino Planning Dept.
Subject: Vallco project

Dear Cupertino planning committee,

I am writing to you to provide comments on Vallco project. I am the neighbor of Vallco and I have a concern on this project. The single family homes existed before Vallco was first built. When Vallco was first built, they had put into consideration on the security, the privacy, the noise level, the light impact, the pollution for their neighbor. Therefore the buildings were set back, the building height was low, trees were grown, wall was build to ensure the quality of life for their neighbor. With the new Vallco project, I do not expect anything less, during and after the completion of the project.

As their neighbor, so far I have not received any detail information from Hills, as to the height, the set back and the plans to address the concern of the neighbor. All I received from them are fliers with unrealistic designs, e.g. "a so call roof lawn and trees, leaning against buildings". How big a tree can they grow on it? With the draught, should they put in any lawn? With a tilted roof garden, will there be safety issue during bad weather, e.g. landslide, trees slide? Why not just keep or replant the current trees at Vallco at ground level. Also the double row of ash trees along Stevens Creek Blvd at Vallco area should stay. They provide shade for the bikers and pedestrians during most of the years. Please preserve them!!

There are few trees at "Main Street", it is just concrete cement against the side walk, no shade.

I do not want our Mall or so call shopping area (if there are still as many as before), to become Main Street.

Hills should provide accurate detail information to their neighbors and to the Cupertino residents.

By the way the fliers provided by Hills only has one check box, that is "Yes, I support the Hills at Vallco", due to this reason I had not provide comments to them. I do not want to be counted as Hills supporter without detail and accurate information.

Regards,
Veronica Lam

From: Germaine Fu [REDACTED]
Date: November 16, 2015 at 8:07:22 AM PST
To: <piug@cupertino.org<mailto:piug@cupertino.org>>
Subject: Vallco: Protest against proposed site of new elementary school on N. Portal Ave

Hello,

I am writing as a resident of the Cupertino neighborhood in which Sand Hill has proposed to construct a new elementary school as part of "The Hills" redevelopment project for Vallco. I am writing to protest against the construction of a school at the former Nan Allen Elementary site (on North Portal Ave) for the following reasons:

1. Traffic congestion: As Collins elementary and Lawson middle schools are already located in this neighborhood, traffic is already quite congested and cannot accommodate another 700-student school. Morning drop-off and afternoon pick up times already result in severe congestion and difficulty for residents trying to exit the neighborhood for work commutes.
2. Encroachment of the Collins campus: As a parent of 2 students currently enrolled at Collins Elementary, I attest that space on the Collins campus is already severely limited. The children must rotate use of the lunch tables and playground during lunch/recess periods, and most of the classrooms are in portables. The size of the field has been compromised by recent construction of a Cupertino-owned baseball diamond. It is not possible to accommodate sharing the already limited space resources with another Elementary school that would be located right behind the Collins campus.
3. Space limitations: There is not enough space at the former Nan Allen site to accommodate a 700-student school. The Nan Allen elementary school was a special needs school with less than half that number of students. Further, the space is currently occupied by Bright Horizons day care. It is nonsensical to propose bringing another school campus to this already crowded location.

I urge the EIR team to consider the many detrimental impacts to the students and residents of this neighborhood, and reject the proposal by Sand Hill to construct an elementary school at the former Nan Allen Elementary site. Instead, a new elementary school should be built to accommodate the new residents of The Hills, and be located on The Hills' Vallco property, rather than behind the Collins campus.

Best,
Germaine Fu, Ph.D.

From: Liang C [mailto:]
Sent: Monday, November 16, 2015 9:00 AM
To: City of Cupertino Planning Dept.
Subject: Comment on Vallco EIR - impact of heavy rain

RE: Comment on Vallco EIR

Although it doesn't rain much in Silicon Valley, during rainy season, there might be heavy rain, which results in flooding in different areas of the City.

The Hills at Vallco will cover the entire 52-acre of the site with concrete. When it rains heavily, all of the rainwater from the 52-acre would accumulate and it may become a torrent.

Please study the rainwater collection system to see if the capacity is sufficient to cover the heavy rainfall. In case of even heavier rain, please study the impact of an overflow from rain water collection system.

Since the rooftop has varying height from 114 feet to 65 feet at street level, please study the impact of heavy rainwater overflow that might cause more slippery road condition on Wolfe Road and other impacted roads.

On the greenroof slope at west side, which goes from street level to 45 feet and then 65 feet in a short distance, please study the impact of heavy rainwater overflow onto the Perimeter Road.

Please study the safety of bike paths during heavy rain. Is any bike path in danger of being flooded with rainwater on its way to drainage system.

Please study the impact of traffic condition during heavy rain when most people won't bike or walk or even take bus to work, since most bus stops do not have anything to protect waiting passengers from rain.

From: Liang C [REDACTED]
Sent: Monday, November 16, 2015 9:25 AM
To: City of Cupertino Planning Dept.
Subject: Comment on Vallco Specific Plan - Underground tunnel is for bicycle and pedestrians, not for parking

RE: Comment on Vallco Specific Plan

The underground tunnel under Wolfe Road should not be used for parking spaces, as the Parking Drawing of The Hills at Vallco shows.

The tunnel currently has two car lanes and one more lane used for pedestrians and bicycles. It is a common path for bicyclists to use to get across Wolfe to avoid traffic and the danger of Wolfe Road.

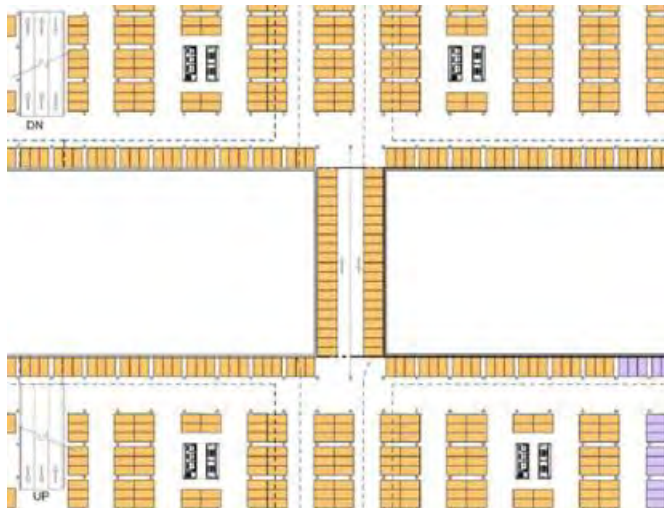
Vallco Specific Plan should include a policy to preserve easy access for pedestrians and bicyclists through the tunnel. It is an important part of a walkable and bikable city.

Below is the diagram from Page 2 of the Parking Drawing.

Not only there is no path way for pedestrian or bicycle to use. And the tunnel is not easily accessible by any bicyclist or pedestrian who need to cross Wolfe Road.

The underground tunnel has been used for parking spaces. It will have to be widened from its current width to provide two rows of parking.

The underground space of a public road belongs to the public. It can only be used to provide ease of access for the public. It should not be used as parking spaces at all, and not parking spaces for a private project.



Liang Chao

From: Mette Christensen [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 11:14 AM
To: City of Cupertino Planning Dept.
Cc: [REDACTED]
Subject: Hills-at-Vallco EIR Scoping Comments

hi

Please find below areas of study to be included in the scoping of EIR for the Vallco project.

1.

It is clear that Stevens creek already has more traffic even without Main Street and Apple Campus open yet.

As Tantau is blocked and the new light has been installed at Stern/stevens creek/new apple office/lhop, Judy Avenue has seen a tremendous increase in through traffic. Cars that turn onto Judy Avenue from Stevens Creek to get out of the congested traffic on Stevens Creek. This is particular in the afternoon commute hours.

Please investigate how to mitigate traffic issues on Judy avenue and other Rancho/Loree streets by implementing speed reducing slowing measures such as roundabouts in intersections as well as traffic bumps etc to keep the neighborhood free for speeding cars. I am sure we cannot avoid increased traffic in the Rancho area but we can avoid speeding.

2.

Please include measures to get students and commute traffic from San Jose, Santa Clara and Sunnyvale into the cusd and fuhsd schools where impact of up 29000 extra trips in and out of vallco per day is going to have a tremendous impact. Figure out ways to ease congesting from beyond safeway at the stevens creek/lawrence intersection all the way up to Wolfe on stevens creek. as students need to get to middle and high school. The impact from increased traffic is not only within the borders of Cupertino but will extend beyond the city boundaries and should be determined how this can be enhanced.

3.

Figure out how to add and increase flow through the 280 on/off ramp on stevens creek for both north and southbound 280 traffic as a lot of traffic from vallco would come down stevens creek to get onto 280 and lawrence. it is simply not enough to have 2 lanes on the on ramp from stevens creek to 280 south. Also a dedicated turn lane must be added on stevens creek to ease access to 280 south coming from vallco.

4.

Please examine the infrastructure for sewer, storm drains, electricity, gas etc to allow for continued service and no break down due to over capacity of existing system

5.

Please study the impact on all the trees that are now bordering stevens creek, wolfe, and perimeter road. As with Main street the amazing beautiful 2 rows of trees are all gone - cut down to expand the road and small new trees had to be replanted. What is the impact to the existing trees around

vallco?

6.

Please study the impact of traffic increase through cupertino from vallco via vallco parkway, tantau to sunnyvale's birdland district, kaiser hospital and up homestead getting through the wolfe / homestead intersections. Both on bike, car and pedestrians - with tons of apple busses going in and out of their transportation center - how are residents using these streets to get to produce markets, after school activities in cupertino on homestead and in our neighbor city sunnyvale going to get through this increased traffic?

7.

what is the impact of demolition of the current vallco site? the impact of dust and soil flying right over the rancho area from the apple construction site it is a known fact that there will be major impact during this phase. What materials are to be brought out and pollution from this work? Asbestos? dust? etc? Please study impact on environment, health risks (asthma etc) and make sure to include schools, neighborhoods in vicinity as well as further away based on direction of wind spreading the dust/pollution.

8.

Construction traffic and hauling away dirt for the under ground level parking garages - how will that affect the community and for how long? We have hard facts from apple construction that construction traffic has brought major impact on surrounding streets and pollution/dust level from hauling materials and dirt around. Include study of emergency response time getting to freeway accidents or to accidents on the homestead side of the city as well as impact from traffic congestion during and after the construction

9.

Please study the impact of retail in the city as to options for residents to be able to stay in cupertino rather than going out of town for shopping. how will it be possible for mom and pop shops to keep renting shopping space in the city if the city is promoting chains and stores that can afford higher rent.

10.

please study tax revenue for missing sales tax as well as missing property tax as units proposed will be rentals that will not end up paying property tax to schools in cusd and fuhsd

11.

please study impact on day care over crowding, elementary, middle school and high school impacts of new students. Include in the study impact of adding a middle school, elementary school as well as day care facilities in the project rather than filling existing schools.

12.

Please study impact of a successful retail center as big as the current venue by having a successful record retail management firm run the business and rather than the incompetent people who have been doing so until now. What would the impact to the city and the residents and the neighboring shopping malls be if vallco was as promised turned into a successful shopping mall. impact with respect to city tax, traffic, housing, both now and in the future as not adding office space will not

increase the housing need for that project.

13.

please study the impact of adding 389 housing units with as much retail as possible with no office element - how would that impact the community with regards to infrastructure, social and economic welfare. Please compare that in the study to the full scope that the developer wants to put in on that site.

14.

Please examine the feasibility and economic background of developer and financing of the project to make sure it can be completed and will not end up as an abandoned project just like the developers other project in Sunnyvale. please make sure to include subcontractors, architects etc as well as what changes in the economy could do to the project and it not being left half done as this happened to the project across the street when it sat empty for years on Vallco parkway. It is very important that this monster projects economic stability is examined and for that matter all the involved contractors and consultants

15.

Please include research on the roof and how that is possible to be built in seismic area and get the water it needs to survive. What are impact of the developer not maintaining the roof and what would happen if it turns out that the roof cannot be used at all? what is the impact of project descriptions and promised as the biggest park in the city if it cannot be used at all? and only 10% ends up being able to be accessible? what is the impact on residents not having park land as is planned for and desirable according to the city's general plan ?
what about heat under the roof during summer months when there is no upward flow available. Include studies on electricity usage and sustainability and co2 emissions from this construction with a covered roof for the entire site.

16.

Please look to the future and scope out where all the employees are going to live and how many housing units the city's will be responsible for providing over the next 50 years following the addition of 2 mill sq ft of offices.

17.

Please examine the possibilities and resources for public transportation as well as what pressure the city can put on VTA and caltrain to add rail service to Cupertino and neighboring cities following the addition of so many new office sq ft.

18.

Please include in the report the impact on or rather not setting up setting up public transportation to include student transportation to and from CUSD and FUHSD students coming from the attendance area in Santa Clara and San Jose getting to Hyde and CHS.

19.

Please include studies around walking and biking to / from school and how much more dangerous this will become with up to 29000 more cars on the street daily in the vicinity of the project.

20

Please examine the traffic flow around the new nan allen site, collins and lawson where there is only 4-5 exits in to and from that part of town. How will traffic flow, parking during drop of and pick up? access through that area as Blaney will become a new thorough fare as wolfe is going to be backed up and cannot be used to get from one part of town to the other as both wolfe and tantau is going to be parking lots crossing 280 as these two streets will be main transportation for project and apple site.

21.

please examine if it is needed to add a new bridge across 280 to allow for better flow across the city

22.

please examine if an elevated bridge or underground tunnel along Stevens creek will be needed to get pedestrians and bicycles across 280 and Lawrence express way. In order to eliminate cars travelling this route from San Jose/Santa Clara with students, better infrastructure must be provided for pedestrians and bicycles to cross this dangerous intersection which is the reason so many people are not allowing their kids to get to from school other than in cars. the impact of now providing this infrastructure with 29000 new cars being added from the project in addition to 9000 cars from apple project as well as 100's of busses will be overwhelming hence, project need to provide ways to decrease cars travelling on the stevens creek corridor.

23.

Please examine what the acceptance rate is for the residents of Cupertino? Please make sure that the impact of referendum put on by the citizen can end up taking place. What will the development look like if delayed by such a measure? how will the residents know about it without the CITY having public meetings rather than the developer only providing info one way for the project? residents are very negative as they have no way to ask questions and get answers - this EIR scope is yet again only one way process. no public forum to discuss issues

24.

Please study and make it clear to residents what the zoning is and why city council even has rezoned based on what dependencies. A specific plan to be adopted. How and what makes it adopted by the residents? what is the determining factor for acceptance of the specific plan for zoning to change? please make sure to have some measurements for acceptance and study how different acceptance levels will have and could have different influence on the project.

25.

Please study different uses of the project as to what is feasible and doable with regards to public's access to use the roof for a meeting, the community plaza, community room, innovation center and other public access areas. it would be very important to study how and determine what these different usage scenarious should and could look like. who gets to decide who can use? parks and rec? developer office and decision making - how can you then be assured that it is public? playground in private park - who is determining access and usage ? please study the impact of the public areas being administered by different management set up such as public parks and rec, private developer, public school administration etc.

26.

Please study what the impact would be on moving and construction for the current renters and entertainment centers. Would they even be in business if their venue has to be closed for years to be rebuilt in a different place? what would the impact be to these businesses and are they at all interested in relocating. Who would run these businesses and would they be able to be granted that rent for their venue would be much higher with the new development? what would the impact to the city and surrounding cities be if there was no bowling, no ice ring? etc

27.

What would the impact be of granting the developer that blackberry golf course to build the project there and move the golf course and park land to the vallco site? impact to traffic?, growth, housing, social wellbeing as well as shopping in the west end of the city who severely is missing shopping and offices in that corner of the city? please examine the scope and impact of providing this as an option to benefit everybody in the city.

28.

Please study impact of too little parking available within the project and impact on neighborhood streets when parking is not available for residents, employees and shoppers to park. Where and what streets will they start using and what is the impact on these neighbors around the site? Please study the impact of not having easy access under and through the site as it is currently possible. How will cars, pedestrians, and bikes get through from Vallco parkway to perimeter road next to the joann's / chuck and cheese shopping site? currently that tunnel under AMC is heavily used as a cut through as traffic on stevens creek is horrible. What is the impact of not having an easy way to get through the project?

29.

Please study pedestrian and bike safety travelling through and into and out of the project. How do they get across / through the project? Please study the impact of circulation above ground (roof), surface area / streets through the project and under ground in the parking area. Please study why and how flow of "soft" traffic (bikes, pedestrians, skateboarders etc) will be allowed to pass in the parking area where streets are used as parking spaces as well. Make sure to include risk analysis of traffic accidents involving soft traffic users. As Cupertino high School is very close the amount of foot traffic from this school of students in ages 13-19 will increase hence, make sure to study and include analysis on impact of increased risk with more traffic and visitors arriving by feet.

Mette Christensen

[REDACTED]

[REDACTED]

From: Mona Schorow [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 11:49 AM
To: City of Cupertino Planning Dept.
Subject: Question about the Hills-at-Vallco EIR

Traffic affects air quality, commute times, pedestrian safety, cyclist safety at a time. Main Street and the Apple campus will be coming online. I would like to see an objective traffic analysis of the Wolfe X 280, Stevens Creek X Lawrence in particular, and all bottlenecks in Cupertino, in general. Can the traffic densities and the likely wait times be projected?

We seem to be approaching gridlock during commute times but we lack the infrastructure (subways, buses, taxis) that other urban centers have.

There is probably useful information about this somewhere — do you know where.

Concerned resident,

Mona Schorow
[REDACTED]

From: Liang C [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 12:27 PM
To: City of Cupertino Planning Dept.
Subject: Comment on Vallco EIR - traffic based on realistic data

RE: Comment on Vallco EIR

From Parking-Drawing.pdf submitted by The Hills at Vallco, here are the parking spaces available.

Total parking spaces = 9,175.

Office: 5033; Retail: 2,500; Residential: 1,427; On-street parking: 215.

The number of parking spaces for the 10,000 workers is apparently insufficient.

Even using the low estimate of 8,000 workers (250 square feet per worker), 5033 parking spaces only provides spaces for 62% of 8,000 workers.

5033 parking spaces only provides spaces for 50% of 8,000 workers.

And some more space has to be reserved for outside visitors for the 2 million square feet of office. So, the actual number of spaces available for employees would be even lower.

If the EIR will assume that some of the workers will use other modes of transportation, such as light rail, biking, walking or carpool, please use realistic assumption that's reasonable.

The 2 million square feet of office will not have only one or major employers. There could be 10 or 20 or even 200 office tenants. If assumption is going to be made about any shuttle service provided by the office tenants, it has to be based on actionable plan that's committed in the Development Agreement. And all office tenants have to be disclosed of the limitation and sign onto any traffic management plan.

Based Apple EIR, even at Apple Infinite Loop, where the culture promotes biking and other modes of transportation, 72% of the employees arrive in single-occupancy vehicle, another 10% arrive in carpool. So, still the number of parking spaces needed is 82% of the employee population.

With Apple Campus 2, Apple has committed to reduce the number of single-occupancy vehicle trips to 60% with the best efforts. The Hills at Vallco with simply an office park with any number of tenants cannot assume to do even better.

If any assumption is made about the number of single-occupancy vehicles or carpools, please provide realistic data to back it up.

Apple EIR also pointed out the difficulty of using public transit: (Page 38 of Apple EIR Appendix B Transportation Impact Analysis)

"Although there is a fair amount of transit service within the vicinity of Apple Campus 2, there are no easy public transfers to existing high capacity transit corridors such as Caltrain commuter rail and various bus lines along El Camino Real. Express transit services typically operate in directions that inhibit travel using solely public transit to Apple Campus 2 from residential areas along the Peninsula. Furthermore, the poor walkability of the streets around the project site, due to higher traffic volumes, discourages people from walking longer distances to transit stops or stations.

To make some of these Caltrain stations more accessible, Apple provides daily shuttle service to the Lawrence and Sunnyvale Stations. The travel time on Apple shuttles between these Caltrain stations and Apple Campus 2 is approximately 15 minutes to 20 minutes.

Most commuting cyclists travel at a rate of about nine to 10 miles per hour, meaning the Lawrence, Sunnyvale, and Santa Clara Caltrain stations are located about an 18, 23, and 28-minute bicycle ride away from Apple Campus 2, respectively. Only the Lawrence Caltrain station has continuous bicycle infrastructure that connects it to Apple Campus 2 in the form of Class II lanes along Wolfe Road, Reed Avenue, and Aster Avenue."

The condition for taking transit and biking or walking hasn't changed, since Apple EIR.

If any assumption is to be made about the percentage of employees who are able to use public transit or walk or bike, please use realistic data to back it up.

If shuttles are going to be used to transport employees or shoppers to The Hills at Vallco, please study the impact on the parking facilities at each pick up location. Are there sufficient parking spaces today? How many more parking spaces will be necessary for the shuttles of The Hills at Vallco?

A large percentage of passengers riding buses in Cupertino are the 30,000 students at De Anza College. They are provided a free bus pass to encourage bus usage, since it is already charged as a part of their tuition. They are also single young adults who do not have other family responsibilities so that they have to be at multiple places in one day at a fixed time.

So, any statistics about bus ridership should only account for non-student population, unless The Hills at Vallco is going to hire only single young adults and provide them with bus passes for free.

Liang Chao

From: Liang C [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 2:15 PM
To: City of Cupertino Planning Dept.
Subject: Re: Comment on Vallco Specific Plan - underground and air right over Wolfe Road

I misread the diagram.

The tunnel between the east and west parking garage would in fact be a new tunnel, in addition to the tunnel along Perimeter Road. The tunnel along Perimeter Road will remain.

Page 6 of [Existing Condition](#) shows the existing easement, which was granted to a previous Vallco owner in exchange for another easement (air and underground right) near I-280 for a future light rail station. But Sand Hill does not own that property.

Page 8 of [Existing Condition](#) shows the proposed easement: Sand Hill wants to expand the air right over Wolfe to almost an entire block.

Pink blocks shows easement for both underground tunnel and air rights of unspecified depth and height.

Then, we would request that any public land for private use should be used only to the benefits of the public to provide ease of access.

Any air right or underground right should not be granted without a fair exchange or a fair rent, adjustable to inflation.

If only tunnel is required for The Hills at Vallco, the easement should not grant the air right in the agreement without justification, such as the two pink boxes in the diagram.

If the air right is granted, the minimum and maximum height should be specified so that only the air right within a given height is granted.

If the tunnel right is granted, the minimum and maximum depth should be specified so that only the tunnel right within a specified depth is granted.

No structure from the easement either in the tunnel or the air should be counted towards the required provision for the projects, such as parking stalls, or retail shops.

Thanks,
Liang

On Mon, Nov 16, 2015 at 9:25 AM, Liang C [REDACTED] wrote:

RE: Comment on Vallco Specific Plan

The underground tunnel under Wolfe Road should not be used for parking spaces, as the Parking Drawing of The Hills at Vallco shows.

The tunnel currently has two car lanes and one more lane used for pedestrians and bicycles. It is a common path for bicyclists to use to get across Wolfe to avoid traffic and the danger of Wolfe Road.

Vallco Specific Plan should include a policy to preserve easy access for pedestrians and bicyclists through the tunnel. It is an important part of a walkable and bikable city.

Below is the diagram from Page 2 of the Parking Drawing.

Not only there is no path way for pedestrian or bicycle to use. And the tunnel is not easily accessible by any bicyclist or pedestrian who need to cross Wolfe Road.

The underground tunnel has been used for parking spaces. It will have to be widened from its current width to provide two rows of parking.

The underground space of a public road belongs to the public. It can only be used to provide ease of access for the public. It should not be used as parking spaces at all, and not parking spaces for a private project.

Liang Chao

From: stacy wilson [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 2:20 PM
To: City of Cupertino Planning Dept.
Subject: comments on the scope of the EIR for Sand Hill's The Hills proposed development

I would like to add my voice to the others who have commented on the proposed development of Vallco by Sand Hill.

My concerns are mostly around traffic congestion and the massive impact on Cupertino schools, although I also think the impacts on sewage, electrical system usage, public library usage, increased need for street cleaning (littering will be part of the problem with this development), air quality (additional local automotive exhaust), and student safety while walking or biking to school, need to be assessed and quantified as much as possible.

People are very concerned with the future influx of elementary school students. The student density at the proposed elementary school site is far more than the site should accommodate. I don't believe the long-ranging impact has been addressed- there are needs for more teachers, more playground space (particularly with the increase in childhood obesity in the US), more library space, more books for that library, cafeteria space, and **just as importantly**, the same concerns when those students leave elementary school and move on to middle and high school. Those concerns need to be addressed and monetarily quantified. Right now, all I've heard is the proposed mitigation of adding on to a current elementary school, and nothing about how those students will be dealt with in the next few years until things reach an equilibrium. That NEEDS to be addressed, and I'm sure it is quantifiable. It should not result in already impacted public schools being forced to absorb even more students in portable buildings.

Please also quantify the impact of increased traffic, and how it can be (but preferably WILL BE) addressed.

The impact on the existing houses nearest Vallco should be quantified. The developer should not be given gifts by the city at the expense of current residents- who *never* expected to be in the shadow of 7 to 9 story buildings replacing the local shopping center.

Thank you,

Stacy Wilson
[REDACTED]

From: Sanjeev Sahni [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 2:37 PM
To: City of Cupertino Planning Dept.
Subject: Concerns about Vallco Project

Hi Planners,

This is regarding the Vallco Prokect. My concerns are:

1. School being built - Seems small sized campus
2. Maintenance of the overhead park being proposed

Sand Hill has a history of not delivering. How will it be ensured? May be a financial guarantee for a certain amount (Bank Gaurantee) will help.

Thanks

Sanjeev Sahni

[REDACTED]

From: Jon Ramos [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 2:37 PM
To: City of Cupertino Planning Dept.
Subject: Vallco Hills (environment information)

November 16, 2015

Good Afternoon,

After shopping at Vallco for years, enough of the cement jungle.

We need an entirely new development, I'm supporting the current plans for a new development.

I like the fact, more greenery will be in the new development.

One other addition I really like, is the addition of at least 350 townhouses/homes.

Jon Ramos
[REDACTED]

From: Sandra Sotoudeh [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 2:39 PM
To: City of Cupertino Planning Dept.
Subject: Impact on Lynbrook High School

This project is impacting my high school causing redistricting and over flow to Lynbrook. Please include a new high school instead of pushing this onto the Lynbrook children, school and neighborhood. The traffic is bad enough ratios too high in classrooms and new students will potentially change school performance driving down home prices. More study and other ideas need to be done to consider where new students will be placed. We need a new high school instead of negatively impacting students and residents.

From: vik m [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 2:53 PM
To: City of Cupertino Planning Dept.
Subject: Concerns about THE HILLS AT VALLCO

Hi,

Please take into account the following in reference to above project

a) Since our city is expecting big change when Apple 2 campus goes functional, we should wait to see traffic and other issues before rushing to approve Valco.

Please note only 7% of Apple employee work/rent in Cupertino (I am one of them)

We are still OK for 2020 GPA so there is no urgency to do this.

b) We can bike to school/work but there are classes for kids at Sunnyvale/Santa Clara etc.
With traffic increase , it will be enormous additional traffic.

c) Since this is very important issue for resident, there should be public vote.

Thanks,
Vikas M
[REDACTED]

From: Joan Lawler [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 2:55 PM
To: City of Cupertino Planning Dept.
Subject: Fwd: Concerns and Suggested Alternatives for the EIR for The Hills at Vallco

Dear Planners,

There are the **fundamental concerns** for our City in my view.

(1) **Water usage** (this is not just a Cupertino concern) but it the most important. Included in this concern is the water usage during of several years of development, as well as water usage once the project is complete. A west-facing slope will get a tremendous drying sun, for instance.

- Can we get **true independent experts** to advise the City on the efficacy of the Sand Hill plan for the greenery parks and walks and landscaping?
- Can we have a smaller "water footprint" with a different sort of project?
- How can the City make sure the green roof part of The Hills plan doesn't get cancelled down the line?

(2) **Sewer capacity**. It will be a disaster if this collection of very tall buildings, with all the people who will be living and working there does not have the sewage capacity to carry away all the sewage.

- Will there need to be expensive expansion to the sewers and is that capacity possible to provide given our current system?
- Who pays for that? Taxpayers? All the subscribers to our city's sewage system? The developers?

(3) Retaining existing **Heritage trees**. It takes a long time to grow dozens and dozens of gorgeous trees like surround Vallco now. The trees give us clean air, cooler city temperatures, safer places to walk in the increasing summer heat. We need more trees and not to lose the ones we have. That has been the City's view, given the costly permits for residents needing to cut down their trees. Grass, native plants, and vineyards don't act as a sufficient substitute for the benefits we get from our mature trees.

- Are we going to let Sand Hill's plan disturb the existing trees?
- Should the City require that any replacement trees are large, shady and plentiful in keeping with Cupertino's aim to **increase** our green cover?

(4) **Traffic impact** from the recent and current developments near Vallco, along with the region's traffic increase due to strength in the economy has given us city streets that make trips around town take much longer in recent years. Air pollution is an issue. Wasted time sitting on clogged roads is an issue. Any plan for Vallco is going to cause an increase in traffic. Any plan. But, the impact of the current proposal seems way over the top.

This suggests that a very important part of the EIR is to define what amount of traffic is acceptable. Any traffic predictions above that amount needs to trigger a comprehensive regional mass transit solution to be provided **before** a permit for The Hills at Vallco construction can begin.

- Will a mass transit solution be possible to accomplish before construction begins? Apple will be making a huge impact in about a year, so no action on traffic solutions can come soon enough.
- What is the Sand Hill's exact plan for a Transit Center? Bus pullouts doesn't seem to offer anything new or better. Can the EIR spell out something that would be more effective?

- What about the Sand Hill shuttle promise? What would that be? What routes? What frequency? Will the shuttle plan be coordinated with the mass transit solution? For what duration will the shuttle be committed?
- How can the City get a firm and sufficient shuttle service that doesn't get cancelled once it becomes inconvenient to Sand Hill?

(5) **Housing growth** must benefit the City, not just satisfy the ABAG requirement. At Cupertino prices, most likely new residents will have children and will desire to send their children to Cupertino schools. But, we can get parcel taxes from housing that is sold because the homeowners will pay taxes that help the schools.

I recognise that it is not legal to use school crowding as a reason not to build housing. Still the fact is the school impact is great and real and mostly unsolvable because of limited funds and school district lands.

So, traffic, water, and sewer issues, and funding for city services provide reasons enough to be very careful what type of housing to build and where.

- Will the housing at The Hills be sold as condos or be apartments that don't benefit the City's tax base and therefore don't contribute to funding the schools?
- Will the housing for seniors that is part of the plan be sufficient to keep the school impact down? How will the senior housing be kept senior housing over time? Will the senior housing be guaranteed to be built?
- Will any of the housing be affordable for those who serve the Cupertino community, such as teachers, firefighters, city employees, restaurant workers, etc.?
- Will the housing benefit the community by housing Apple employees who will not need to drive to work? If so, how will the Apple residents get to work across the huge and unwelcoming overpass of Wolfe over 280? Bicycle and pedestrian bridge? Shuttle?
- Is there any way to promote Apple workers move to The Hills to help address our traffic issues? Is there any reason to believe that The Hills will attract workers who will not need to commute by car? What will The Hills do to specifically entice young Apple 2 workers who may not need to drive to work and will not likely need our schools?

(6) **Office space** in such a huge amount. There doesn't seem to be any evidence that so much office space is needed at this time at that location. There are/will be thousands of new offices at Main Street and Apple 2. Some of Apple's current office spaces in Cupertino will become vacant in time, allowing business to occupy those.

There are serious issues with the City approving any more office development in Cupertino. They include (a) the traffic increase from additional office workers and (b) the resulting increase of ABAG requirements for more housing to match the ratio of housing to jobs, which results in a vicious cycle of increase to housing, causing even more traffic. We need to do what we can to keep our City's requirement for more housing to a minimum, meaning limit the new offices (job) to avoid making the traffic and school crowding issues even worse. (Please refer to comments on housing in point (5).)

- Has there been any request from Apple for more office in their neighborhood? Apple is spreading into San Jose and Sunnyvale. They are not waiting for more Cupertino offices it seems. With many possible locations for office development within Cupertino and in the surrounding cities, why would the Vallco location be the best choice for the City to approve?

- Where would Cupertino ever be able to provide enough housing to meet the requirements coming from such another huge increase in jobs?

(7) **Tax benefits** to the City of Cupertino.

- Can we quantify which are the most beneficial to the funding of our city? More office? More apartments? More condos? More retail?
- Can we quantify the way each of these adds to requirements and cost for city services?

(8) A **healthy city needs a good balance** of retail, restaurants, entertainment, cultural opportunities, parks. A healthy city needs all the possible commute alternatives to cars/roads, alternatives for walkers, bicyclists, and mass transit. These alternatives need to provide for all age groups and abilities in our community. These alternatives need to encourage not just our residents, but also all those who come to shop and work in Cupertino.

Balance in the City also includes making a place for various economic levels and all age groups. Balance includes various professions among working adults. Achieving these balances will **make Cupertino great** in a way that **means far more than being a place where Apple Computer decided to put its headquarters or Vallco decided to become The Hills!**

- How do we address the need for various commute alternatives to driving?
- How do we provide a healthy balance to our residents and workers to minimize their need to drive outside the City?
- What amount of retail, office, entertainment, culture and housing do we have now?
- What sort of balance is desirable for the benefit of all age groups in the community?
- How can we encourage a developer to contribute to the city's needs and lackings, rather than just to fill their own bank accounts?
- How do we attract young professionals to live where they work?
- How do we retain seniors and retired professionals so they may give back to Cupertino after spending decades benefitting from what the City has to offer them?

Study what Palo Alto and Redwood City have found to be the mistake of allowing too much freedom for developers to decide what to build. Both cities have difficult problems and are bringing a halt to the extensive development of too much, too fast. Let's let Cupertino learn their lessons before making their mistakes.

Alternatives to The Hills at Vallco as proposed

I believe that an honest and impartial enquiry along the lines stated above would lead us to wait for a better proposal than The Hills at Vallco.

Retaining the retail zoning for Vallco seems wise and allows us to make a better choice down the road.

It is a shame that the retail that was surviving at Vallco is being run off, as though the community doesn't care.

The sooner Vallco can pull out Plan B, a retail solution, the better in my mind.

- We want to have a place for young and old, indoors and outdoors, entertainment, food and drink, and lots of shopping choices.
- Perhaps a medical clinic and a sports and fitness center. Perhaps a pool. Parks. Gathering places.

- And lots of shopping. Stores that are hip and in current vogue. Shops for all ages. Shops that can provide for our basic needs at reasonable pricing (we pay so much for our houses, so we need to shop for value).
- In the interest of keeping Cupertinos shopping in Cupertino and paying tax dollars in Cupertino, we need to create a local alternative to the shopping found in surrounding communities.
- People shouldn't need to drive out of town for shopping, contributing to air pollution.

The Sand Hill company ought to decide to partner with one of the great mall developers or get such consultants and create a retail mall that will appeal to this community full of people from several cultures.

Sand Hill can become a friend to Cupertino and provide what Cupertino lacks, even though the profits may be somewhat reduced. That way Vallco becomes what makes Cupertino great.

We just don't **need** all that office space!

Best Regards and with respect and understanding of the difficulty and importance of your decisions,

Joan Chin

From: Hari Narayanan [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 3:03 PM
To: City of Cupertino Planning Dept.
Subject: Feedback about the Hills at Vallco

Dear Cupertino Council

I am a long time resident of Cupertino. I have seen the city slowly change over the last few years. The last one on the horizon is the Hills at Vallco by Sand Hill property. This is in development.

I have a few concern about this that might affect the Quality of Life of the residents and make the project a disaster instead of a boon to the city. Sand Hill also has a reputation of not finishing their projects or not finishing according to what they signed up for.

The traffic impact and the pollution due to the Hills at vallco will be disastrous. Our schools are already over crowded. This is going to put even more stress on the already "tearing-at -the seams" schools.

There is no thought given to public transportation and also to make Vallco a center for Public transportation. With the Apple building and the increased construction along Stevens Creek and Wolfe this is a just a time bomb waiting to explode.

Please take a serious look at this Project and do what you think is the best for the City and its residents. Money should not be the only motivation.

If we take a look at our neighbor, Saratoga, they seem to be doing fine without any massive construction projects in their city. We can probably learn from them.

Thank you
Hari Narayanan

From: Laura Chin [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 3:09 PM
To: City of Cupertino Planning Dept.
Cc: Kyle Rader
Subject: Hills-at-Vallco EIR Scoping Comments

To whom it may concern,

We were born and raised in Cupertino, attended schools in the district K-12 and attended De Anza College. We are a young Millennial couple and we *strongly* object to the "HILL" plans at Vallco. We are both young professionals working the high tech/clean energy/automotive industries.

Cupertino is a city with a growing number of Millennials and not enough for us in the 15-35 age range, to do. We want retail:

- ? Round1 Arcade - family friendly arcade from Japan, features arcade games, karaoke, bowling
- ? Outlets - high end fashion outlets would be welcome in an affluent community like Cupertino whose people have quality tastes but love bargains
- ? Small retail shops for apparel - night market style, Taiwan, Japan strip type malls
- ? Restaurants - more exotic eateries, more ethnic cuisine
- ? Restaurant chains - The Kebab Shop, Poke Bowl,
- ? Cafes - more nooks and creative spots for our growing number of students to study, meet with friends or business people to hold meetings or for poetry readings/live music/comedy etc.

Cupertino needs to:

- ? KEEP BUSINESSES OPEN LATE! CUPERTINO NEEDS NIGHT LIFE! Students and professionals stay up late and by the time work/school is over, most everything is closed in Cupertino so we have to leave Cupertino to find food/shopping/entertainment
- ? Give us reason not to leave Cupertino! We would rather contribute to our city! We don't want the "HILL", we want retail and ONLY retail.

Sincerely,

Laura Chin (CHS graduate Class of '09) and Kyle Rader (Lynbrook High/De Anza graduate Class of '03)

From: dodie [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 3:49 PM
To: City of Cupertino Planning Dept.
Subject: Support

I a resident of San Jose near cupertino approve of everything that the sand Hill developers and the city of cupertino is doing for this project... look forward to wonderful development of this area.

a 55 year resident...

Thanks for the development of a very needy area... Dorothy Rheuark
[REDACTED]

From: Peggy Griffin [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 3:54 PM
To: Piu Ghosh
Cc: City Clerk; City of Cupertino Planning Dept.
Subject: Vallco EIR Scoping Comments - impacts

SUBJECT: Vallco EIR Scoping Comments –impacts to be studied

1. **Agricultural Pesticides** - The Vallco Specific Plan Area and the Hills-at-Vallco project site are located on old orchard land.
Please study the content of the soil for pesticides common during that time period.
 - a. Please test all areas of the project site and at different depths, all the way down to the depth of the lowest level garage.
 - b. Please test along Perimeter Road bordering the Superfund site at 19333 Vallco Pky at different depths and locations.
2. **Hazardous Building Materials** – State-recognized carcinogens such as lead compounds, asbestos, polychlorinated biphenyls (PCBs) used as coolants and lubricants, Fluorescent lighting, ballasts, mercury thermometers were used during the time period the Vallco Mall was built. A letter was sent from Sand Hill to the employees at Macy’s notifying them of an asbestos problem found at Macy’s.

Please study the impact of demolition and disposal of these building materials found in the buildings and any other hazardous building materials commonly used during that time period.

3. **Groundwater contamination on Superfund site adjacent to JCP bordering on Perimeter Road** - The building right next to JCP had a wafer fab in it in the 1970s. There was groundwater contamination from that original 4-Phase (old company no longer in business) fabrication. Tandem Computers did some last mask processing in that building afterwards. Tandem was later required to clean up the site. Since Sand Hill is planning to dig down into the dirt right next to this former Superfund site for its 2 story underground parking, the possibility of groundwater contamination and hazardous materials leaking into the adjacent site must be significant.

Please study this possible groundwater contamination, possible leakage into the surrounding area and it’s possible impact on people parking underground or working above ground.

Please study the possibility of the contamination spreading to the rest of the area.

Please study the proposed monitoring methods proposed to keep people safe from contamination.

Please study any and all methods proposed to seal off these contaminants from the project site.

As an ex-Superfund site adjacent to JCP, there are still land use prohibitions on the 19333 Vallco Pky. site. In particular, they are not allowed to build residences or schools for persons

under 21 on that property. The contamination was toward the JCP side of that parcel which borders Perimeter Road.

Please study the proposed uses related to the prohibited uses if any contaminants are found to be present along the border and at multiple distances and depths from the border of the property.

4. Since the project proposes to dig deep into the ground along all areas, the probability of contaminants from neighboring sites/uses should be studied. For example, there is a Jiffy Lube and a Union 76 Gas Station located across the street.

Please make a report on all sites (past sites, too) surrounding the Vallco site, especially since the proposed project plans to dig 2 stories underground.

Sincerely,
Peggy Griffin



REFERENCE MATERIAL:

Here are the Post Closure Site Management Requirements here:

http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T10000000740

MAP OF THE SITE RELATIVE TO VALLCO:

From: Liang C [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 4:08 PM
To: City of Cupertino Planning Dept.
Subject: Comment on Vallco EIR - cell signal strength and need of new facilities

RE: Comment on Vallco EIR

<http://www.citylab.com/tech/2011/09/cell-phones-and-density/172/>



Why Your Cell Phone Drops Calls in Dense Cities - CityLab
Why Your Cell Phone Drops Calls in Dense Cities. With each advancement in network speed comes the need for more physical infrastructure. Tim De Chant
[Read more...](#)

"We've all experienced the expanding cell phone system's shortcomings, from dropped calls to no service to a slow Internet connection. When one of those things happens, chances are it's because too many people are crowded into one area. Poor service due to crowding is most apparent at concerts or other large events, but it's becoming an everyday occurrence as more people use more connected devices"

Cupertino has a worker population of 32,000 and only 20,000 households.

Apple Campus 2 will add 14,000 and Vallco will add another 10,000 workers, just from office alone.

This will increase the working population in Cupertino by 50%.

Thus, the demand for cell signals will increase by 50%.

People are already experiencing dropped calls when going to crowded areas in Cupertino.

Please study the impact on existing cell signals in all carriers.

If more cell towers are needed, please install them far away from schools to reduce any potential health impact on children.

The increase of 3.5 million s.f. of office and 2 million s.f. at Vallco and 260,000 s.f. in Main Street would total 5.76 million square feet, which is over 50% of total office space in a short time.

Please study the impact on the capacity of high speed internet and cable services from such a large capacity increase.

Please study the impact on internet speed and reliability of signals for other home users when a large population nearby might eat up all internet bandwidth.

Note that many companies do have employees who work longer hours until 8, 9 or 10 o'clocks.

Please study the impact from 3pm to 6pm when many school children need to use internet to do school homework as more and more school homework is now done online.

Please study the impact during early evenings when the residence population and also school-aged children need access to internet for either entertainment or homework.

Liang Chao

From: Ping Gao [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 4:09 PM
To: City of Cupertino Planning Dept.
Cc: City Council; citystaff@cupertino.org
Subject: Regarding Vallco EIR

Dear Planning Commission and City Council members,


I'm writing to you to express my concern of the proposed Vallco project. I would like the upcoming EIR to study:

- 1) Traffic issue if there are 2 million sq. ft. office at Vallco; please give us an approximation of delay during traffic hour when Apple new campus and Vallco 2million sqft office is built; please keep in mind of the current traffic congestion at De Anza blvd around 6:30 pm and De Anza is 4 lanes in both directions;
- 2) The possibility of keeping the Vallco as retail only; or
- 3) the possibility to build a new school at Vallco;

As a Cupertino resident for 8+ years, I think Cupertino needs more schools, retails and all kinds of public service such as parks or libraries instead of office space or high density residential buildings. Please keep Cupertino as a safe, quiet and peaceful family-friendly small town.

Thanks,

Ping Gao

From: seema swamy [mailto:
Sent: Monday, November 16, 2015 4:13 PM
To: City of Cupertino Planning Dept.
Cc: Vasanth Krishnamurthy
Subject: We do not want the rezoning of Vallco Mall

To the planning board,

We want to keep the character of Cupertino as the small community with good quality of life. We do not want the Vallco Mall to be rezoned. It will increase traffic and deteriorate the quality of living. It will overcrowd the classrooms as well. Please help us maintain the character of Cupertino.

Best,
Seema Swamy



From: Brkezzat@aol.com [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 4:20 PM
To: PiuChosh@cupertino.org; City Clerk; City Council
Subject: Vallco EIR Request

Dear Commissioners and Council Members:

The proposed Vallco project, aka "The Hills at Vallco" has the potential to impact Cupertino for generations. Because of the enormity of the impact, it is the imperative that the environmental impacts of such a commitment be studied in depth as it will impact the nature of the community, habitat, and the health of its residents. In particular, I am requesting the following issues be evaluated and studied because of the health impacts on residents because of the addition of 2 million square feet of office space in Cupertino:

- The impact of nitrogen deposits on the native habitat in the area, including, but not limited to--the vertebrate, invertebrate, and plant species listed in the final Santa Clara Valley Habitant Conservation Plan. The listed species are:
 - **Invertebrate**
Bay Checker spot Butterfly
 - **Amphibians & Reptiles**
California Tiger Salamander
California Red-legged Frog
Foothill Yellow-legged Frog
Western Pond Turtle
 - **Birds**
Western Burrowing Owl
Least Bell's Vireo
Tri colored Blackbird
 - **Mammals**
San Joaquin Kit Fox
 - **Plants**
Tiber Indian Paintbrush
Coyote Acanthus
Mount Hamilton Thistle
Santa Clara Valley Dudleya
Fragrant Fritillary
Loam Prieta Hoita
Smooth Lessingia
Metcalf Canyon Jewelflower
Most Beautiful Jewelflower
- The study conducted for Santa Clara County demonstrated that nitrogen deposits from the emissions additional automobiles in the target area enriched the serpentine soils, causing invasive species to crowd out native species that are accustomed to poorer soils.
- The impact car emissions of carbon monoxide, nitrogen oxide, nitrogen dioxide, particulate matter and ozone on pregnant women because of the projected increase of an additional 79,000 car trips. The prolonged exposure to these compounds during the first 8 weeks of pregnancy, according to medical studies, is associated with neural tube defects or malformations of the brain and spine. According to Stanford University School

of Medicine pregnant women who are exposed to high levels of carbon monoxide were almost twice as likely to give birth to children with spina bifida or anencephaly as pregnant women with a lower level of exposure.

- The impact car emissions of carbon monoxide, nitrogen oxide, nitrogen dioxide, particulate matter and ozone on young children because of the projected increase of an additional 10,000 + commuters. A UCLA study indicates that children exposed in utero to pollutants are more likely to die in infancy, have respiratory and digestive problems. The UCLA study indicated that infants living in areas with higher level air pollution were at greater risk of death the first year of life from respiratory issues, like Sudden Infant Death Syndrome or SIDS.
- The health impacts that car emissions of carbon monoxide, nitrogen oxide, nitrogen dioxide, particulate matter and ozone have on children with asthma and other respiratory issues. The UCLA study authored by Drs. Ritz and Williams noted that children living in areas with high traffic 500-1000 or their homes were more likely to visit emergency rooms or be hospitalized for respiratory issues than children not living close to traffic.
- The impact on the health of the community because of toxic releases into the air resulting from the destruction of the current Vallco mall, particularly from asbestos, a known carcinogen. Asbestos has been banned from wide scale use in the United States since the 1970's because it is a carcinogen, causing a cancer of the abdomen and lungs. In addition, asbestos has been shown to be linked to higher rates of gastrointestinal and colorectal cancer. There is also an elevated risk of throat, kidney, gallbladder, and esophageal cancer linked to asbestos.
- The impact of PCBs on health of human life and the lives of other species. PCB's have been demonstrated to have a significant impact on human health according to the United States Environment Protection Agency. People with significant PCB exposure have an increased risk of developing non-Hodgkin's lymphoma, and Epstein-Barr syndrome. Women who have had significant exposure to PCB's have had difficulty conceiving and give birth to lower birth weight babies, setting these children up for a lifetime of compromised health. Exposure to PCB's has been linked to neurological deficits in both humans and animals.

I would like for these toxic building materials to be examined at multiple depths and locations throughout the site. I understand that after discussing the site with the EPA, that Perkins and Will has put together a database listing all toxic building materials used in construction. The city needs to have its agents examine the site for these substances as well.

Thank you for your time and attention to this matter.

Regards,

Brooke Ezzat

From: Liana Crabtree [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 4:21 PM
To: City of Cupertino Planning Dept.
Subject: Vallco EIR Comments - mitigation of attractive nuisance presented by the 30-acre green roof

Vallco EIR Comments - mitigation of attractive nuisance presented by the 30-acre green roof

We have been saddened in recent years by the suicides of students from Gunn and Palo Alto High Schools, several of whom killed themselves by stepping in front of commuter trains that travel at high speeds through Palo Alto neighborhoods.

In 2009, four (4) Palo Alto teens killed themselves by stepping in front of trains.

In the 2014-2015 academic year, despite the addition of a security patrol whose mission is to intervene when encountering people loitering by train tracks, possibly contemplating a suicide attempt, eight (8) people killed themselves by stepping in front of trains on Caltrain tracks. One was a Gunn student. Another was a recent Gunn graduate.

For the Palo Alto community, commuter train tracks represent a deadly attractive nuisance for their young people who are vulnerable to fleeting or persistent thoughts of suicide.

When I look at the landscape drawings of the green roof that is part of the current development proposal for the Vallco Shopping District, I am concerned that we will be introducing a different but equally deadly attractive nuisance in Cupertino if this project is allowed to proceed as planned. Our students are under the same academic pressures and high societal expectations as students in Palo Alto; we must be prepared that some of our students will seek a quick, devastating path away from their troubles just as some have in Palo Alto. Without proper mitigation, the Hills at Vallco could be the host of countless suicide tragedies.

The landscaped roof is described as 30 acres total, connecting office and residence towers of heights ranging from 50' to 80' (approximate). Even a fall from the lowest point of the green roof will certainly be fatal, if not mitigated by safety barrier, such as a net. I am struck by the miles of roof edge that will need to be monitored for people contemplating a jump to their death, similar to the way the Caltrain tracks are monitored for loiterers waiting to step in front of a train. Refer to roof drawing page 6 for an aerial view of the miles of roof edges and cutouts that will require monitoring: <https://s3.amazonaws.com/the-hills-at-vallco/Landscape-Drawings.pdf>

Please study the following environmental concerns related to suicide prevention that would be introduced in the community if the development proposal for the Vallco Shopping District is allowed to proceed with the green roof as planned today:

- Who will be responsible for paying for public security on the green roof?
- Who will be responsible for determining how much security is required for maintaining public safety on the green roof during the day when the park is open and at night when the park is closed?

- At the end of each day, what will be the protocol for ensuring that all visitors have left the park before closing?

- How many public and private access routes from the ground to the roof will be included in the project?

- How many security professionals will be responsible for monitoring roof access when the park is open and at night when the park is closed?

- If an intruder is detected on the roof when the park is closed, who is expected to be the first to engage with the intruder: on site security professionals or deputies from the Sheriff's Department?

- From the moment an after hours intruder is detected, how much time is expected to elapse before a first responder will be expected to engage with the intruder face-to-face or within speaking-voice distance?

- What barriers or mitigation measures, such as nets, will be installed in the project to prevent death in the event of a suicide attempt or other fall from the roof?

- If barriers or mitigation measures, such as nets, are installed in the project, who is responsible for rescuing anyone who has fallen from the roof but has been spared death and caught in the safety barrier?

- Will teams responsible for rescuing people caught in safety barriers require special equipment or training to support these rescues? If yes, who pays for the equipment and training?

I recognize that my letter and questions are grisly and disturbing. However, we must consider fully the intended and unintended ways structures that are added to our community will change our community.

Thank you,

Liana Crabtree

From: Peggy Griffin [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 4:21 PM
To: Piu Ghosh
Cc: City Clerk; City of Cupertino Planning Dept.
Subject: Vallco EIR Scoping Comments - impact of school changes to future traffic

SUBJECT: Vallco EIR Scoping Comments – impact to schools

Both the Cupertino Union School District and the Fremont Union High School District have signed Letters of Intent with Sand Hill Properties regarding the Hills-at-Vallco project. These agreements should be included in the EIR scope of study. All impacts throughout both districts, regardless of city should be studied.

Traffic – already boundaries are starting to change as a result of this and other proposed projects. This changes traffic patterns so future change in traffic patterns should also be studied for both the high school and elementary/middle school districts.

Traffic – CUSD has started changing and offering open enrollment which changes the traffic pattern. All future boundary and changes in open enrollment/different student programs should be studied as it impacts future traffic patterns and safe routes to school.

Space at Vallco for FUHSD – all students from all high schools will be able to use this space. Traffic should be studied based on all locations of high schools throughout the FUHSD.

Sincerely,
Peggy Griffin

[REDACTED]

From: Bill(Zhibiao) Zhao [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 4:36 PM
To: City of Cupertino Planning Dept.; City Council; citystaff@cupertino.org
Subject: Regarding Vallco EIR

Dear Planning Commission and City Council members,

I'm writing to you to express my concern of the proposed Vallco project. I would like the upcoming EIR to study:

- 1) Traffic issue if there are 2 million sq. ft. office at Vallco; please give us an approximation of delay during traffic hour when Apple new campus and Vallco 2million sqft office is built; please keep in mind of the current traffic congestion at De Anza blvd around 6:30 pm and De Anza is 4 lanes in both directions;
- 2) The possibility of keeping the Vallco as retail only; or
- 3) the possibility to build a new school at Vallco;

As a Cupertino resident for 8+ years, I think Cupertino needs more schools, retails and all kinds of public service such as parks or libraries instead of office space or high density residential buildings. Please keep Cupertino as a safe, quiet and peaceful family-friendly small town.

Thanks,
Zhibiao Zhao

From: Govind Tatachari [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 4:53 PM
To: City Clerk; PiuChosh@cupertino.org; City Council; City of Cupertino Planning Dept.
Subject: Vallco Project EIR

Dear planning commissioners and council members,

The proposed Vallco project is too humongous and will not only have a huge enviromental impact but also alter the quality of life of residents of Cupertino as well as those in neighboring areas on a vast scale. It behoves that all of you who represent the residents of Cupertino City must exercise caution by making sure that the scope of environmental impact is as comprehensive as possible.

The environmental study should not only include the estimates of the impact but also all the assumptions made to arrive at the estimates including references to existing authoritative sources of data and calculations used as part of the assumptions and estimates. In case of all the significant and unavoidable impacts the estimates should provide specific values and avoid using a grade scale since it is impossible to discern the real value from grade scale. The estimates should include both impact from individual classes of allocations and cumulative Impacts

The scope should include a comparative study of environmental impact of existing zoning with existing retail space allocation vis-a-vis the new zoning and new retail, housing and allocation that the council approved on Dec 4th, 2014. In case if the developer requests for additional allocation, the comparative study should also include the environmental impact of the difference requested vis-a-vis the Dec 4th approved allocation.

The scope of environmental impact study should include at the minimum the following areas (on local, citywide and neighborhood city basis):

1. Traffic and transportation impact
2. Open space
3. Population and housing pressure due to increased office space
4. Public Services
5. Utilities and Service Systems
6. Energy requirements and Greenhouse Gas Emissions
7. Air Quality
8. Hydrology (including water table) and water quality
9. Biological resources in the current and neighbouring areas
10. Waste disposal include sewerage and other wastes
11. Noise

I believe there are set california state standards for what is included in these categories and specific areas in terms of an environmental impact study.

Thanking you in this regard.

Sincerely,
Govind Tatachari
Cupertino Resident

From: Liang C [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 4:57 PM
To: City of Cupertino Planning Dept.
Subject: Comment on Vallco EIR: Ground water issues.

RE: Comment on Vallco EIR.

Here are comments from a concerned citizen:

The building right next to JCP had a semiconductor manufacturing facility in it in the 70s. There was groundwater contamination from that original Four-Phase facility. Reference the California Regional Water Quality Control Board File Number 43S1129 (RWP). It is known as the 19333 Vallco Parkway site. APN 316-20-076 is one of the parcel that this site is on. It is immediately to the east of the JCP site in the Vallco Mall.

Here is the Sate Water Resources Control Board entry for this site:

http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T10000000740

The Apple 2 EIR addressed the problem of ground water contamination, and specifically mentioned the 19333 Vallco Parkway site along with many other sites in the vicinity of its project.

https://s3.amazonaws.com/Apple-Campus2-DEIR/Apple_Campus_2_Project_EIR_Public_Review_5h-Hazards.pdf

Of particular concern are the restrictions placed on the 19333 Vallco Parkway site by the State Water Resources Control Board. Schools for persons under 21 are prohibited. Residence use is prohibited. The list goes on and on.

Sand Hill Property Company intends to place two underground floors of parking right next to the 19333 Vallco Parkway site. The 19333 Vallco Parkway site cannot be used for residential housing or for schools. If a flume from the 19333 Vallco Parkway site were found in the area planed for excavation for a parking garage, the site would perhaps not be considered suitable for the proposed FUHSD technology center.

The EIR should detail how testing for any contamination that may have seeped from nearby contaminated sites known to the State Water Resources Control Board (and other government agencies) will be performed. It should also characterize the possible spectrum of mitigation measures that could be employed if contamination were found at various levels. There should also be a discussion on which existing land use restrictions that apply to the 19333 Vallco Parkway site could reasonably be applied to the proposed Vallco development in the event that contamination were discovered.

From: Liang C [REDACTED]
Sent: Monday, November 16, 2015 5:01 PM
To: City of Cupertino Planning Dept.
Subject: Comment on Vallco EIR - pedestrian safety in the parking garages and overall security

RE: Comment on Vallco EIR

The Parking Drawing shows very tight parking stalls with zero space for pedestrian walk ways.

Please study the pedestrian safety when walking inside a mega parking lot with 5,000 parking spaces.

Please study the overall safety of keeping shoppers and workers safe in such a large underground space.

Are there security measures for people who need emergency medical help or police help?

Are there going to be sufficient security cameras in case of car jacking or even other more scary crimes?

Liang Chao

From: Uma Gauru [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 5:02 PM
To: City of Cupertino Planning Dept.
Subject: concerns about vallco rezoning and environmental impact

Hi,

I, Uma Gauru, and my husband Murty Dasari, would like to express our concerns on impacts on unplanned growth and its impacts on our neighborhood if Vallco rezoning and any other new apartments or office space is made possible.

Impact on schools - This is a major concern for us. Any additional rental housing will add to even more flooding of our schools from elementary to high school. Our children are already suffering from the portables being setup in the schools which are not a healthy option and overcrowding of classes due to the Rosebowl residences, new Biltmore apartments etc. Long lines in school cafeterias and lack of lunch tables caused my kids to skip lunches many times. Addition of portables result in less play area and space for other activities. Historically rental apartments contribute to more students to the school system compared to the owned properties. Drop off and pickup of kids is becoming a great hassle and taking away an extra half hour of our busy schedule due to increased traffic..

Traffic congestion - Ours roads are already congested and it is not safe for kids anymore to bike or walk to school. Further expansion would only deteriorate this situation. Even moving around few miles in the neighborhood in the morning and evening commute times in addition to school dismissal times is getting very tiring, long delays and long wait times at traffic signals and stop signs. This is further causing drivers to be less patient resulting in honking and shouting on each other.

Libraries and Parks: Our community resources like parks, community centers and library are already operating at exceeded capacity. Further expansion in rental residences would only exacerbate the situation.

Clearly if further permits to add more office space and rental residences are only causing major annoyances and inconveniences to the community then why go for that if not to satisfy the greedy developers who don't live or care about our peaceful and welcoming city?

We request you to carefully analyze the situation and seek active feedback from the community. Community members are voicing their grievances in Nextdoor.com website. Please seek feedback from there as well. With this explosive growth, it is impacting not only cupertino residents but also the neighboring cities. If there is anything we need, it is more schools from elementary to high school, parks and libraries, courts for volleyball, soccer, tennis etc.

sincerely,

Uma Gauru and Murty Dasari.

From: Carrie Oleary [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 5:06 PM
To: City of Cupertino Planning Dept.
Subject: Comment on Vallco EIR

I would like the Vallco EIR to review whether there are an adequate number of medical treatment facilities to serve the increased amount of people proposed to live, work and shop at The Hills.

On Nov 16, 2015 4:57 PM, "Liang C" [REDACTED] wrote:

RE: Comment on Vallco EIR.

Here are comments from a concerned citizen:

The building right next to JCP had a semiconductor manufacturing facility in it in the 70s. There was groundwater contamination from that original Four-Phase facility. Reference the California Regional Water Quality Control Board File Number 43S1129 (RWP). It is known as the 19333 Vallco Parkway site. APN 316-20-076 is one of the parcel that this site is on. It is immediately to the east of the JCP site in the Vallco Mall.

Here is the Sate Water Resources Control Board entry for this site:

http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T10000000740

The Apple 2 EIR addressed the problem of ground water contamination, and specifically mentioned the 19333 Vallco Parkway site along with many other sites in the vicinity of its project.

https://s3.amazonaws.com/Apple-Campus2-DEIR/Apple_Campus_2_Project_EIR_Public_Review_5h-Hazards.pdf

Of particular concern are the restrictions placed on the 19333 Vallco Parkway site by the State Water Resources Control Board. Schools for persons under 21 are prohibited. Residence use is prohibited. The list goes on and on.

Sand Hill Property Company intends to place two underground floors of parking right next to the 19333 Vallco Parkway site. The 19333 Vallco Parkway site cannot be used for residential housing or for schools. If a flume from the 19333 Vallco Parkway site were found in the area planned for excavation for a parking garage, the site would perhaps not be considered suitable for the proposed FUHSD technology center.

The EIR should detail how testing for any contamination that may have seeped from nearby contaminated sites known to the State Water Resources Control Board (and other government agencies) will be performed. It should also characterize the possible spectrum of mitigation measures that could be employed if contamination were found at various levels. There should also be a discussion on which existing land use restrictions that apply to the 19333 Vallco Parkway site

could reasonably be applied to the proposed Vallco development in the event that contamination were discovered.

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You received this message because you are subscribed to the Google Groups "Better Cupertino Work Group" group.

To unsubscribe from this group and stop receiving emails from it, send an email to better-cupertino-work-group+unsubscribe@googlegroups.com.

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Visit this group at <http://groups.google.com/group/better-cupertino-work-group>.

To view this discussion on the web visit <https://groups.google.com/d/msgid/better-cupertino-work-group/CAN%2Bw9cB9nasLLTrQSxK5VeSdBHJTHxq-XOQGP%3De0pUD5WYBSwg%40mail.gmail.com>.

For more options, visit <https://groups.google.com/d/optout>.

From: Terry Overby [mailto: [REDACTED]]
Sent: Monday, November 16, 2015 6:11 PM
To: City of Cupertino Planning Dept.
Cc: Larry Wuerz
Subject: WHAT ENVIRONMENTAL IMPACT REPORT SHOULD COVER FOR "THE HILLS AT VALLCO".

The EIR for The Hills at Vallco should include as follows:

1. A study of all of the emergent construction (the aggregate), (Apple, Cupertino Main Street, Agilent potential expansion, new 6-story building to replace IHOP on Stevens Creek, the Nineteen 800 apartments on Vallco Parkway) should be examined as to collective impact on any new construction in the area near Vallco. That study should include, but not be limited to:
 - a. Capability of all roads within 1-mile to support the additional traffic load
 - b. Ability for public transportation to support the addition people
 - c. Ability to support the additional water and sewer demands of the project
 - d. Ability of the school system to support the additional students and impact to safety of bicycles and pedestrians in the area
 - e. Impact on the existing neighborhoods adjacent to the project

Thank You for reviewing my concerns,

Terry Overby
[REDACTED]

From: mzhang [mailto: [REDACTED]]
Sent: Tuesday, November 17, 2015 12:52 AM
To: City of Cupertino Planning Dept.
Cc: Mzhang
Subject: Comment on EIR for The Hills at Vallco Project

Dear Piu,

For The Hills at Vallco Project, I would like to give the following comments for the EIR.

- 1, public school impact.
2. freeway in and out traffic impact in addition to the new Apple campus.
3. impact on stevens creek and Wolfe / Miller traffic.

Regards,

Michael

Thanks, Michael

Case ID#: 25114
Case Detail page: <https://clients.comcate.com/rep/caseDetail.php?ag=27&id=997117>
Topic>Subtopic: The Hills at Vallco>Public Comments
Case Location:

Action that triggered this email: Case created

Customer: Lanser, Bryan
Owner: Geoff Bradley
Date case was created (Days outstanding): 11/11/2015 (0)

Your role on this case: Primary Owner

Customer request (only first sentences): I would like to see a detailed traffic management and parking plan broken in to four parts:

1. Traffic impact and flow to and from the complex for the OFFICE TENANTS.
2. Traffic impact and flow to and from the complex for the RESIDENTS.
3. Traffic impact and flow to and from the complex for the VISITORS.
4. Comprehensive parking plan for the 10,000 office workers ((approximately 6,000 vehicles) residents (number of residences X 2) and retail tenants (number of shops X 5, assuming average number of store employees of 5, which is likely too few).

The traffic plan needs to be based on an average work day, showing traffic densities and flows on an hour-by-hour basis. With 2 million square feet of office space, there will be 10,000 people coming to the office building every day according to CPSE and CoreNet Global office space density statistics. According to Public Enterprise Economics and Transport Problems, a properly designed Freeway can accommodate 2000 vehicles per hour per lane can be accommodated, and with a very optimistic estimate of 1.67 passengers per vehicle, Freeway 280 can accommodate 3,333 people per hour. With three usable lanes in and around the Wolfe Road exit, that means that a maximum of 9,999 people can be transported on the freeway at any given time PER HOUR, assuming no breakdowns or traffic delays.

My concern is that with 10,000 working at The Hills, another 13,000 working at the Apple Donut, plus surrounding community companies and commuters, there is no way that the current freeway system appears to be able to accommodate the demands imposed by this project at peak commute times. And this concern is without considering any customers who visit The Hills, any employees who work at the shops, and any residents who live there.

I personally feel that the only way this project should be allowed to be approved as currently proposed is to put it to a public vote. The fact is that the community around this facility will be drastically impacted by its approval, and I believe that there will be severe, permanent traffic impact that will NOT be ameliorated by simply adding a few more silver busses to the Apple commute routes.

I look forward to seeing the results of your studies and shared with the greater Cupertino residents whose lives will be impacted by this very large project.

I would like to see a similar study done for The Oaks, which aggravates an already over-burdened freeway interchange between 85 and Stevens Creek Blvd.

You can also access your account by going to the employee home page and entering your username and password.

Case ID#: 25121
Case Detail page: <https://clients.comcate.com/rep/caseDetail.php?ag=27&id=998096>
Topic>Subtopic: The Hills at Vallco>Public Comments
Case Location:

Action that triggered this email: Case created

Customer: Tung,
Owner: Geoff Bradley
Date case was created (Days outstanding): 11/14/2015 (0)

Your role on this case: Primary Owner

Customer request (only first sentences):

To whom it may concern,

I have lived in Cupertino for 15 years and my house is located right next to Vallco shopping mall by the "wall". The proposal of The Hills at Vallco, building a 7-story or even 9-story commercial/residential building in our residential neighborhood, really bother and upset me and my neighbors.

I seriously worry about the negative impact on the privacy, traffic, air /light pollution and living quality that me/my family and my neighbor will experience if The Hills project continues. I firmly oppose The Hills at Vallco project and truly hope Cupertino and my neighborhood can remain a desirable place/city with living quality to live for many generation.

Please try to understand and respect our wills and support our decision in opposing The Hills at Vallco.

Thank you for spending time to read this email.

Best,
J. Tung

Case ID#: 25123
Case Detail page: <https://clients.comcate.com/rep/caseDetail.php?ag=27&id=998207>
Topic>Subtopic: The Hills at Vallco>Public Comments
Case Location:

Action that triggered this email: Case created

Customer: Alicea, Louie
Owner: Geoff Bradley
Date case was created (Days outstanding): 11/14/2015 (0)

Your role on this case: Primary Owner

Customer request (only first sentences):

To: City of Cupertino Planning Dept.

My family have been long time residents of Cupertino since 1984.

We do not want to add 7 story buildings with family homes at the Vallco site. We want our privacy.

We do not want the wall opened for public access to our neighborhood.

Our schools are maxed out already.

Vehicle traffic has become very congested in Cupertino the past few years, and this is going to become overwhelming when the new Apple complex is completed.

Public Safety is unable to keep up with controlling frequent speeders and violations throughout the city. Drivers are constantly running Red Lights/Stop Signs on a regular basis.
Bicycle riders from Apple do not obey the laws and guidelines when riding through the neighborhoods already.

We don't see a plan for Senior living, which needs to be addressed.

We hope you can come up with a plan that we can all live with. We are tired of hearing the construction that has been going on in that area for over 10 years.

By the way, We are still waiting for our street on Merritt Drive to be finally repaired and paved.

Regards, Louie Alicea

Case ID#: 25124
Case Detail page: <https://clients.comcate.com/reps/caseDetail.php?ag=27&id=998211>
Topic>Subtopic: The Hills at Vallco>Public Comments
Case Location:

Action that triggered this email: Case created

Customer: Anonymous
Owner: Geoff Bradley
Date case was created (Days outstanding): 11/14/2015 (0)

Your role on this case: Primary Owner

Customer request (only first sentences):

We are residents of the Portal Neighborhood and we are not supporting a 7 or 9 -story building and 800+ residential units that can impact the privacy and over-crowding of the area.

Case ID#: 25125
Case Detail page: <https://clients.comcate.com/reps/caseDetail.php?ag=27&id=998234>
Topic>Subtopic: The Hills at Vallco>Public Comments
Case Location:

Action that triggered this email: Case created

Customer: Hampe, Carl
Owner: Geoff Bradley
Date case was created (Days outstanding): 11/15/2015 (0)

Your role on this case: Primary Owner

Customer request (only first sentences):

We live on the second street over from Vallco shopping center on Denison Avenue, and we're very concerned about the impacts that the proposed Sand Hill development plan might have on our quality of life here. We have been residents here since 1989, and have seen the negative impact that recent development projects in Cupertino have had on our local environment. We have lost most of the confidence that we had in our city government due to it's partiality to supporting greedy developers over the needs and rights of its citizens.

The recent negative impact consists of slowed traffic on the streets we most frequently use, strains on our school system's ability to serve our children's needs, increased air pollution from additional traffic, and increased crime of all kinds in our city. And this has all happened during a time when economics has made it more difficult for our city and county service providers to deal with the additional growth.

We haven't yet seen the impact's that Apple's new complex will have to our immediate area, and yet the city council is trying to push through a perverted Vallco "revitalization" project right next to the Apple complex without sufficient community input that will entirely change the nature of our neighborhood.

We are primarily concerned about the following potential impacts of Sand Hill's plan for the development of the Vallco property:

1. Additional traffic congestion in our area
2. Additional air and noise pollution
3. Additional crime
4. Loss of privacy due to our proximity to proposed tall buildings
5. Reduced availability of close-by shopping
6. Reduced effectiveness of our schools

One other particular concern that we have is that with all of the additional people moving through this part of the city that there will be pressure on the city to open up additional thoroughfares coming right through our neighborhood to reduce traffic flow on Stevens Creek Blvd. This would greatly increase our local traffic congestion, air and noise pollution, and crime. We ask the council to ensure that this will not be done.

We feel less safe and happy than we did when we first moved here. We watch our neighbors move out of Cupertino because of the expected impacts. We used to think that this was one of the best communities in the Bay Area, but we now see it becoming more and more like the less desirable places. We feel that our quality of life in this community is becoming worse by the day.

We hope that you will listen to our plea for a more sane and safe plan for Cupertino city development.

Sincerely,

Carl and Sharon Hampe

Case ID#: 25126
Case Detail page: <https://clients.comcate.com/rep/caseDetail.php?ag=27&id=998244>
Topic>Subtopic: The Hills at Vallco>Public Comments
Case Location:

Action that triggered this email: Case created

Customer: Chessen, Debi
Owner: Geoff Bradley
Date case was created (Days outstanding): 11/15/2015 (0)

Your role on this case: Primary Owner

Customer request (only first sentences):

Please study:

At what angle these homes can see the moon coming up before The Hills at Vallco is built?
At what angle these homes can see the moon coming up after The Hill is built?
How much of the ridge line would be blocked by The Hills?
As the Sun comes up each morning, how much shorter the gardens of these single-family homes would be exposed to morning sunshine?

Since the very tall commercial building will be as close to the single-family homes as the next door neighbor, the invasion of privacy on these single family homes should be studied.

Please study:

The range of sight of any visitor on the rooftop park during day time into the direction of single-family homes.
The range of sight of any visitor on the rooftop park during night time into the direction of single-family homes.
The range of sight of any maintenance worker on the rooftop park during day time into the direction of single-family homes.
The range of sight of any maintenance worker on the rooftop park during night time into the direction of single-family homes.
The range of sight of any visitor of the 7-story commercial building during day time into the direction of single-family homes.
The range of sight of any visitor of the 7-story commercial building during night time into the direction of single-family homes.
The range of sight of any maintenance worker, such as window cleaner, of the 7-story commercial building during day time into the direction of single-family homes.
The range of sight of any maintenance worker, such as window cleaner, of the 7-story commercial building during night time into the direction of single-family homes.
As the commercial building might be lighted at night all night long as many other commercial buildings do for security reasons, please study:
the impact of light pollution from the commercial buildings on single-family homes at night.
the impact of light pollution from the additional street lights installed The Hills.

the impact of the ability to observe stars from the gardens of single-family homes at night.

Also, during the construction of The Hills at Vallco, the following should be studied:
the privacy of the single-family homes within visible range by construction workers.
noise levels of construction equipment or digging equipment for underground garage.
pollution from dust of digging or construction materials.

Thank you.

Page 13 of the Architecture Drawing: <https://s3.amazonaws.com/the-hills-at-vallco/Architecture-Drawings.pdf>

Slice view 5: (below section is the leftmost side of Slice view 5) The Vallco building (Building 6) will be as far as the house of their nextdoor neighbor.

And it will be as tall as 90 feet, gradually increasing from 65 feet.

With 10-12 feet per floor, that's about 5 to 7 stories tall.

Toilets flushed per unit of housing office/vs/retail only toilets needed.

No sun for neighboring houses and privacy issues noise levels for neighborhood impact on trees - I think they are not being taken care of air pollution buffer trees may be taken out and then habitat is disturbed this developer has let trees die before Impact on a new school for traffic, noise, traffic on an already used street for existing school. Not enough green space for kids to play and exercise. Infrastructure of our city and how it will be affected.

Please study wisely and leave us our quality of life.

Case ID#: 25129
Case Detail page: <https://clients.comcate.com/rebs/caseDetail.php?ag=27&id=998287>
Topic>Subtopic: The Hills at Vallco>Public Comments
Case Location:

Action that triggered this email: Case created

Customer: Warren, Lisa
Owner: Geoff Bradley
Date case was created (Days outstanding): 11/15/2015 (0)

Your role on this case: Primary Owner

Customer request (only first sentences):

3 page attachment is being submitted with comments to be added to the Scoping of EIR for Vallco (The Hills at)

Case ID#: 25130
Case Detail page: <https://clients.comcate.com/rep/caseDetail.php?ag=27&id=998290>
Topic>Subtopic: The Hills at Vallco>Public Comments
Case Location:

Action that triggered this email: Case created

Customer: Warren, Lisa
Owner: Geoff Bradley
Date case was created (Days outstanding): 11/15/2015 (0)

Your role on this case: Primary Owner

Customer request (only first sentences):

EIR must study any and all required EIR criteria as they relate to any off-site development that is the subject of the June 9, 2015 Sand Hill Properties Company 'Letter of Intent' written to, and signed by, Cupertino Union School District Superintendent and CUSD Board of Education President (CUSD signatures dated June 16, 2015). If the intent is truly there, then any related development is part of the application for The Hills at Vallco, and must be considered part of the project that is being studied in the Vallco Specific Plan Area, regardless of location.

Case ID#: 25132
Case Detail page: <https://clients.comcate.com/reps/caseDetail.php?ag=27&id=998320>
Topic>Subtopic: The Hills at Vallco>Public Comments
Case Location:

Action that triggered this email: Case created

Customer: Shim, Cari
Owner: Geoff Bradley
Date case was created (Days outstanding): 11/15/2015 (-0)

Your role on this case: Primary Owner

Customer request (only first sentences):

800 apartments and another Collins like elementary school on the backside does not make any sense! The traffic onto and around portal will be ridiculous. All this influx needs not just one school, but another middle and high school. Making apartments will create the issue we have now where we cannot seem to fund the Yosemite trips that they have been able to do until the last couple of years. People need ownership not cheaper rentals without appropriate taxes to maintain the quality of Cupertino. we cannot become another sunnyvale and san jose!

Case ID#: 25133
Case Detail page: <https://clients.comcate.com/rep/caseDetail.php?ag=27&id=998321>
Topic>Subtopic: The Hills at Vallco>Public Comments
Case Location:

Action that triggered this email: Case created

Customer: Yee, Staci
Owner: Geoff Bradley
Date case was created (Days outstanding): 11/15/2015 (-0)

Your role on this case: Primary Owner

Customer request (only first sentences):

We hope that the following will be reviewed during the EIR:

- 1) Traffic congestion around the new school (Nan Allan site), esp. during drop-off and pick-up times. Residents already feel the traffic on Merritt and Blaney is an issue.
- 2) Danger to students walking from The Hills to the new school site, due to a busy street (Stevens Creek) being the only transit option, and assuming there's no penetration of the sound wall. Please note that our understanding is that the sound wall is remaining intact, which is critical for our neighborhood.
- 3) Impact on school revenue vs. student enrollment from The Hills. In other words, why are all 800 rental units considered one parcel? Thus, the property owner will only pay one parcel tax per year, vs. 800 parcel taxes. This is an overburden to the rest of the Cupertino residents.
- 4) Noise, light, and privacy impact to the neighborhood residents. For example, from the green roof, can existing residents' windows/doors be seen?
- 5) What is the danger of falling from any point of the green roof? In other words, what fencing/wall around the green roof will prevent suicide attempts or accidents?

Case ID#: 25136
Case Detail page: <https://clients.comcate.com/reps/caseDetail.php?ag=27&id=998355>
Topic>Subtopic: The Hills at Vallco>Public Comments
Case Location:

Action that triggered this email: Case created

Customer: Anonymous
Owner: Geoff Bradley
Date case was created (Days outstanding): 11/16/2015 (0)

Your role on this case: Primary Owner

Customer request (only first sentences):

Dear CUSD board members,

I am greatly concerned about the rumors that I keep hearing about the possibility of a new school being built near me and the possibility of the wall between Vallco and our home being allowed to be taken down.

First of all, the huge amount of traffic for Collins School is on both Portal Ave. and Blaney Ave. It is horrible and dangerous on both of these streets both in the morning and in the afternoon. We also have a tremendous amount of traffic from Lawson Middle School to contend with. If you add another school and more students, the traffic will become even more dangerous than it already is. The new school should be built where the 200 new students will be living--not added to the confusion and danger that already surround us.

Also, I am sure you are aware of the fact that before Vallco was built, there was a covenant letter given to the City of Cupertino promising that the wall would never be allowed to be taken down. There is good reason for this. If the wall comes down, the traffic in our neighborhood will become outrageous with cars driving back and forth. And, more importantly, of course, this will make it even more dangerous for our children and adults to walk to and from Collins School and Lawson School.

I know that Cupertino could really benefit from adding a new school. But, please, don't just think of the money aspect. Please think only of the safety of our children!!

Case ID#: 25139
Case Detail page: <https://clients.comcate.com/reps/caseDetail.php?ag=27&id=998553>
Topic>Subtopic: The Hills at Vallco>Public Comments
Case Location:

Action that triggered this email: Case created

Customer: Anonymous
Owner: Geoff Bradley
Date case was created (Days outstanding): 11/16/2015 (0)

Your role on this case: Primary Owner

Customer request (only first sentences):

I'm concerned about air quality during the demolition of the existing mall including possible asbestos in the existing buildings

Comments for Vallco Shopping District Specific Plan Environmental Impact Report NOP File Number EA- 2017-05

Contents

| | |
|--|----|
| Potential to Cease EIR Mid-Stream:..... | 2 |
| Similarity of “Proposed Project” to Failed Ballot Initiative Measure D, Nov. 8, 2016 Should Disqualify It | 3 |
| General Plan Directive to Create a Vallco Shopping District Specific Plan: | 3 |
| Insufficient and Conflicting Information Presented in NOP EIR Scoping Meeting, with Infeasible “Proposed Project” due to Inconsistency with General Plan & Initiative Vote Results | 19 |
| Proposed Project and Project Alternatives:..... | 20 |
| Proposed Project: | 20 |
| Alternatives to Project:..... | 22 |
| Occupied/Re-tenanted Mall is Not “No Project” | 23 |
| Alternative B is Not Consistent with the General Plan..... | 23 |
| Alternative C is Insufficiently Described – May be inconsistent | 24 |
| Conclusions:..... | 24 |
| Table of Proposed Project and Alternatives: | 25 |
| Comments For Environmental Impact Report Given Proposed Project and Alternatives A-D ... | 26 |

Potential to Cease EIR Mid-Stream:

The EIR scoping meeting provided inadequate and conflicting information with an infeasible “Proposed Project” and infeasible alternatives.

According to [“CEQA Does Not Apply to Project Disapproval, Even if the EIR is Underway,”](#) by [Abbott & Kindermann](#) Leslie Z. Walker, on September 22, 2009, the EIR process may be stopped mid-stream:

According to [Las Lomas Land Co., LLC v. City of Los Angeles](#) (Sept. 17, 2009, B213637) ___ Cal.App.4th ___, the long standing rule that CEQA does not apply to projects rejected or disapproved by a public agency, allows a public agency to reject a project before completing or considering the EIR. In *Las Lomas*, the Court of Appeals for the Second Appellate District made clear that a city may stop environmental review mid-stream and reject a project without awaiting the completion of a final EIR. While this holding may avoid wasting time and money on an EIR for a dead-on-arrival project, it will also make it harder for projects to stay in play until the entire environmental document is complete.

The article continues:

One of the City’s council members opposed the project and asked the City to cease its work on it. The City attorney advised the council members that the City was required to continue processing and completing the EIR. Nonetheless, the objecting council member introduced a motion to suspend the environmental review process until the city council made “a policy decision” to resume the process. The city council ultimately approved a modified motion which also called for the City to cease work on the proposed project.

Should the City Council find reason to cease the EIR, such as the “Proposed Project” being inconsistent with the General Plan (explained on the following pages), or that in light of its’ similarity to failed Cupertino ballot Measure D: The Vallico Initiative November 8, 2016, there is precedent as demonstrated above, to do so.

Similarity of “Proposed Project” to Failed Ballot Initiative Measure D, Nov. 8, 2016 Should Disqualify It

The Vallco Measure D Initiative is described in the following: [CITY ATTORNEY'S BALLOT TITLE AND SUMMARY FOR PROPOSED INITIATIVE SUBMITTED ON MARCH 3, 2016](#) and would consist of:

- 2,000,000 SF office
- 640,000 SF retail
- 191 additional hotel rooms, bringing the site total to 339 hotel rooms
- 389 residential units with a Conditional Use Permit bringing the total to 800 residential units

The [November 8, 2016 Election results for Measure D](#) were 55% No. Advertising for the initiative obscured the office and focused on the retail portions. The actual square footage percentages for the Measure D Initiative were:

- 56% office
- 22% residential
- 16% retail
- 6% hotel

Notice these above percentages result in 84% non-retail uses and would be a majority office park. The “Proposed Project” for the EIR has less retail (600,000 SF) and other uses the same as Measure D.

The EIR process is not intended to be a disregard of the city’s General Plan to “try out” alternative concepts which have no consistency with the General Plan. This creates a great deal of confusion and distrust.

General Plan Directive to Create a Vallco Shopping District Specific Plan:

This section amasses the multiple sections of the General Plan which reference the Vallco Shopping District and describe what it is planned to become.

Refer to: [Cupertino General Plan Vision 2040](#):

In Chapter 2 of the Cupertino General Plan Vision 2040: Planning Areas: Vallco Shopping District is described as: “...Cupertino’s most significant commercial center...” and that “...Reinvestment is needed...so that this **commercial center** is more competitive and better serves the community.” It is referred to as a “shopping district”, not an office park, or a residential community. Following is the actual page from the General Plan describing Vallco Shopping District:

VALLCO SHOPPING DISTRICT

CONTEXT

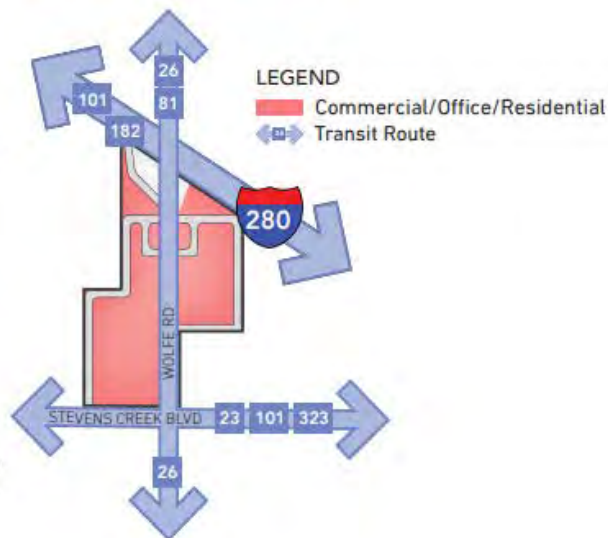
The Vallco Shopping District Special Area encompasses Cupertino's most significant commercial center, formerly known as the Vallco Fashion Park. This Special Area is located between Interstate 280 and Stevens Creek Boulevard in the eastern part of the city. The North Blaney neighborhood, an established single-family area, is adjacent on the west side of the Vallco Shopping District. Wolfe Road bisects the area in a north-south direction, and divides Vallco Shopping District into distinct subareas: Vallco Shopping District Gateway West and Vallco Shopping District Gateway East. In recent years there has been some façade improvement to the Vallco Fashion Mall; however, there has been no major reinvestment in the mall for decades. Reinvestment is needed to upgrade or replace older buildings and make other improvements so that this commercial center is more competitive and better serves the community. Currently, the major tenants of the mall include a movie theater, bowling alley and three national retailers. The Vallco Shopping District is identified as a separate Special Area given its prominence as a regional commercial destination and its importance to future planning/redevelopment efforts expected over the life of the General Plan.



VISION

The Vallco Shopping District will continue to function as a major regional and community destination. The City envisions this area as a new mixed-use "town center" and gateway for Cupertino. It will include an interconnected street grid network of bicycle and pedestrian-friendly streets, more pedestrian-oriented buildings with active uses lining Stevens Creek Boulevard and Wolfe Road, and publicly-accessible parks and plazas that support the pedestrian-oriented feel of the revitalized area. New development in the Vallco Shopping District should be required to provide buffers between adjacent single-family neighborhoods in the form of boundary walls, setbacks, landscaping or building transitions.

VALLCO SHOPPING DISTRICT SPECIAL AREA DIAGRAM



PA-8

Figure 1

Vallco Shopping District is further described in the [General Plan Vision 2040 Land Use Element](#) through goals, policies, and strategies:

GOAL LU-19 Create a distinct and memorable mixed-use "town center" that is a regional destination and a focal point for the community

VALLCO SHOPPING DISTRICT SPECIAL AREA The City envisions a complete redevelopment of the existing Vallco Fashion Mall into a vibrant mixed-use "town center" that is a focal point for regional visitors and the community. This new Vallco Shopping District **will become a destination for shopping, dining and entertainment in the Santa Clara Valley.**

POLICY LU-19.1: SPECIFIC PLAN Create a **Vallco Shopping District Specific Plan** prior to any development on the site that lays out the land uses, design standards and guidelines, and infrastructure improvements required. The Specific Plan will be based on the following strategies:

STRATEGIES: LU-19.1.1: Master Developer. Redevelopment will require a master developer in order to remove the obstacles to the development of a cohesive district with the highest levels of urban design.

LU-19.1.2: Parcel Assembly. Parcel assembly and a plan for complete redevelopment of the site is required prior to adding residential and office uses. Parcelization is highly discouraged in order to preserve the site for redevelopment in the future.

LU-19.1.3: Complete Redevelopment. The "town center" plan should be based on complete redevelopment of the site in order to ensure that the site can be planned to carry out the community vision.

LU-19.1.4: Land Use. The following uses are allowed on the site (see Figure LU-2 for residential densities and criteria):

1. Retail: High-performing retail, restaurant and entertainment uses. **Maintain a minimum** of 600,000 square feet of retail that provide a good source of sales tax for the City. Entertainment uses may be included but shall consist of no more than 30 percent of retail uses.

2. Hotel: **Encourage** a business class hotel with conference center and active uses including main entrances, lobbies, retail and restaurants on the ground floor.

3. Residential: **Allow** residential on upper floors with retail and active uses on the ground floor. Encourage a mix of units for young professionals, couples and/or active seniors who like to live in an active “town center” environment.

4. Office: **Encourage** high-quality office space arranged in a pedestrian-oriented street grid with active uses on the ground floor, publicly-accessible streets and plazas/green space.

| Table LU-1: Citywide Development Allocation Between 2014-2040 | | | | | | | | | | | | |
|---|-----------------------------|------------------|----------------|-----------------------------|-------------------|------------------|-----------------------------|--------------|------------|-----------------------------|---------------|--------------|
| | commercial (s.f.) | | | office (s.f.) | | | hotel (rooms) | | | residential (units) | | |
| | current built (Oct 7, 2014) | buildout | available | current built (Oct 7, 2014) | buildout | available | current built (Oct 7, 2014) | buildout | available | current built (Oct 7, 2014) | buildout | available |
| Heart of the City | 1,351,730 | 214,5000 | 793,270 | 2,447,500 | 2,444,613 | 17,113 | 404 | 526 | 122 | 1,336 | 1,805 | 469 |
| Vallco Shopping District** | 1,207,774 | 120,7774 | - | - | 2,000,000 | 2,000,000 | 148 | 339 | 191 | - | 389 | 389 |
| Homestead | 291,408 | 291,408 | - | 69,550 | 69,550 | - | 126 | 126 | - | 600 | 750 | 150 |
| N. De Anza | 56,708 | 56,708 | - | 2,081,021 | 2,081,021 | - | 126 | 126 | - | 49 | 146 | 97 |
| N. Vallco | 133,147 | 133,147 | - | 3,069,676 | 3,069,676 | - | 123 | 123 | - | 554 | 1154 | 600 |
| S. De Anza | 352,283 | 352,283 | - | 130,708 | 130,708 | - | 315 | 315 | - | 6 | 6 | - |
| Bubb | - | - | - | 444,753 | 444,753 | - | - | - | - | - | - | - |
| Monta Vista Village | 94,051 | 99,698 | 5,647 | 443,140 | 456,735 | 13,595 | - | - | - | 828 | 878 | 50 |
| Other | 144,964 | 144,964 | - | 119,896 | 119,896 | - | - | - | - | 18,039 | 18,166 | 127 |
| Major Employers | - | - | - | 109,935 | 633,053 | 523,118 | - | - | - | - | - | - |
| Citywide | 3,632,065 | 4,430,982 | 798,917 | 8,916,179 | 11,470,005 | 2,553,826 | 1,116 | 1,429 | 313 | 21,412 | 23,294 | 1,882 |

** Buildout totals for Office and Residential allocation within the Vallco Shopping District are contingent upon a Specific Plan being adopted for this area by May 31, 2018. If a Specific Plan is not adopted by that date, City will consider the removal of the Office and Residential allocations for Vallco Shopping District. See the Housing Element (Chapter 4) for additional information and requirements within the Vallco Shopping District.

Figure 2 - “General Plan Table LU-1”

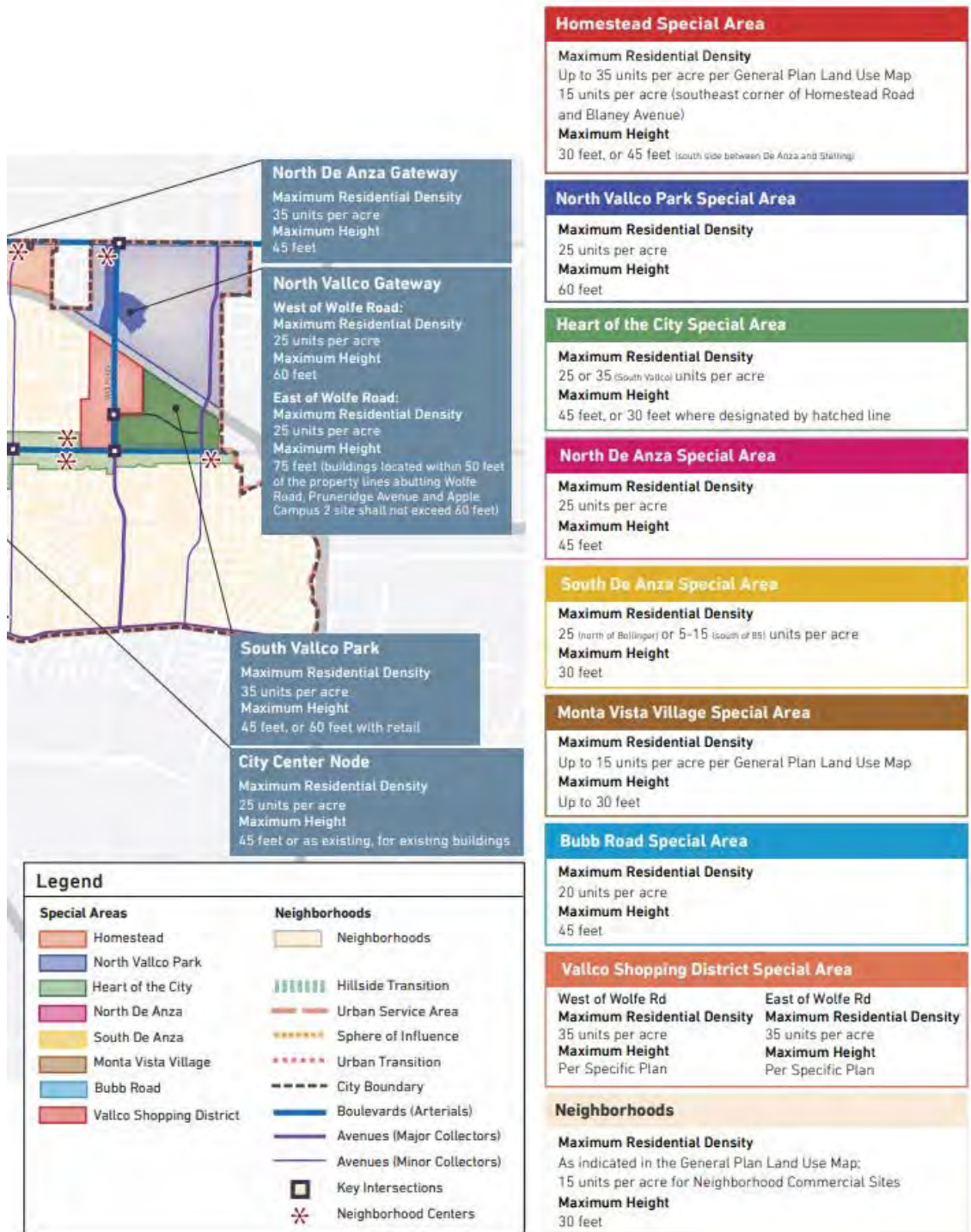


Figure 3 – “General Plan Figure LU-2”

General Plan Housing Element p H-21

“Priority Housing Sites: As part of the Housing Element update, the City has identified five priority sites under Scenario A (see Table HE-5) for residential development over the next eight years. The General Plan and zoning designations allow the densities shown in Table HE-5 for all sites except the Vallco Shopping District site (Site A2). The redevelopment of Vallco Shopping District will involve significant planning and community input. A specific plan will be required to implement a comprehensive strategy for a retail/office/residential mixed use development. The project applicant would be required to work closely with the community and the City to bring forth a specific plan that meets the community’s needs, with the anticipated adoption and rezoning to occur within three years of the adoption of the 2014-2022 Housing Element (by May 31, 2018). The specific plan would permit 389 units by right at a minimum density of 20 units per acre. If the specific plan and rezoning are not adopted within three years of Housing Element adoption (by May 31, 2018), the City will schedule hearings consistent with Government Code Section 65863 to consider removing Vallco as a priority housing site under Scenario A, to be replaced by sites identified in Scenario B (see detailed discussion and sites listing of “Scenario B” in Appendix B - Housing Element Technical Appendix). As part of the adoption of Scenario B, the City intends to add two additional sites to the inventory: Glenbrook Apartments and Homestead Lanes, along with increased number of permitted units on The Hamptons and The Oaks sites. Applicable zoning is in place for Glenbrook Apartments; however the Homestead Lanes site would need to be rezoned at that time to permit residential uses. Any rezoning required will allow residential uses by right at a minimum density of 20 units per acre.”

SITE A2 (VALLCO SHOPPING DISTRICT):

“The site is designated Regional Shopping/Office/Residential in the General Plan and zoned Planned Development with Regional Shopping and Commercial (P[Regional Shopping and P[CG]). Strategy HE-1.3.1 provides that the City will **adopt a Specific Plan for the Vallco site by May 31, 2018 that would permit 389 units by right at a minimum density of 20 units per acre. The zoning for the site would be modified as part of the Specific Plan process to allow residential uses as part of a mixed-use development at a maximum density of 35 units per acre. If the Specific Plan is not adopted, the City will schedule hearings consistent with Government Code Section 65863 to consider removing Vallco Shopping District as a Priority Housing Site and replacing it with the sites shown in Scenario B.**”

5.5. RESIDENTIAL SITES INVENTORY - SCENARIO B As noted above, one particular site identified in Scenario A will involve substantial coordination for redevelopment (Vallco Shopping District, Site A2). Due to the magnitude of the project, the **City has established a contingency plan to meet the RHNA if a Specific Plan is not adopted by May 31, 2018. This contingency plan (referred to here as Scenario B and shown on Figure B-8), involves the City removing Vallco Shopping District, adding more priority sites to the inventory, and also increasing the density/allowable units on other priority sites.** Four of the sites discussed in Scenario A above are also included in Scenario B, with some modifications to density and realistic capacity on two of these sites. Two additional sites are added to the inventory, one of which was included in the 2007-2014 Housing Element sites inventory.

**FIGURE HE-1
HOUSING ELEMENT: SITES TO
MEET THE RHNA**

Priority Housing Element Sites: Scenario A

Applicable if Vallco Specific Plan is adopted by May 31, 2018
 If Vallco Specific Plan is not adopted by May 31, 2018, the designated Priority Housing Element Sites will be as shown in General Plan Appendix B, Section 5.5: Residential Sites Inventory - Scenario B.

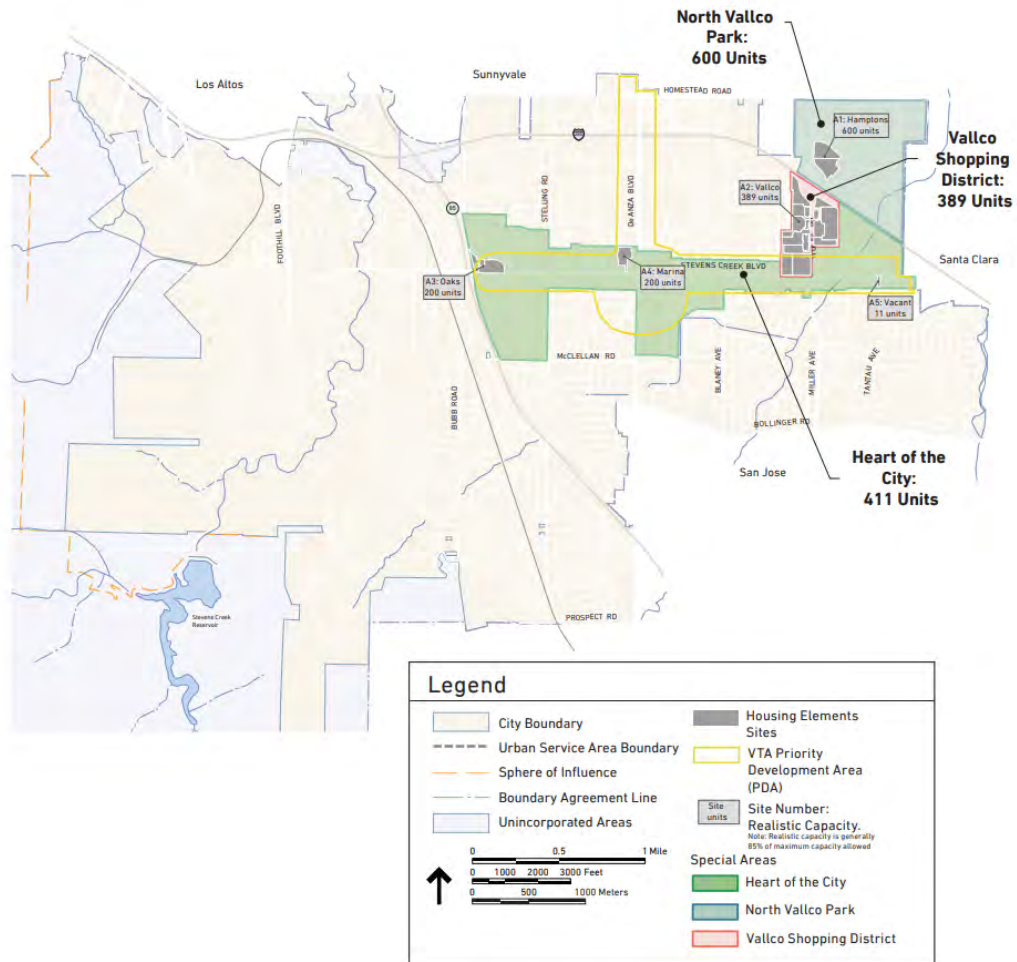


Figure 4 – “General Plan Figure HE-1”

“Figure HE-1 indicates the available residential development opportunity sites to meet and exceed the identified regional housing need pursuant to the RHNA. The opportunity sites can accommodate infill development of up to 1,400 residential units on properties zoned for densities of 20 dwelling units to the acre or more. The potential sites inventory is organized by geographic area and in particular, by mixed use corridors. As shown in Table HE-5, sites identified to meet the near-term development potential lie within the North Vallco Park Special Area, the Heart of the City Special Area, and the Vallco Shopping District Special Area. One particular site will involve substantial coordination for redevelopment (Vallco Shopping District, Site A2). Due to the magnitude of the project, the City has established a contingency plan to meet the RHNA if a Specific Plan is not approved within three years of Housing Element adoption. This contingency plan (called Scenario B and discussed further in General Plan Appendix B), would involve the City removing Vallco Shopping District, adding more priority sites to the inventory, and also increasing the density/allowable units on other priority sites.”

“DETERMINATION OF REALISTIC CAPACITY Sites inventory capacity must account for development standards such as building height restrictions, minimum setbacks, and maximum lot coverage, as well as the potential for non-residential uses in mixed-use areas. A survey of recent developments (Table 5.2) indicates that recent multi-family residential projects have built to between 82 percent and 99.5 percent of the maximum allowable density. To ensure that the sites inventory provides a “realistic capacity” for each site, estimates for maximum developable units on each site are conservatively reduced by 15 percent.”

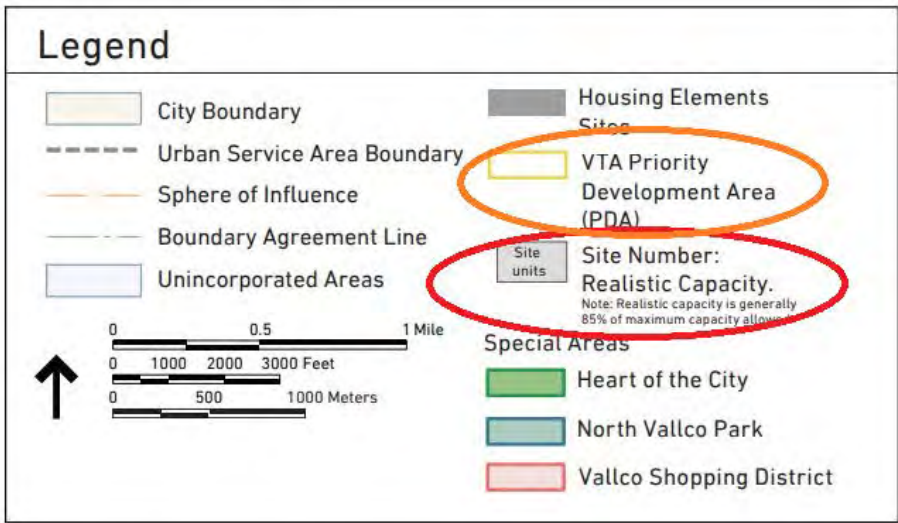
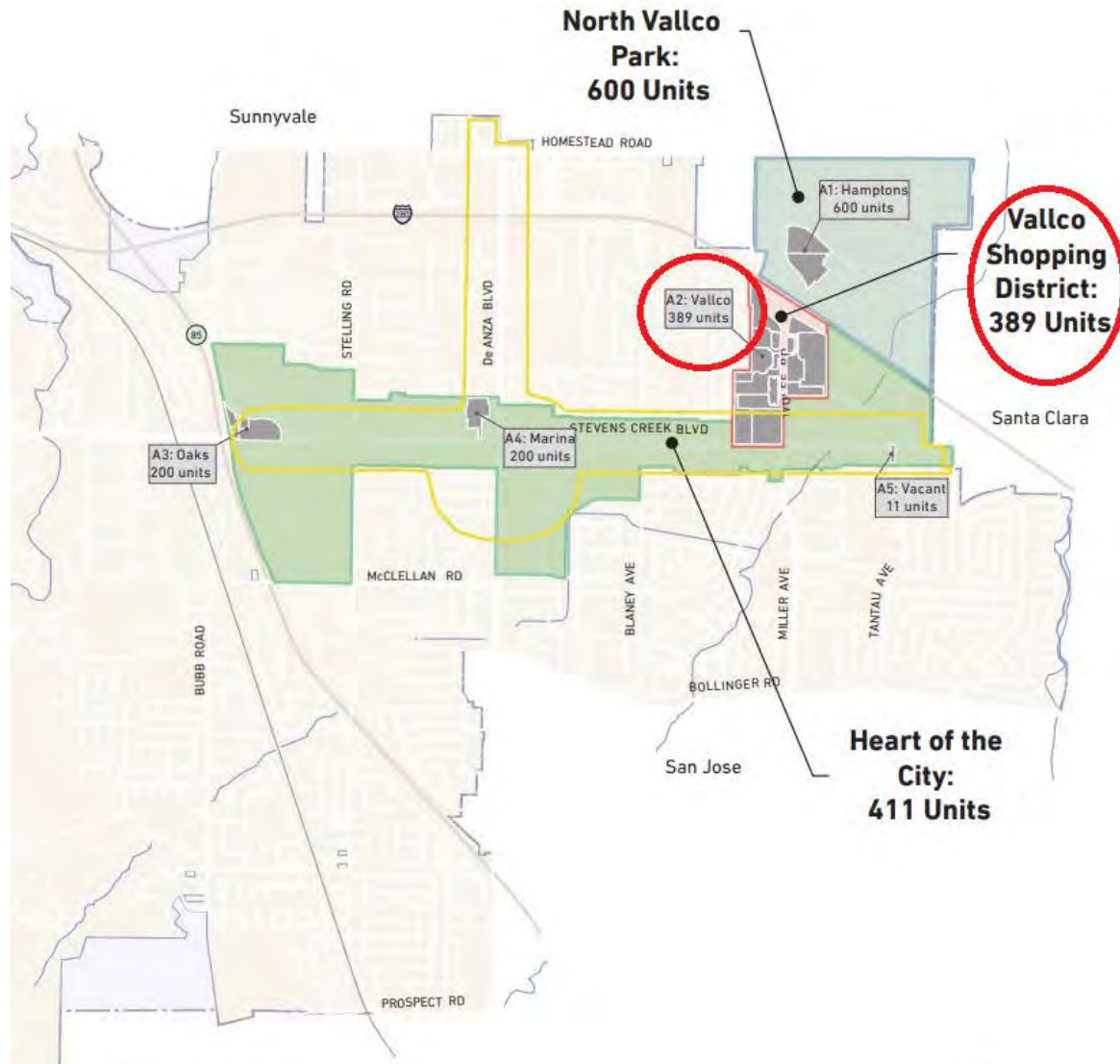


Figure 5 – “General Plan Figure HE-1 Zoomed in”

**FIGURE B-7
PRIORITY HOUSING ELEMENT SITES
SCENARIO A**

Applicable if Vallco Specific Plan is adopted by May 31, 2018
 If Vallco Specific Plan is not adopted by May 31, 2018, the designated Priority Housing Element Sites will be as shown in General Plan Appendix B, Section 5.5: Residential Sites Inventory - Scenario B.

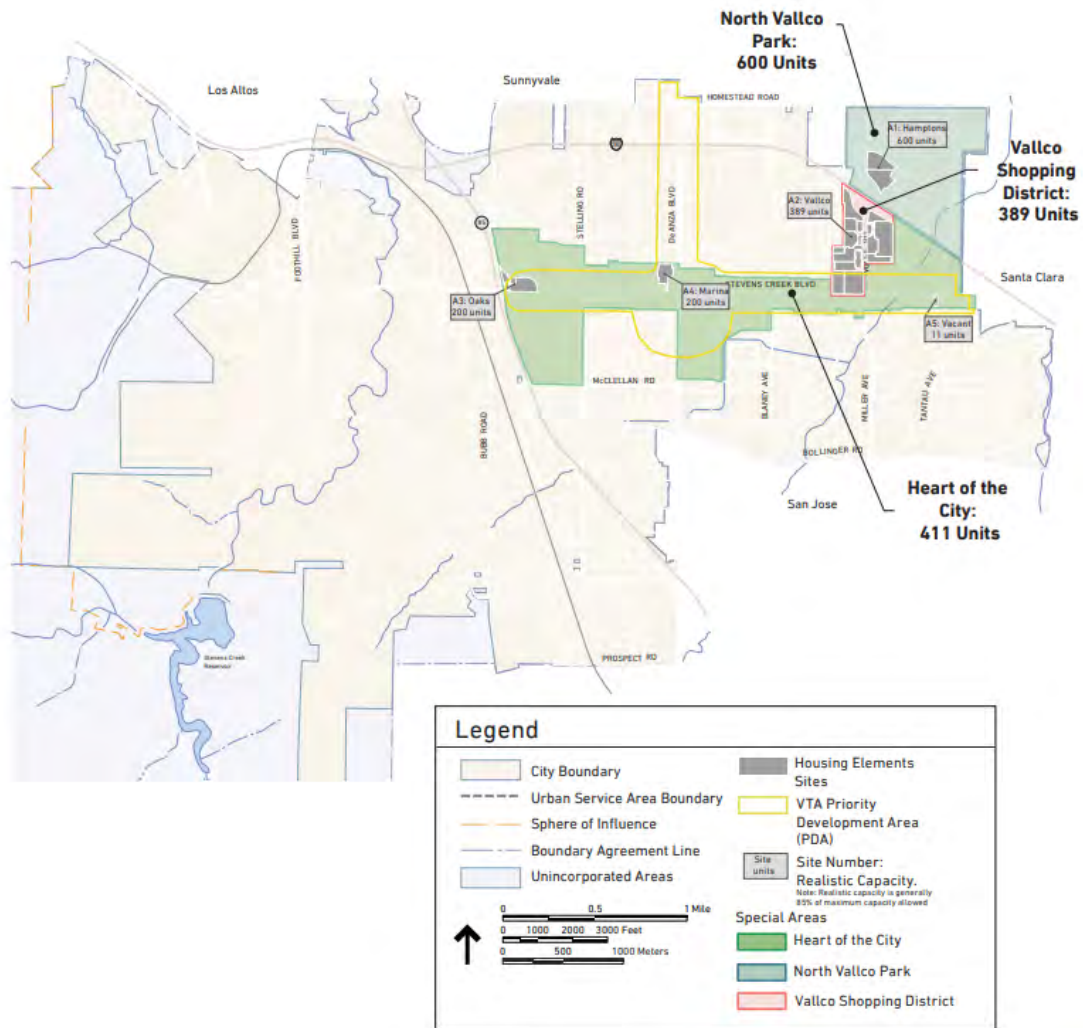
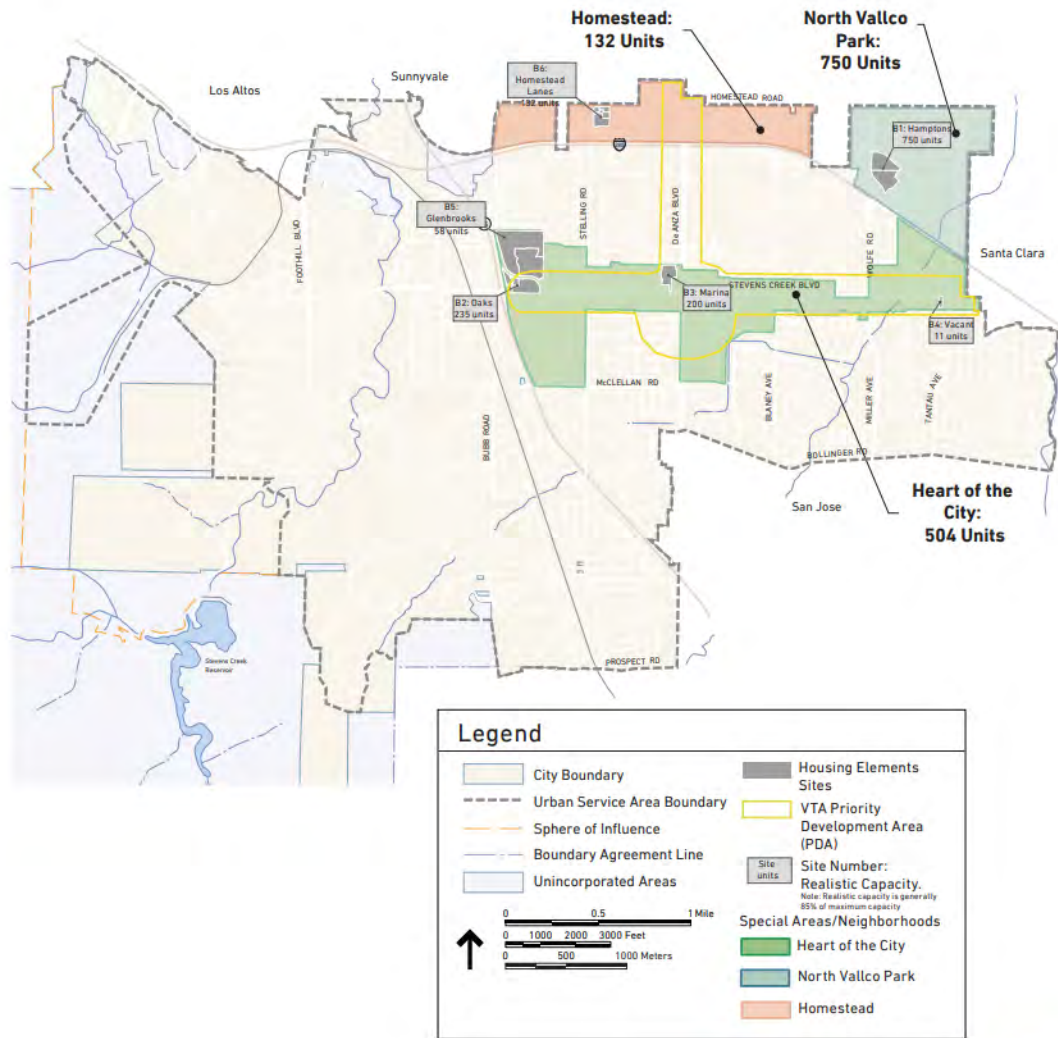


Figure 6 – “General Plan Figure B-7: Priority Housing Element Sites Scenario A”

**FIGURE B-8
PRIORITY HOUSING ELEMENT SITES
SCENARIO B**

Applicable if Vallco Specific Plan is not adopted by May 31, 2018.



B-123

Figure 7 – “General Plan Figure B-8 Priority Housing Element Sites Scenario B”

| Table 5.3: Summary of Priority Housing Sites - Scenario A | | | | | |
|---|---|-------------------|-------|----------------------------|---------------------|
| Site | Adopted General Plan/Zoning | Max Density (DUA) | Acres | Realistic Capacity (units) | Affordability Level |
| Site A1 (The Hamptons) | High Density P(Res) | 85 | 12.44 | 600 | Very Low/Low |
| Site A2 (Vallco Shopping District) | RS/O/R P(Regional Shopping) & P(CG) (a) | 35 | 58.7 | 389 | Very Low/Low |
| Site A3 (The Oaks Shopping Center) | C/R P(CG, Res) | 30 | 7.9 | 200 | Very Low/Low |
| Site A4 (Marina Plaza) | C/O/R P(CG, Res) | 35 | 6.86 | 200 | Very Low/Low |
| Site A5 (Barry Swenson) | C/O/R P(CG, Res) | 25 | 0.55 | 11 | Very Low/Low |
| Total | | | 86.51 | 1,400 | |

Notes:
 (a) Zoning to be determined by Specific Plan to allow residential uses.
 (b) Realistic capacity for Sites A1, A3, A4 and A5 reduces the maximum developable units by 15 percent. Realistic capacity for Site A2 is the amount allocated to the site in the Housing Element; a specific plan will be required for Site A2 prior to any new development.
 (c) Identified capacity of sites that allow development densities of at least 20 units per acre are credited toward the lower-income RHNA based on State law. Pursuant to Government Code Section 65583.2(c)(3)(B), local governments may utilize "default" density standards to provide evidence that "appropriate zoning" is in place to support the development of housing for very-low and low-income households. The default density standard for Cupertino and other suburban jurisdictions in Santa Clara County is 20 dwelling units per acre (DUA) or more.
 (d) Residential capacity for Site A1 reflects the net increase in units.
 Source: City of Cupertino, 2014.

Figure 8 – “General Plan Table 5.3: Summary of Priority Housing Sites – Scenario A”

Notice that Figures B-7 and HE-1, Table LU-1, Table HE-5 show Vallco Shopping District with 389 units and the Legend of both clearly state that the Site Number is Realistic Capacity with the note: “Realistic capacity is generally 85% of maximum capacity”. That would mean that 389 units is 85% of Vallco Shopping District’s maximum, which would be 457.6 units.

Current zoning does not allow residential uses at Vallco, and as shown above, and would need to be modified: **“The zoning for the site would be modified as part of the Specific Plan process to allow residential uses as part of a mixed-use development...”** p 116 General Plan

Appendix B Housing Element Technical Report:
<http://www.cupertino.org/home/showdocument?id=12717>

Table HE-5: Summary of PRIORITY HOUSING ELEMENT SITES To Meet the RHNA - Scenario A

| Site | Adopted General Plan/ Adopted Zoning | Special Area | Max Density (DUA) | Max Height | Realistic Capacity (units) |
|---------------------------------------|---|--------------------------------|-------------------------|--|----------------------------------|
| Site A1 (The Hamptons) | High Density P(Res) | North Vallco Park | 85 | 75 ft; or 60 ft in certain locations ¹ ; | 600 net |
| Site A2 (Vallco Shopping District) | RS/O/R P(Regional Shopping) & P(CG) | Vallco Shopping District | 35 | height to be determined in Vallco Shopping District Specific Plan | 389 |
| Site A3 (The Oaks Shopping Center) | C/R P(CG, Res) | Heart of the City | 30 | 45 ft | 200 |
| Site A4 (Marina Plaza) | C/O/R P(CG, Res) | Heart of the City | 35 | 45 ft | 200 |
| Site A5 (Barry Swenson) | C/O/R P(CG, Res) | Heart of the City | 25 | 45 ft | 11 |
| Total | | | | | 1,400 |

Notes: Zoning for Site A2 (Vallco) will be determined by Specific Plan to allow residential uses. Site A1 (Hamptons) height limit of 60 feet is applicable for buildings located within 50 feet of property lines abutting Wolfe Rd, Pruneridge Ave. & Apple Campus 2 site. Site A2 (Vallco) height will be determined by Specific Plan. For more detail on height limits, see Land Use and Community Design Element, Figure LU-2.

Figure 9 – “General Plan Table HE-%: Summary of Priority Housing Element Sites to Meet the RHNA – Scenartio A”

| Table 5.5: Summary of Priority Housing Sites - SCENARIO B | | | | | | |
|---|----------------------------|--------------------------|-------------------|--------------|----------------------------|---------------------|
| Site | Special Area/ Neighborhood | General Plan/Zoning | Max Density (DUA) | Acres | Realistic Capacity (units) | Affordability Level |
| Site B1 (Hamptons) | North Vallco Park | High Density P(Res) | 99(a) | 12.44 | 750 | Very Low/Low |
| Site B2 (The Oaks Shopping Center) | Heart of the City | C/R P(CG, Res) | 35 (b) | 7.9 | 235 | Very Low/Low |
| Site B3 (Marina Plaza) | Heart of the City | C/O/R P(CG, Res) | 35 | 6.86 | 200 | Very Low/Low |
| Site B4 (Barry Swenson) | Heart of the City | C/O/R P(CG, Res) | 25 | 0.55 | 11 | Very Low/Low |
| Site B5 (Glenbrook Apartments) | Heart of the City | Medium Density R3(10-20) | 20 | 31.3 | 58 | Very Low/Low |
| Site B6 (Homestead Lanes and Adjacency) | Homestead | C/R (c) P(CG, Res) (c) | 35 (c) | 5.1 | 132 | Very Low/Low |
| Total | | | | 64.24 | 1,386 | |
| Site B6 (Carl Berg property) | North De Anza | O//C/R P(CG, ML, Res) | 25 | 7.98 | 169 | Very Low/Low |
| Total | | | | 87.31 | 1318 | |

Notes:

- (a) A General Plan Amendment and zoning change will be necessary to allow the increase in density from 85 to 99 units per acre on Site B1.
- (b) A General Plan Amendment and zoning change will be necessary to allow the increase in density from 30 to 35 units per acre on Site B2.
- (c) A General Plan Amendment and zoning change will be necessary to allow residential uses at 35 units per acre on Site B6. Existing zoning for Site B6 is P(Rec, Enter).
- (d) Realistic capacity reduces the maximum developable units by 15 percent on Sites B1, B2, B3, B4, and B6. Realistic capacity of Site B5 is (d)reduced by 46 percent due to existing site constraints.
- (e) Identified capacity of sites that allow development densities of at least 20 units per acre are credited toward the lower-income RHNA based on State law. Pursuant to Government Code Section 65583.2(c)(3)(B), local governments may utilize "default" density standards to provide evidence that "appropriate zoning" is in place to support the development of housing for very-low and low-income households. The default density standard for Cupertino and other suburban jurisdictions in Santa Clara County is 20 dwelling units per acre (DUA) or more.
- (f) Realistic capacity for sites B1 and B5 represent net new units.

Source: City of Cupertino, 2014

Figure 10– “Table 5.5: Summary of Priority Housing Sites – Scenario B”

Scenario B more equitably spreads housing across the city and results in some positive consequences and emergency shelter potentials. There also appears to be a RHNA surplus of +384 generated by this Scenario alternative.

| Table 5.6: Comparison of Sites and RHNA - Scenario B | | | |
|--|-------|----------------|-------------------------|
| Income Category | Sites | Remaining RHNA | Surplus/ Shortfall(+/-) |
| Extremely Low and Very Low | 1,386 | 356 | |
| Low | -- | 207 | |
| Moderate | -- | 196 | |
| Above Moderate | -- | 243 | |
| Total | 1,386 | 1,002 | +384 |

Source: City of Cupertino, 2014

As discussed in the Needs Assessment, the 2013 Santa Clara County Homeless Survey identified 112 homeless individuals on the streets and in emergency shelters, transitional housing, and domestic violence shelters in the city of Cupertino. The homeless facilities in Cupertino have a capacity to house 20 individuals. As a result, there is a need to accommodate at least 92 more homeless individuals in the City.

There are several underutilized parcels within the BQ zone that could accommodate a permanent emergency shelter that serves 92 or more individuals. In particular, a number of churches in BQ zones own more land than they currently use. Surplus lands owned by churches include large parking lots and recreational spaces like fields and tennis courts. There are at least five parcels with approximately 154,000 square feet of vacant land in the BQ zone that could accommodate a permanent emergency shelter. These sites range from 19,000 square feet to 50,000 square feet, with an average lot size of 31,000 square feet. Parcels of this size would be able to accommodate a permanent emergency shelter that meets the needs of Cupertino.

Those parcels with surplus land area in the BQ zone are primarily located on or near Cupertino's main arterial corridors, providing for easy access to public transportation and essential services. In total, 12 bus lines and 131

Figure 11 – Scenario B, the Alternative

Insufficient and Conflicting Information Presented in NOP EIR Scoping Meeting, with Infeasible “Proposed Project” due to Inconsistency with General Plan & Initiative Vote Results

Consistency Requirement with the General Plan

The Specific Plan must be consistent with the General Plan by law.

[Ca GC 65450-65457:](#)

(b) The specific plan shall include a statement of the relationship of the specific plan to the general plan.

http://www.opr.ca.gov/docs/specific_plans.pdf

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65451.&lawCode=GOV

A project that is inconsistent with an applicable General Plan or subsidiary land use plan may not be approved without an amendment to the Plan or a variance. See Gov't Code § 65860. Where a project conflicts with even a single general plan policy, its approval may be reversed. *San Bernardino County Audubon Society, Inc. v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 753; *Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors of El Dorado County* (1998) 62 Cal.App.4th 1334, 1341. Consistency demands that a project both "further the objectives and policies of the general plan and not obstruct their attainment." *Families*, 62 Cal.App.4th at 1336; see *Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 378. Accordingly, where a project opponent alleges that a project conflicts with plan policies, a court need not find an "outright conflict." *Napa Citizens* at 379. "The proper question is whether development of the [project] is compatible with and will not frustrate the General Plan's goals and policies ... without definite affirmative commitments to mitigate the adverse effect or effects." *Id.*

Proposed Project and Project Alternatives:

A resident of Cupertino spoke to the Fehr + Peers representative during the EIR Scoping Meeting February 22, 2018 regarding the ‘housing heavy’ option and was told that option would have “around 4,000 units.” During the slide show presentation the following slides were shown for the project and the alternatives:

Proposed Project:

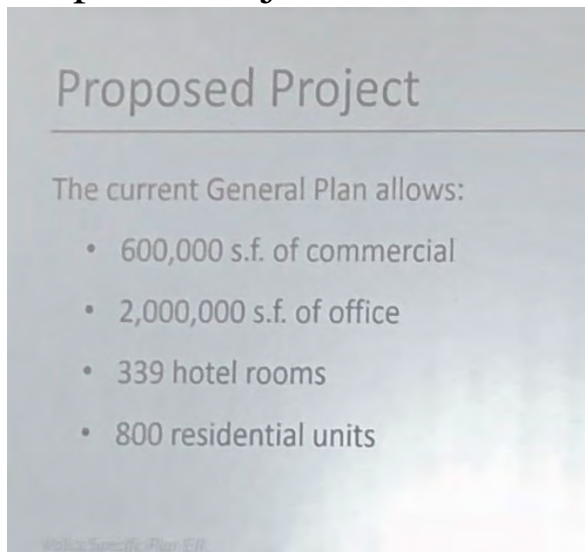


Figure 12

Figure 2

During the presentation, recorded here: https://youtu.be/kb89Oh1WU_0 The “Proposed Project”, Figure 12, was listed as:

Proposed Project:

- 600,000 S.F. of commercial
- 2,000,000 SF office
- 339 hotel rooms
- 800 residential units

The General Plan refers to Vallco Shopping District as: "... a vibrant mixed-use "town center" that is a focal point for regional visitors and the community. This new Vallco Shopping District will become a destination for shopping, dining and entertainment in the Santa Clara Valley."

The Square footage amounts would result in primarily office, then residential, then commercial, then hotel: 2,000,000 SF, approximately 961,622 SF (using the Measure D Initiative Square Footage for then proposed 800 units as listed in the "Vallco Specific Plan Initiative Environmental Assessment," 600,000 SF retail, and approximately 500,000 SF hotel. The hotel total is approximate due to part of the hotel allotment being currently under construction at Hyatt House and 277,332 SF of hotel was mentioned in the Vallco Specific Plan Initiative Environmental Assessment for the remaining 191 hotel rooms available in the allotments.

The "Proposed Project" would result in an even smaller percentage of retail than the failed Measure D percentage: 16%.

There appears to be no City Council support for 2 million SF of office at Vallco. As stated earlier, the EIR may be stopped, and the reason to stop it would be that it is both inconsistent with the General Plan, and has insufficient support from the city leaders or the community.

Retail has definite requiring language regarding Vallco. None of the other parts have more than "encourage". Residential says "allow". The Land use portion language is not solidly stating anything is required except for retail. Following this logic, having the 2 Million SF office allotment is inconsistent with the GP language because building that would cause the site to be an office destination with some retail.

The GP EIR studied 600,000 SF retail, 2 Million SF office, 800 residential units, and 339 hotel rooms. The adopted Scenario A in the GP has 389 units. 35 DU/Ac was not an allotment but a density maximum for the 389 units on the site in those parts of the mixed use area which would allow housing. Alternative Scenario B has no housing at Vallco. The Housing Element supports that Vallco could have 389 units, and refers to those unit quantities as "realistic capacity" in Table HE-5 (above).

The General Plan adopted "Scenario A" allotments for Vallco and stated that it would fall to Scenario B should a Specific Plan not be adopted by May 31, 2018.

As shown in the above section "General Plan Directive to Create a Vallco Shopping District Specific Plan", Vallco was never shown in any portion of the General Plan having more than 339 residential units.

A reasonable person ("reasonable person" from: http://www.opr.ca.gov/docs/specific_plans.pdf) would conclude that Vallco was never intended to be a heavy housing site and the General Plan provided Scenario B with other sites available for housing with **zero housing at Vallco**. The Vallco site was described in the General Plan as: "... a vibrant mixed-use "town center" that is a focal point for regional visitors and the community. This new Vallco Shopping District will become a destination for shopping, dining and entertainment in the Santa Clara Valley." While the Vallco owner may wish for something else, that would have to follow a different process such as a General Plan Amendment.

The goals, policies, and strategies to achieve this vision in the General Plan Land Use section support residential as subordinate to other uses.

Additionally, the 2 million SF of office completely *frustrates* the General Plan Housing Element Goal of providing adequate housing by generating an excess of employment. 2 million SF of office space would result in 1 employee per 300 SF or 6,667 new employees which far exceeds the number of residential units being studied. This is a project adjacent to 14,200 employees expected at Apple Park which has no onsite housing and 942 residential units planned in an expanded Hamptons complex, increased that complex by 600 residential units. This explains why there is scant support for 2 million SF of office at Vallco.

While Sand Hill requested that a much denser housing option be studied at Vallco, and that a mix between Measure D and a housing heavy option also be studied, neither of these options are consistent with the General Plan nor do they lessen the impacts of the “Proposed Project” which is a CEQA requirement.

Attempting to include a reallocation of allotments in and among other sites is beyond the scope of a Vallco Specific Plan and the General Plan. When office or any other allotment is pulled from the General Plan and placed in the city "pool" it results in an alteration of the General Plan. These options were not studied in the General Plan EIR.

Alternatives to Project:

“The California Environmental Quality Act (CEQA), Section 15126.6, requires an Environmental Impact Report (EIR) to describe a reasonable range of alternatives to a Project or to the location of a Project which **could feasibly attain its basic objectives but would avoid or substantially lessen any of the significant effects of the project**, and evaluate the comparative merits of the alternatives.”

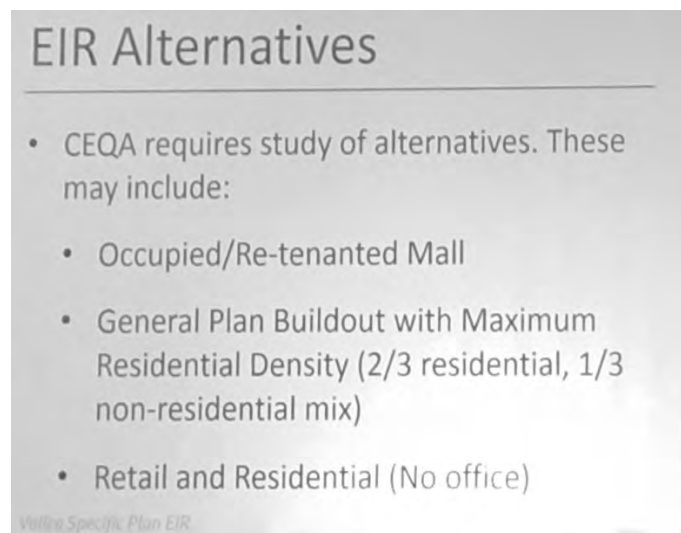


Figure 13

The EIR Alternatives were listed as:

- Occupied Re-Tenanted Mall
- General Plan Buildout with Maximum Residential Density (2/3 residential, 1/3 non-residential mix)
- Retail and Residential (No office)

Occupied/Re-tenanted Mall is Not “No Project”

CEQA alternatives require the “no project” alternative:

“NO PROJECT ALTERNATIVE CEQA Guidelines section 15126.6(e) requires that an EIR evaluate a “No Project” alternative. The purpose of this alternative is to “allow decision-makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project.” This alternative analysis compares the environmental effects of the project site remaining in its existing condition against environmental effects that would occur if the proposed project were approved.”

The mall has been gradually closed by the owners over the past few years, most recently announcing the departure of AMC theaters. The occupancy rate of the mall in 2014 was 66% according to Appendix 7 Table 2 City of Cupertino 9212 Report for Vallco Specific Plan ‘Measure D’ and had taxable sales of \$99,060,000 based on actual performance. AMC will close in March, 2018. (Traffic analysis must occur after their departure.)

A “re-tenanted mall” would be an alternative apart from and substantially different to “no project” since the mall has been largely shuttered and the owner has allowed other uses: automobile dealership car storage, Genentech and other shuttle bus commuter parking and transit pickup on the site, with Bay Club gym, Bowlmor lanes, the ice rink, Dynasty restaurant, and new remodeling of the Food Court for Fremont Union High School District classroom use either remaining or upcoming. These conditions are “no project”, not a re-tenanted mall. A re-tenanted mall would be a fourth alternative to project.

Alternative B is Not Consistent with the General Plan

The second alternative on the EIR Alternatives Slide, Figure 2, “Alternative B” was described as “General Plan Buildout with Maximum Residential density (2/3 residential, 1/3 non-residential mix)” At 8:48 in the recording, linked above, it was stated that the residential *‘may have approximately 2,600 to 2,640 residential units in addition to office and retail and hotel space’*. This alternative is inconsistent with the General Plan.

Vallco Shopping District in no part of the General Plan was ever described as a housing complex nor were housing totals ever in any vicinity of these amounts. The General Plan consistently shows 389 residential units as the realistic capacity any only by inference could a higher capacity

of 457.6 residential units be determined. When I attended the meeting, I did not hear the residential densities spoken and only learned of them through a news blog. In no mailings were these quantities given, and they are not listed on the city website. This is insufficient information describing the project since the slide shows no proposed sizes or any information as to what the non-residential mix could possibly have in it. Given the abundance of office at Apple Park (3.7 million SF with expected 14,200 employees), the variations in “the mix” can cause huge environmental impacts.

A reasonable person would find this proposed alternative ‘housing heavy’ option not consistent with the general plan.

Alternative C is Insufficiently Described – May be inconsistent

Lastly, the third alternative was listed as “Retail and Residential (No office).” This alternative, “Alternative C,” had no quantity either on the slide or spoken about for either retail or residential and omits the hotel room and office allotments from the General Plan.

This proposed alternative ‘retail and residential’ is described too insufficiently to determine if it could potentially avoid or substantially lessen any of the significant negative effects of the “Proposed Project”, or not.

Conclusions:

1. The “Proposed Project” does not appear to be consistent with the General Plan because it is an office park with over 84% non-retail use when the project is detailed as the “Vallco Shopping District.”
2. The “Proposed Project” frustrates the General Plan goal to balance employment with housing by providing a gross excess of jobs to housing.
3. Cupertino Ballot Measure D, a similar proposal to “Proposed Project”, was placed before voters and was rejected 55%. This project, with the high office square footage has scant support and would likely be rejected by City Council.
4. “No Project” would be a fourth alternative, Occupied/Re-tenanted mall is not the same as “No Project”
5. Alternative B, with conflicting 2,600-4,000 residential units, is inconstant with the General Plan.
6. Alternative C is too insufficiently described to determine if is consistent with the General Plan. Portions of the mixed uses were eliminated, which seems inconsistent.
7. For the above reasons, the EIR process must be halted for a replacement “Proposed Project” which is consistent with the General Plan.

Table of Proposed Project and Alternatives:

| Alternative | Retail | Office | Residential | Hotel |
|--|--|--|---|--|
| Proposed Project | 600,000 SF | 2,000,000 SF | 800 units | 339 hotel rooms |
| Alternative A: Occupied/ Re-tenanted mall | 1,207,774 SF | (25% of total Allowed in retail) | 0 units | 148 hotel rooms (Hyatt House) |
| Alternative B: (2/3 residential, 1/3 non- residential mix) | Unknown. General Plan states 600,000 SF Min. | Unknown. General Plan states no minimum | Unclear: 2,600- 4,000 units. General Plan shows realistic capacity: 389 units. | 148 min.-339 maximum hotel rooms |
| Alternative C: Retail and Residential (no office) | No amount stated: General Plan states 600,000 SF minimum, 30% maximum may be entertainment. Buildout amount is 1,207,774 SF, (assumed maximum) | 0 office | No amount stated, General Plan realistic capacity: 389 units | 148 min.-339 maximum hotel rooms |
| Alternative D: No Project (CEQA Requirement) | Approximately 400,000 SF currently occupied out of 1,207,774 SF total | 0 office | 0 units | 148 hotel rooms (Hyatt House) |

Comments For Environmental Impact Report Given Proposed Project and Alternatives A-D

I. Proposed Project EIR Topics and Problems

- a. Proposed Project is inconsistent with the General Plan.
 - i. Proposed Project is not a “...destination for shopping, dining, and entertainment...” as described in the [General Plan Land Use and Community Design Element](#). The site is not described as being for a “Major Employer” under the “Major Employer” definition.
 - ii. Proposed Project frustrates the [General Plan Housing Element](#) Goals and policies to provide adequate housing by creating over 6,667 new jobs and providing 800 residential units.
 - iii. EIR Proposed Projects must be consistent with the General Plan. Infeasibility is a measurement of consistency. Measure D, with 640,000 SF retail, 2,000,000 SF office, 800 residential units, and 339 hotel rooms was opposed by 55% in the November 8, 2016 vote. This Proposed Project has inadequate support for the office quantity. The EIR should be stopped for a replacement “Proposed Project” consistent with the General Plan and feasible.
- b. Proposed Project will cause significant and unavoidable impacts to traffic. See General Plan 2040 EIR, excerpts are included in the Appendix, Traffic Studies section. The impacts are primarily on the east side of Cupertino compounding the effects of Apple Park when it fully occupies with 14,200 employees.
 - i. Multiple projects including 239 acre “City Place” in Santa Clara, Valley Fair Expansion, Google in Mountain View and Diridon Station have added tens of thousands of employees which were not studied nor anticipated in the EIR. The EIR for “City Place” indicates impacts into the Cupertino area and must be reviewed for the current “Proposed Project” EIR
 - ii. San Jose’s Envision 2040 EIR showed they would impact 73% of vehicle lane miles in Cupertino. This was not studied in the Cupertino General Plan 2040 EIR and must be included in the “Proposed Project” EIR.
 - iii. Stevens Creek Urban Village has been approved. See Appendix “Stevens Creek Urban Village Overview” for details and overlap of that project and impacts on Cupertino
 1. Existing Conditions: 1,624 dwelling units, 1.6 million SF commercial space, the city of San Jose assumed 5,281 current jobs.
 2. Proposed increases: 3,860 dwelling units which could end up with an actual wide range of outcomes because NONE of their land use definitions have definite housing requirements and their General Plan had MAXIMUM housing not minimum. Stevens Creek Urban Village (“SCUV”) was to be a commercial area primarily, born out of the Great Recession need for jobs. Jobs: 4,500 jobs.

3. Stevens Creek Urban Village is approximately 3 miles long and is only the South Side of Stevens Creek Boulevard
4. Students would need to be relocated from Cupertino High School which is at capacity. The bus line currently has a simple east-west route for these students currently in the SCUUV area. Traffic impacts due to relocation, air quality impacts from students in routes requiring a bus change or now needing to drive must be studied along with students displaced by the “Proposed Project”
- iv. Impacts of Apple Park’s bus service must be included. The parking shortfall in Apple Park will require an approximate 3,500 employee increase in ridership over the 1,600 employee riders which were last reported using the private shuttle system. 10% of Apple employees live in Cupertino according to their DEIR for Apple Campus 2.
- v. Various different percentages of uses must be studied separately with a comparison chart of expected traffic daily trips. For instance, expect a maximum amount of restaurants like Main Street Cupertino, which is about 65% restaurants. A gym, movie theater, bowling alley, regulation size hockey rink (tournament potential), wedding banquet hall, all generate different amounts of traffic. The previous Environment Study for Measure D lumped all uses under “retail” which results in a low total. This would be unacceptable.
- vi. Baseline Counts: baseline counts for the project have definite requirements under CEQA. The previous Environmental Study for Measure D calculated assumed baseline traffic generated using an assumed mall occupancy of 83% which was not true at the time of the study. AMC has a departure date in March 2018. Tube counts for baseline could be needed after they close because that is the new “No Project” condition. Any disallowed uses at the mall should not be included in current traffic counts but removed.
- vii. Traffic impacts from student generation in “Proposed Project” must be studied. “Butcher’s Corner’s” project at Wolfe Rd. and El Camino Boulevard in Sunnyvale has units with 5 bedrooms. Main Street Cupertino has one bedroom units over 1,750 SF. Student generation rates from large apartments would be very high and will need to hold up to scrutiny.
 - a. [Part H. District Student Yield Factor \(To be completed by school districts only.\)](#) Report the district’s Student Yield Factor as defined in Section 1859.2, if different than the statewide average Student Yield Factors. The statewide average Student Yield Factors are as follows:
 - b. Elementary School District 0.5 students per dwelling unit
 High School District 0.2 students per dwelling unit
 Unified School District 0.7

students per dwelling unit Should the district wish to use its own Student Yield Factor, **a copy of the district’s study that justifies the Student Yield Factor** must be submitted with this form. Please see the General Information section for additional instructions.

- c. Cupertino Union School District’s report of student generation rates do not hold up to scrutiny because low student apartments, and those near heavy current or future construction were selected: projecting the Hills at Vallco (same 800 units as “Proposed Project”):
 - i. Elementary (K-5): 0.19
 - ii. Middle (6-8): 0.09
 - iii. High School (FUHSD): 0.06
 - iv. New SGRs must be calculated using the Gateway/Archstone Apartments and even apartments along Stevens Creek Boulevard in the SCUUV area which better reflect student generation potentials, particularly if low income housing is offered making the apartments very attractive to families.
- d. SB 50 allows for various impacts to be studied from a development which impacts schools. The application of SB 50 is explained by attorneys retained by the city here:
 - i. <https://cupertino.legistar.com/View.ashx?M=F&ID=3388406&GUID=EC84D162-9D05-4EF3-8EFC-BDC6CC2B517C>
 - ii. “Therefore, a lead agency may consider, in an EIR, among other factors the following impacts potentially caused by school expansion or construction:
 - 1. traffic impacts associated with more students traveling to school;
 - 2. dust and noise from construction of new or expanded school facilities;
 - 3. effects of construction of additional school facilities (temporary or permanent) on wildlife at the construction site
 - 4. effects of construction of additional school facilities on air quality;
 - 5. other “indirect effects” as defined by CEQA Guidelines § 15258 (a)(2)

(growth-inducing effects, changes in pattern of land use and population density, related effects on air and water and other natural systems). See *Chawanakee Unified School District*, 196 Cal. App. 4th at 1029.

- c. Proposed Project has no height limits which can cause multiple effects, 160' is the assumed height. See Appendix, "Letters to and from City and Developer".
 - i. Study shadows in a methodology equally stringent to Berkeley's Shadow study requirements. Times to study are based on sunrise and sunset, not 9am, 4 pm for example. Any rooftop amenities will be shown in the shadows including any rooftop landscaping or air conditioning. Renderings showing the site line blockage from the structures obstructing views from across the I-280 of the surrounding hills must be presented. Shadows cast onto the surrounding neighborhoods, likely shadows during evenings within the project. Temperature drops expected relative to non shaded areas.
 - ii. Hyatt House hotel had a planned in-ground pool which may have months without sunlight due to "Proposed Project" shadows.
 - iii. Apple Park issues in their comment letter to City, regarding the DEIR for the General Plan, in Appendix, must be addressed for the "Proposed Project":
 - 1. Shadow sensitive areas
 - 2. Light intrusion and glare
 - 3. Preserve hillside views
 - 4. Privacy and security needs (due to heights allowing a view in to the buildings)
 - 5. Having suitable setbacks and buffers
 - 6. Protect neighbor's privacy
 - 7. "Placing 85-foot residential towers immediately adjacent to Apple Campus 2 poses the same security concerns as a trail through the site." (Then surely a 160' Vallco campus would result in the same security concern.)
- d. Proposed Project will have impacts to air quality
 - i. CEQA Article 9, Section 15125(d) allows us to ask that the EIR cover any inconsistencies between the Vallco Specific Plan and these plans.:
 - 1. <https://www.arb.ca.gov/planning/plan01/planjan02.pdf>
 - 2. https://www.arb.ca.gov/cc/scopingplan/scoping_plan_2017.pdf
 - 3. http://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-_proposed-final-cap-vol-1-pdf.pdf?la=en
 - 4. Cover any inconsistencies between these above plans. CEQA Article 9, Section 15125(d): (d) *The EIR shall discuss any*

inconsistencies between the proposed project and applicable general plans and regional plans. Such regional plans include, but are not limited to, the applicable air quality attainment or maintenance plan or State Implementation Plan, area-wide waste treatment and water quality control plans, regional transportation plans, regional housing allocation plans, habitat conservation plans, natural community conservation plans and regional land use plans for the protection of the Coastal Zone, Lake Tahoe Basin, San Francisco Bay, and Santa Monica Mountain

5. The above discrepancies could include, among other things:
 - a. Environmental Justice Principles (placing low income renters or seniors next to a freeway)
 - b. Sound Understanding of Health Effects
 - c. Reduce or Eliminate Disproportionate Pollution Impacts – this project concentrates them, along with Apple Park, Main Street Cupertino, Hyatt House to one part of Cupertino disproportionately.
 - d. Clean Air
 - e. Clean Water
 - f. Communities free from Toxic risk.
6. Impacts to Air Quality were discussed in the General Plan Amendment process:
 - a. Significant unavoidable impacts start on I-13.
 - i. “Impact AQ-1: Implementation of the Project would conflict with or obstruct implementation of the applicable air quality plan. The Final EIR finds that while the Project would support the primary goals of the 2010 Bay Area Clean Air Plan, the buildout of the Project would conflict with the BAAQMD Bay Area Clean Air Plan goal for community-wide VMT to increase at a slower rate compared to population and employment growth. The rate of growth in VMT would exceed the rate of population and employment growth, resulting in a substantial increase in regional criteria air pollutant emissions in Cupertino. **There are no mitigation measures to reduce this impact to a less-than-significant level.** Policies and development standards in the Project would lessen the impact, but due to the level of growth forecast in the city and the programmatic nature of the Project, the impact would be significant and unavoidable.”

- ii. <https://cupertino.legistar.com/View.ashx?M=F&ID=3388394&GUID=40D6F528-734D-4726-A2F9-A91F34952C3E>
- iii. The GHG lawsuit in San Jose should be reviewed for applicability in Cupertino. Air Quality GHG Writ of Mandate must be adhered to regarding San Jose's Envision 2040 EIR:

[https://d3n8a8pro7vhmx.cloudfront.net/cleanenergy/pages/22/attachments/original/1426349313/Order Re Petition for Writ of Mandate.pdf?1426349313](https://d3n8a8pro7vhmx.cloudfront.net/cleanenergy/pages/22/attachments/original/1426349313/Order_Re_Petition_for_Writ_of_Mandate.pdf?1426349313) “CCEC has argued (and the City did not dispute the calculations) that if present emissions data is compared to that allowed by the proposed General Plan update as required by Guidelines § 15064.4, GHG emissions will increase by 2.7 MNT or 36 percent by 2020 (from the approximate 2008 figure of 7.6 to the estimated 10.3). This is "substantially different information" that was not provided to the public. This failure to provide relevant information was prejudicial as the failure **"deprived the public and decision makers of substantial relevant information about the project's likely adverse impacts."** Smart Rail, supra, at 463.” “That said, given that the failure to state the "present" GHG emissions affects the Project baseline and all comparisons and determinations made using the baseline, and the City's stated intention to tier other projects off this defective EIR, a limited order may not be possible.”
- b. Impacts to air quality due to placement of the project on a major east-west corridor in Silicon Valley: the I-280. Project will significantly slow the freeway increasing air pollution to homes which would have been in areas without stopped traffic. The I-280 pm SB traffic is stopping further and further west. Air pollution generated from slowed and stopped traffic is much higher than that of free flowing traffic. The impacts of the difference in traffic speeds must be analyzed to determine the increases above baseline to be expected.
- c. Social Justice: The existing location of Vallco adjacent to the I-280 places project occupants within 1000' of a freeway with over 200,000 vehicles per day. If residents with an economic level below that of the average in

Cupertino are expected to live at Vallco, that would be a social justice issue. In essence placing poorer residents in harms' way intentionally. The negative effects of air pollution have been long known. It is also known that poorer people tend to have less adequate health care. Asthmatics from lower economic levels tend to end up in the emergency room and have longer hospital stays than those patients with higher levels of care. Santa Clara County has 257,000 asthmatics and asthma [costs the state of California \\$11.3 billion annually.](#)

- ii. Proposed Project may trap the dispersal of freeway pollution. If the 'green roof' concept returns, it will exacerbate the dispersion of the freeway line source pollution. This would not make the site acceptable for community use or for placing low income renters which is a social justice issue.
 - iii. The green roof will need approximately 168,000 CY of soil which will need to be hauled up to areas 60'-160' up and soil will get blown to the adjacent residences.
 - iv. Old construction like Vallco will likely have asbestos, lead, vermin, unaccounted for petroleum products leakage. When these are excavated the surrounding areas will have particulate matter blown their way. The interiors should be properly demolished to contain any asbestos or other carcinogens.
- e. Proposed Project Impacts to Water usage
- i. The Water Supply Assessment, WSA, report for the Hills at Vallco assumed only 20% restaurant use while the same developer has approximately 65% restaurants at their Main Street Cupertino project. Water use for restaurants is 10 TIMES that of retail. The new WSA report must take into account the likelihood of more than 50% restaurants in their water consumption calculations and base the calculations on predictions which hold up to scrutiny.
 - ii. Existing water usage must be recalculated to account for the current gym, Dynasty restaurant, ice rink, bowling alley, upcoming FUHSD occupancy, departed AMC, and whatever uses are current. The previous WSA report can not be resubmitted without an update.
 - iii. The WSA made the assumption that no toilets or faucets had been updated from old and therefore made no reduction in their flow calculations. Then reduced all proposed amounts by 25%. When the various water using parts of the mall had been remodeled over the years all of the outdated plumbing would have had to be updated to code.
 - 1. Assumptions made in WSA: "For example, old toilets often exceed 2 gallons per flush. Later toilets use 1.6 gallons per flush. The latest water efficient toilets use only 0.6 gallons per flush. Depending on the reference toilet, the latest toilets achieve 62.5% to 70% reduction in

water use. In residential dwelling units, new dishwashers will be installed which use less water than older conventional machines, which use between 7 and 14 gallons per wash load. New water efficient dishwashers use between 4.5 and 7 gallons per wash load. Using an average of 10.5 gallons for conventional machines and 5.75 gallons for new water efficient machines results in an average savings of 4.75 gallons per load or a reduction of 45%. Showers with restricted flow heads have an average flow rate of 2.0 gallons per minute (gpm) versus conventional shower head flows of 2.5 gpm or a 20% reduction. Washing machines 18 years or older used 40 gallons per standard load versus new machines using only 13 gallons per load or a reduction of 67.5%.”

2. “Total Proposed Project estimated average daily potable water use: 597,486 gpd” – See WSD in Appendix: California SB 610 Water Supply Assessment.
 3. The WSS for Main Street Cupertino would have been incorrect because the restaurants were underreported.
- iv. Impacts to air quality from potable water treatment must be calculated for such a substantial water demand. Water treatment generates air pollution.
 - v. Impacts to air quality from recycled water treatment demand must be calculated. Wastewater treatment generates air pollution.
 - vi. Lack of recycled water supply. Tertiary treated water from the Donald Somers plant is currently insufficient. Impacts related to the need to expand the plant will include air quality impacts as well. There is not enough capacity at the Donald Somers plant to supply the Vallco “Hills” project. Should the same green roof be added to the project, there would need to be a dual water system on the roof. This is due to the need to flush the recycled water out to keep certain plants healthy. The water use from the dual roof system needs to be addressed in coordination with the arborist report for the green roof irrigation system. The roof irrigation system may need an auxiliary pump system to irrigate gardens 140-160’ in the air.
 - vii. Effects of wind and tilting the green roof towards the sun must be taken into account along with increased water needs establishing the 30 acre garden.
- f. Noise from project, project demolition, and project construction
- i. Sound walls must be constructed to reduce noise. Unacceptable noise levels from construction were already determined from the Environmental Study for Measure D.
 - ii. Noise was inadequately studied for the interior of the project. Particularly from a social justice perspective, it is unacceptable to place low income renters in a high noise area. Likewise, seniors, and children, should not be placed in high noise areas.
 - iii. Should the roof park be part of the project, a large scale model should be built to address both noise and odors from multiple restaurants trapped under the roof. Parks are not acceptable land uses next to a freeway.

- iv. Extreme amounts of soil cut which would take several months of diesel trucks hauling the entire hill behind the JC Penney to more than two stories below the sidewalk grade on Wolfe is not environmentally sound (removing all topsoil). Here is an excerpt from the 9212 Report for Vallco Measure D:
 - 1. It is anticipated that approximately 2.2 million cubic yards of soil would be excavated for the proposed below-ground garages and most of the excavated soil would be hauled off-site. The applicant anticipates that the soiled hauled off-site would be used at another construction site within 20 miles of the project site. Some of the soil excavated is proposed to be used on the green roof and at-grade landscaped areas. It is estimated that 168,000 cubic yards of soil would need to be imported to the site.
 - 2. My neighbor broke her hip bicycling on Tantau because all of the spilled clay soil became unpassably slick. Her husband could barely walk on the street to come help her. That was with that project “balancing cut and fill on site” and simply needing to move soil across the street. How much air pollution would 5 months of diesel truck traffic generate? How much soil will be spilled onto the I-280 and other streets? What will the economic cost of shutting down lanes for non-stop street sweeping be? How will the trucks return to the site?
- g. Green Roof Violates city policies for parkland and may become a city financial burden and a dangerous trap for air pollution. Should the 30 acre green roof return here are some of the issues:
 - i. Common sense tells us that removing 1.2 million SF of Vallco mall and excavating up to 41’ of soil across 50 acres is not an environmentally friendly act. Unlike Apple Campus 2’s design to increase permeable surfaces, decrease their footprint, and use 100% renewable energy, Vallco plans to excavate and entomb the site in concrete.
 - ii. The 30 acre roof garden is tilted toward the sun for the hottest time of the day (afternoon). That roof soars to 160,’ the max parapet on 19,800 Wolfe Road is 61’ by comparison. It will be windy. The wind and sun (tilting it towards the sun rather than to the north) will result in higher water consumption which needs to be taken into account along with higher water needs in the first few years of plant establishment.
 - iii. Noise contours and noise compatibility with land use, do not make much of the roof area acceptable for a park (see Appendix, Future Noise Contours).
 - iv. Cupertino adopted the Community Vision 2040, Ch. 9 outlines the “Recreation, Parks, and Services Element.” Their Policy RPC-7.1 Sustainable design, is to minimize impacts, RPC-7.2 Flexibility Design, is to design for changing community needs, and RPC-7.3 Maintenance design, is to reduce maintenance.

- v. The Vallco roof violates the three City of Cupertino Parks policies listed: it is not sustainable, it is not flexible (a baseball field cannot be created), and it is extremely high maintenance. Parkland acquisition is supposed to be based on “Retaining and restoring creeks and other natural open space areas” and to “design parks to utilize natural features and the topography of the site in order to...keep maintenance costs low.”
 - vi. And unfortunately for us, the city states: “If public parkland is not dedicated, require park fees based on a formula that considers the extent to which the publicly-accessible facilities meet community need.” How much will this cost the public if it is a public park?
 - vii. The proposed fruits which would be grown on the roof may absorb an excess of pollutants from the freeway. Additionally, air pollution can make it harder for plants to grow well in general.
 - h. Inadequate parking/Use of Mall as Park and Ride
 - i. Currently the mall is used a commuter parking lot for Genentech and others, how will the use of the site continue as a known transit center and/or as a “casual” one. There is already a parking issue at 19,800 Wolfe Road.
 1. <https://www.mercurynews.com/2017/12/22/parking-restrictions-proposed-for-front-of-cupertino-condo-complex/>
 2. Proposed Measure D had inadequate parking and would have required an extensive valet parking system to stack vehicles and would burden the city Public Works department having to review and monitor the TDM program. This is unacceptable. Parking must be adequate for demand without expending future city resources form Code Enforcement or Public Works reviews. What will happen to the commuters using the lots now?
 3. The current shuttle service must be studied in the traffic study including the potential for Apple employees.
 - i. Population: All current development and population increases have occurred in Cupertino east of De Anza Boulevard. Main Street Cupertino added 120 units, 19,800 Wolfe Rd. added 204 units, Hamptons Apartments will add 942 units minimum, Metropolitan added 107 units. The Proposed Project would add 800 residential units. That is 2,173 residential units within a very small area. Because there is speculation the Vallco apartments are intended for Apple employees, and there employees are 70-80% male, how will this project effect the balance of male and female residents in Cupertino, which is balanced now. What future effects on the population of children can we expect? If traffic assumptions were made expecting Apple employees at Vallco, what happens when they move? Traffic study assumptions must hold up to scrutiny.
- II. Alternative A: Occupied/Re-tenanted Mall
- a. The current mall would likely require some inspections because is has been closed up. If the WSA report was correct in their assumption that all water usage at the

current mall is old style high flow, then all of the fixtures should be replaced as a condition for re-occupancy. Whatever remodeling may take place for the mall would need permits, as part of that permitting process, a traffic study would need to be performed. My assertion is that to study the mall fully occupied or with over 95% occupancy would be a different alternative from the required “no project.”

III. Alternative B: 2/3 residential, 1/3 non-residential mix.

- a. This alternative is inconsistent with the General Plan as stated earlier. It should not be studied because it is an infeasible alternative.
- b. All of the above mentioned comments for “Proposed Project” apply to Alternative B.
- c. **Social Justice Issues are magnified** under Alternative B:
 - i. Social Justice: The existing location of Vallco adjacent to the I-280 places project occupants within 1000’ of a freeway with over 200,000 vehicles per day. If residents with an economic level below that of the average in Cupertino are expected to live at Vallco, that would be a social justice issue. In essence placing poorer residents in harms’ way intentionally. The negative effects of air pollution have been long known. It is also known that poorer people tend to have less adequate health care. Asthmatics from lower economic levels tend to end up in the emergency room and have longer hospital stays than those patients with higher levels of care. Santa Clara County has 257,000 asthmatics and asthma costs the state of California \$11.3 billion annually.
 - ii. Proposed Project may trap the dispersal of freeway pollution. If the ‘green roof’ concept returns, it will exacerbate the dispersion of the freeway line source pollution. This would not make the site acceptable for community use or for placing low income renters which is a social justice issue.
 - iii. This many units adjacent to the freeway would inevitably place vulnerable populations in harm’s way due to poor air quality. This Alternative will likewise require similar building masses as “Proposed Project”. These large building masses may block air flow. Combined with urban street traffic within the street grid, and proposed underground parking in two levels, the air quality will be unacceptable. Ventilation will be problematic. Should the green roof be placed over these residents this could be disastrous. HEPA filtration, should it be used, does not block VOC’s.
- d. Alternative B, imbalances to population. Apple has a 70-80% male workforce. If the intention is to populate the residential units with Apple employees we can expect a similar gender ratio. This may result in an 11 % increase in the male population of Cupertino. This is a significant impact which could alter whatever other uses are proposed. Should the employees leave Apple, traffic would be worsened. Traffic analysis should study a wide range of residency outcomes. The Alternative gave no estimates as to residential unit size. Consider any

options such as family size apartments or micro-apartments. Employment centers both near and far. School impacts, as listed above for Proposed Project, for the potential of a massive amount of students, must be studied. Results and SGR's must stand up to scrutiny.

IV. Alternative C: Retail and Residential (no office)

- a. This alternative ignores the hotel.
- b. There is not enough information to speculate how much retail or residential they are attempting. The realistic capacity is 389 residential units and retail maximum is 1.2 million SF. This project would result in tearing down the mall structure to create the grid layout for the Specific Plan. (see Proposed Project for all comments and apply here).
- c. This could result in residents who would have been shopping in an enclosed mall now in a street grid. Because the structures would potentially be lower, the air pollution could dissipate more rapidly. There are too many missing variables to speculate.
- d. Placement of the residential units would need to be away from the freeway and other major streets (Wolfe Road and Stevens Creek Boulevard are over 30,000 vehicles per day).
- e. While not having office helps meet the housing goals better, the types of retail would need to be addressed. This matters for traffic (retail generating $\frac{1}{4}$ the traffic of a restaurant, and retail generates $\frac{1}{10^{\text{th}}}$ the traffic of a fast food restaurant). Should the proposed regulation sized ice rink be built, that could have pre-dawn skaters, so the placement of that and parking would best be away from residents.
- f. If, referring back to CEQA and the need to present alternatives to project "which could feasibly attain its basic objectives but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives."
 - i. this option would need to have less impacts than Proposed Project, and still be compliant. That would be 1.2 million SF retail maximum and 389 units residential. 30% of retail could be entertainment: 360,000 SF. It is possible it will have less impacts and could be compliant with the General Plan. However, since the Proposed Project is infeasible and inconsistent. This exercise has been moot.

Appendix

City Attorney's Ballot Title and Summary for Proposed Initiative Submitted on March 3, 2016
"Measure D"

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CUPERTINO CITY CLERK

CITY ATTORNEY'S BALLOT TITLE AND SUMMARY FOR PROPOSED INITIATIVE
SUBMITTED ON MARCH 3, 2016

TITLE: Initiative adopting the Vallco Town Center Specific Plan to (1) provide that the Vallco Shopping District Special Area ("Area") contains a mixture of residential, office, retail, civic and education uses; (2) require any development to fund or provide community benefits such as transit, schools, a green roof, and recycled water; and (3) grant the property owner initial entitlements to develop in accordance with the Initiative and establish a process for future approvals; and making related amendments to Cupertino's General Plan and Municipal Code.

SUMMARY: The Initiative involves the property designated in Cupertino's General Plan (Community Vision 2015 – 2040) as the Vallco Shopping District Special Area. Fifty-one acres of the 58-acre property are currently occupied by the Vallco Shopping Mall. The General Plan envisions redevelopment of the Area as a mixed-use project, sets forth development allocations, goals, policies and strategies, and requires adoption of a specific plan prior to any development.

The Initiative states that it implements and fulfills the requirements of the General Plan and the vision of the community by approving the Vallco Town Center Specific Plan ("Specific Plan") establishing a mix of retail, dining, entertainment, recreation, offices, housing, hotel, education, civic, public open space, and amenities. The Initiative includes associated amendments to the General Plan and City of Cupertino Municipal Code.

The Initiative:

(1) States that it would entitle the property owners to develop the Area in accordance with the Specific Plan, exempt the Area from provisions of the Municipal Code not provided in the Specific Plan, and establish process for future approvals;

(2) Adopts a Specific Plan establishing development features for the Area including:

- (a) 389 residential units (minimum 20% senior apartments), which may be increased through a Conditional Use Permit process up to the General Plan allocations if there are no significant and unavoidable impacts beyond those identified in the General Plan Environmental Impact Report;
- (b) 2,000,000 square feet ("sf") of office space (minimum of 100,000 sf of incubator space for businesses);
- (c) 640,000 sf of commercial space (regional retail, entertainment, and personal service);
- (d) 100,000 (minimum 50,000) sf of public/civic space;
- (e) Two Town Centers (3-acre minimum);

- (f) 30 acres minimum of Community Park and Nature Area or “green roof” (3.8 miles minimum to be publicly accessible trails), with drought tolerant landscaping and recycled water infrastructure;
- (g) 9,060 parking spaces below, above, and at grade level;
- (h) 80 feet (maximum) building height west of Wolfe Road and 95 feet (maximum) building height east of Wolfe Road, scaled to minimize impacts on residential; and
- (i) 191 hotel rooms (in addition to a previously approved hotel).

(3) Requires any development, other than on two sites proposed for hotels, to fund community benefits which may be incorporated into a development agreement, including transportation improvements (\$30 million for I-280, a free shuttle, transit center, and bike/pedestrian trails), 5,000 square feet of charitable civic space, and no less than 10 times what is legally required for schools (approximately \$40 million);

(4) Changes standards for “parcelization” (division of the property into smaller parcels);
and

(5) States that, until January 1, 2027, its provisions may only be amended or repealed by the voters.

Traffic Studies

San Jose Envision 2040 General Plan TIA for the DEIR:

<http://www.sanjoseca.gov/DocumentCenter/View/2198>

- The broad-brush program-level traffic study shows 73% of Cupertino's lane miles are impacted by San Jose's GP. Stevens Creek Blvd. will be deficient.
- San Jose indicates they altered their policy to no longer driver comfort and convenience, yet this is not holding up to CEQA scrutiny due to other concerns such as greenhouse gas emissions.

adjacent jurisdiction are attributable to San Jose. The 25 percent threshold represents what would be a noticeable change in traffic by San José General Plan.

**TABLE 15
 ADJACENT JURISDICTION IMPACTS SUMMARY
 (BASED ON AM PEAK 4-HOUR PERIOD VOLUMES)**

| City | Existing Conditions | | | Proposed General Plan Update | | |
|----------------------------------|--|--|---|---|--|---|
| | Total Lane Miles with Deficient V/C Ratio ¹ | Impacted Lane Miles (San Jose traffic ≥ 10% of volume) | Percent of Impacted Lane Miles Affected | Total Lane Miles with Deficient V/C Ratio | Impacted Lane Miles (San Jose traffic ≥ 10% of volume) | Percent of Impacted Lane Miles Affected |
| Campbell | 0.13 | 0.13 | 100 | 0.42 | 0.42 | 100 |
| Cupertino | 0.67 | 0.67 | 100 | 7.52 | 5.45 | 73 |
| Gilroy | 0.00 | 0.00 | 0 | 1.65 | 1.65 | 100 |
| Los Altos | 0.78 | 0.78 | 100 | 2.52 | 2.52 | 100 |
| Los Altos Hills | 0.17 | 0.02 | 14 | 3.61 | 3.00 | 83 |
| Los Gatos | 0.12 | 0.12 | 100 | 0.90 | 0.90 | 100 |
| Milpitas | 0.73 | 0.73 | 100 | 22.17 | 22.17 | 100 |
| Monte Sereno | 0.00 | 0.00 | 0 | 0.00 | 0.00 | 0 |
| Morgan Hill | 0.00 | 0.00 | 0 | 1.97 | 1.97 | 100 |
| Mountain View | 0.72 | 0.65 | 90 | 11.76 | 10.83 | 92 |
| Palo Alto | 0.48 | 0.16 | 33 | 7.58 | 4.76 | 63 |
| Santa Clara | 0.17 | 0.17 | 100 | 1.95 | 1.95 | 100 |
| Saratoga | 1.26 | 1.26 | 100 | 5.71 | 5.71 | 100 |
| Sunnyvale | 0.00 | 0.00 | 0 | 1.45 | 1.42 | 98 |
| Caltrans Facilities ² | 5,093.26 | 4,391.72 | 86 | 4,951.58 | 4,584.04 | 93 |
| Santa Clara County Facilities | 3.01 | 3.01 | 100 | 21.33 | 21.33 | 100 |

Notes: Impacts are identified in **bold** text.
 1 Lane miles of less than 0.5 were rounded to 0. For evaluating significant impacts, if impacted lane miles attributable to the City are less than 0.5, impacts are considered *less-than-significant*.
 2 Includes all Caltrans facilities within Santa Clara County.
 Source: Fehr & Peers, 2010.

The following roadways were analyzed to determine impacts presented in **Table 15**. CMP system roadways are identified in *italicized* text. Minor arterials were also analyzed to determine impacts presented in **Table 15**; however, they are not specifically identified below.

- **Campbell:** *Hamilton Avenue*, Campbell Avenue, Winchester Boulevard
- **Cupertino:** Homestead Road, Foothill Boulevard, Bubb Road, *Stevens Creek Boulevard*, Pruneridge Avenue, North Wolfe Road, *De Anza Boulevard*, Stelling Road
- **Gilroy:** Monterey Street, Leavesley Road, Hecker Pass Highway, East 10th Street, Monterey Street, East Luchessa Avenue

**TABLE 14
 TRANSIT PRIORITY CORRIDOR IMPACT SUMMARY**

| Roadway Segment | Cross Street | Cross Street | Distance (Miles) | AM Peak Hour Travel Speed (MPH) | |
|-----------------------------------|-------------------|------------------|------------------|---------------------------------|----------------------------------|
| | | | | Existing Conditions | Proposed General Plan Conditions |
| Second St. | San Carlos St. | St. James St. | 0.6 | 11.5 | 11.4 |
| Alum Rock Ave. | Capitol Ave. | US 101 | 3.4 | 20.0 | 12.9 |
| Camden Ave. | SR 17 | Meridian Ave. | 5.2 | 24.0 | 18.0 |
| Capitol Ave. | S. Milpitas Blvd. | Capital Expwy. | 7.6 | 24.1 | 17.5 |
| Hillsdale Ave./ Capitol Expwy. | Capitol Ave. | Meridian Ave. | 19.8 | 28.6 | 23.8 |
| E. Santa Clara St. | US 101 | Delmas Ave. | 4.6 | 20.4 | 16.2 |
| Meridian Ave. | Park Ave. | Blossom Hill Rd. | 12.2 | 25.5 | 19.6 |
| Monterey Rd. | Keyes St. | Metcalf Rd. | 18.2 | 24.6 | 17.0 |
| First St. | CA 237 | Keyes St. | 17.2 | 22.6 | 13.4 |
| San Carlos St. | Bascom Ave. | SR 87 | 4.2 | 24.3 | 19.7 |
| Stevens Creek Blvd. | Bascom Ave. | Tantau Ave. | 8.2 | 23.1 | 16.8 |
| Tasman Dr. | Lick Mill Blvd. | McCarthy Ln. | 5.0 | 24.3 | 9.5 |
| The Alameda | Alameda Wy. | Delmas Ave. | 4.2 | 22.6 | 14.2 |
| W. San Carlos St. | SR 87 | Second St. | 1.3 | 19.9 | 17.5 |

Note: The values shown have been rounded for presentation purposes.
 Source: Fehr & Peers, 2010.

g. Adjacent Jurisdictions

Operations of adjacent jurisdiction roadway segments outside the City of San José boundaries were reviewed to determine the potential impacts of the proposed General Plan Update. **Table 15** summarizes these results.

Given changes in land use, trip patterns, and behavior between the two scenarios, vehicular traffic on roadway segments within several jurisdictions is projected to increase with the proposed General Plan Update land uses as compared to existing conditions.

A roadway segment within adjacent jurisdictions is considered to be deficient if the future volume-to-capacity (V/C) ratio is 1.0 or greater during the AM peak 4-hour period in the year 2035. Given the large population and employment projected to reside in the region, and the complex travel patterns created by the large population and employment numbers, only a portion of trips on any roadway segment in adjacent jurisdictions are expected to have originated from a resident or job within City of San José. Therefore, a deficient roadway segment in adjacent jurisdictions is attributed to City of San José General Plan when the trips from the City are 10 (ten) percent or more on the deficient segment. The impact to an adjacent jurisdiction is considered significant when 25 percent or more of total deficient lane miles in that

Adjacent Jurisdiction Impacts

Impact TRANS-4. Motor vehicle traffic and congestion resulting from implementation of the proposed General Plan Update would increase on roadway segments outside of the City of San Jose. (Significant)

Roadways within adjacent jurisdictions are considered to be deficient if the volume to capacity (V/C) ratio under proposed General Plan Update conditions is 1.0 or greater, and is considered an impact when the trips from the City are 10 (ten) percent or more of the total traffic on these roadways. The impact is considered significant when the impacted roadway lane miles are 25 percent of the deficient lane miles.

With implementation of the proposed General Plan Update, 15 adjacent jurisdictions would have impacts on greater than one lane mile of roadways. These impacts are the aggregate of the major roadways within the adjacent jurisdiction boundaries of Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Mountain View, Palo Alto, Saratoga, Sunnyvale, Milpitas, Morgan Hill, Santa Clara, Caltrans facilities, and Santa Clara County facilities.

The traditional response to mitigate significant traffic-related impacts, or increases in automobile trips on street segments, is to increase roadway capacity by providing additional lanes or facilities. In Santa Clara County, widening roads to provide additional travel lanes is no longer feasible in most cases because available right-of-way is already constrained and utilized by other land uses or transportation facilities. Dedication of additional land to paved roadways decreases landscaping, eliminates street trees/bus stops/bicycle lanes, reduces sidewalk widths, increases intersection sizes, and moves vehicular traffic (with associated noise and pollution) closer to residences and businesses.

The proposed General Plan Update recognizes and acknowledges that there will be increased levels of congestion resulting from new development, both within San Jose and elsewhere in the Bay Area. This reflects a change in policy for the City to acknowledge that transportation planning based solely on roadway traffic operations (i.e. analysis based on traffic level of service and volume to capacity ratios), which considers only driver comfort and convenience, is not desirable since it fails to acknowledge other users of the circulation system and other community values. In evaluating the roadway system, an impact to adjacent roadways may be desired when balanced against other community values related to resource protection, social equity, economic development, and consideration of pedestrians, bicyclists, and transit users.

Widening a road to achieve a lower volume to capacity ratio results in higher expenditure of infrastructure dollars for wider roadways that do not necessarily serve all users of the circulation system. Roadway widening also provides capacity that is excess for the majority of the day outside the peak periods. Furthermore wider roadways, in general, are inconsistent with goals promoting a more livable city, cause greater impacts to biological resources and discourage roadway use by pedestrians and bicyclists. In addition, mitigating impacts to affected roadway segments can have high infrastructure costs.

The proposed General Plan update contains several policies and actions that seek to reduce automobile travel. They include TR 1.1 through TR-1.9, TR 2.1 through 2.11, TR-3.1 through 3.4, TR-4.1 through 4.4, and TR-8.1 through 8.4. Implementation of these policies and actions would help reduce the magnitude of traffic impacts on adjacent jurisdictions.

The proposed General Plan update also includes an implementing action to encourage coordination with other jurisdictions:

- CR-1.8 **Interagency Participation and Coordination.** Actively coordinate with regional transportation, land use planning, and transit agencies to ensure development and maintenance of a transportation network with complementary land uses that encourage travel by bicycle, walking, and transit, and ensure regional greenhouse gas emission standards are met

Based on the considerations above, no mitigation measures are feasible to reduce adjacent jurisdiction impacts to a less than significant level. With adoption of the new policies and implementing actions contained in the General Plan Update, this impact would be reduced but could remain significant. Therefore, impacts to adjacent jurisdictions would remain **significant and unavoidable**.

City of Cupertino General Plan 2040 EIR

See Appendix G: Transportation and Traffic Data:

Cupertino presents that 11 of 16 intersections would operate at unacceptable level of service due to the proposed project. 9 out of 16 intersections are outside of Cupertino jurisdiction.

Jennifer Griffin expressed her concern that the vacation of Finch Avenue would be determined before an EIR is completed or permits for Main Street have been pulled. She said that she felt Main Street and the vacation of Finch Avenue should be separate items.

Director of Public Works Timm Borden said that the vacation would not be approved until Main Street is approved and that Council is only setting May 1 as the date for a public hearing to coincide with the hearing regarding Main Street.

Wong moved and Mahoney seconded to adopt Resolution No. 12-029 as amended with the correct hearing date of May 1. The motion carried unanimously.

SECOND READING OF ORDINANCES - None

PUBLIC HEARINGS - None

ORDINANCES AND ACTION ITEMS

13. Subject: Annual Status report of the General Plan and Housing Element
Recommended Action: Approve for submission to the California Department of Housing & Community Development (HCD) by April 1, 2012
Description: Review of the General Plan progress and program implementation as required by State Law

Community Development Director Aarti Shrivastava reviewed the staff report.

Jennifer Griffin said that developments such as Main Street, Biltmore, Rose Bowl, Apple, and the IHOP development are coming up. She noted that the General Plan says the City can't approve additional housing if road intersections can't maintain above a D grade level of service. She said she is concerned that Stevens Creek Blvd. will take the brunt of the traffic with these new developments. She urged Council to take a look at this when approving the projects.

Shrivastava explained that the General Plan does talk about maintaining a level of service D for all intersections. She said that this will be looked at during the environmental review of the projects. She noted that the City will review and get a chance to provide comments regarding the IHOP development, but since it's in a different city, they can only comment. She said that staff would make sure that none of Cupertino's intersections would be impacted above level service D when the projects are approved.

Wong moved and Mahoney seconded to approve the submission of the General Plan and Housing Element annual status report. The motion carried unanimously.

TRANSPORTATION AND TRAFFIC

Five (5) of the sixteen (16) intersections that would operate at an unacceptable level of service for at least one peak hour under the proposed Project were also predicted to operate at an unacceptable level of service under the No Project scenario.

The intersections that would operate at an unacceptable level of service are bolded and underlined in Table 4.13-13. All other study intersections would continue to operate at acceptable levels of service under the proposed Project conditions. The LOS calculation sheets are included in Appendix G, Transportation and Traffic Data, of this Draft EIR.

TABLE 4.13-13 PROPOSED PROJECT INTERSECTION LEVELS OF SERVICE TABLE

| # | Intersection | LOS Standard | Peak Hour | No Project | | Proposed Project | | | |
|----|---|--------------|-----------|-------------|-----------|------------------|----------|---------------------|-----------------------|
| | | | | Avg. Delay | LOS | Avg. Delay | LOS | Change in Crit. V/C | Change in Crit. Delay |
| 1 | SR 85 SB Ramps and Stevens Creek Blvd. ^a | D | AM | 29.2 | C | 31.9 | C | 0.127 | 4.6 |
| | | | PM | 29.1 | C | 32.2 | C- | 0.103 | 4.4 |
| 2 | SR 85 NB Ramps and Stevens Creek Blvd. ^a | D | AM | 51.1 | D- | 65.1 | E | 0.084 | 25.3 |
| | | | PM | 20.9 | C+ | 21.5 | C+ | 0.110 | 2.2 |
| 3 | Stelling Rd. and Stevens Creek Blvd. ^a | E+ | AM | 46.2 | D | 47.7 | D | 0.050 | -0.7 |
| | | | PM | 52.9 | D- | 88.2 | F | 0.240 | 71.7 |
| 4 | Sunnyvale-Saratoga Rd. and Fremont Ave. ^a | E | AM | 42.8 | D | 44.5 | D | 0.054 | 3.1 |
| | | | PM | 52.5 | D- | 63.0 | E | 0.075 | 17.6 |
| 5 | Sunnyvale-Saratoga Rd./De Anza Blvd. and Homestead Rd. ^a | D | AM | 51.2 | D- | 101.5 | F | 0.273 | 88.4 |
| | | | PM | 66.1 | E | 181.4 | F | 0.486 | 214.8 |
| 6 | De Anza Blvd. and I-280 NB Ramp ^a | D | AM | 46.4 | D | 100.0 | F | 0.393 | 170.6 |
| | | | PM | 71.7 | E | 162.2 | F | 0.623 | 274.1 |
| 7 | De Anza Blvd. and I-280 SB Ramp ^a | D | AM | 47.0 | D | 110.9 | F | 0.345 | 142.6 |
| | | | PM | 35.3 | D+ | 99.9 | F | 0.550 | 237.3 |
| 8 | De Anza Blvd. and Stevens Creek Blvd. ^a | E+ | AM | 45.8 | D | 53.6 | D- | 0.079 | 10.8 |
| | | | PM | 76.2 | E- | 160.4 | F | 0.445 | 188.9 |
| 9 | De Anza Blvd. and McClellan Rd./Pacifica Dr. | D | AM | 33.0 | C- | 39.3 | D | 0.138 | 9.3 |
| | | | PM | 70.7 | E | 108.8 | F | 0.153 | 57.3 |
| 10 | De Anza Blvd. and Bollinger Rd. ^a | E+ | AM | 44.0 | D | 51.4 | D- | 0.067 | 10.7 |
| | | | PM | 25.1 | C | 22.6 | C+ | 0.029 | -1.3 |
| 11 | De Anza Blvd. and SR 85 NB Ramp ^a | D | AM | 32.9 | C- | 37.6 | D+ | 0.099 | 5.9 |
| | | | PM | 16.4 | B | 27.8 | C | 0.130 | 18.2 |
| 12 | De Anza Blvd. and SR 85 SB Ramp ^a | D | AM | 23.9 | C | 26.2 | C | 0.063 | 3.6 |
| | | | PM | 22.2 | C+ | 29.5 | C | 0.148 | 13.7 |
| 13 | Blaney Ave. and Homestead Rd. | D | AM | 34.9 | C- | 52.9 | D- | 0.205 | 26.5 |
| | | | PM | 16.4 | B | 25.0 | C | 0.187 | 10.7 |
| 14 | Wolfe Rd. and El Camino Real (SR 82) ^b | E | AM | 47.6 | D | 48.0 | D | 0.016 | 0.7 |
| | | | PM | 51.8 | D- | 53.2 | D- | 0.027 | 1.4 |
| 15 | Wolfe Rd. and Fremont Ave. ^c | E | AM | 45.8 | D | 47.4 | D | 0.045 | -1.5 |
| | | | PM | 51.8 | D- | 59.3 | E+ | 0.060 | 7.1 |

The impacts are primarily on the east side of Cupertino compounding the effects of Apple Park when it fully occupies with 14,200 employees.

i. Multiple projects including 239 acre “City Place” in Santa Clara, Valley Fair Expansion, Google in Mountain View and Diridon Station have added tens of thousands of employees which were not studied nor anticipated in the EIR.

San Jose's Envision 2040 EIR showed they would impact 73% of vehicle lane miles in Cupertino. This was not studied in the Cupertino General Plan 2040 EIR.

County) (#32): Redesign of the northbound leg of the intersection at the Lawrence Expressway Northbound Ramp and Stevens Creek Boulevard to provide one through-movement lane, and one exclusive right-turn lane may be required. Right-of-way acquisition would be required.

The fees shall be assessed when there is new construction, an increase in square footage in an existing building, or the conversion of existing square footage to a more intensive use. The fees collected shall be applied toward circulation improvements and right-of-way acquisition. The fees shall be calculated by multiplying the proposed square footage, dwelling unit, or hotel room by the appropriate rate. Traffic mitigation fees shall be included with any other applicable fees payable at the time the building permit is issued. The City shall use the traffic mitigation fees to fund construction (or to recoup fees advanced to fund construction) of the transportation improvements identified above, among other things that at the time of potential future development may be warranted to mitigate traffic impacts.

While implementation of Mitigation Measure TRAF-1 would secure a funding mechanism for future roadway and infrastructure improvements that are necessary to mitigate impacts from future projects based on then current standards, impacts would remain *significant and unavoidable*, because the City cannot guarantee improvements at these intersections at this time. This is in part because the nexus study has yet to be prepared and because some of the impacted intersections are under the jurisdictions of the Cities of Sunnyvale and Santa Clara and Caltrans. Specifically, the following intersections are outside the jurisdiction of Cupertino:

TRANSPORTATION AND TRAFFIC

- SR 85 Northbound Ramps and Stevens Creek Boulevard (#2)
- De Anza Boulevard and I-280 Northbound Ramp (#6)
- Wolfe Road and Homestead Road (#16)
- Wolfe Road and I-280 Northbound Ramp (#18)
- Wolfe Road and I-280 Southbound Ramp (#19)
- North Tantau Avenue/Quail Avenue and Homestead Road (#24)
- Stevens Creek Boulevard and Agilent Technologies Driveway (#30)
- Lawrence Expressway Southbound Ramp and Stevens Creek Boulevard (CMP, County)(#31)
- Lawrence Expressway Northbound Ramp and Stevens Creek Boulevard (CMP, County) (#32)

However, the City will continue to cooperate with these jurisdictions to identify improvements that would reduce or minimize the impacts to intersections and roadways as a result of implementation of future development projects in Cupertino.

Significance With Mitigation: Significant and Unavoidable.

Letters to and from City and Developer

Page 1

From: "Reed Moulds" <rmoulds@shpco.com>
To: "Aarti Shrivastava" <AartiS@cupertino.org>
Date: 12/23/2013 3:43:34 PM
Subject: Fwd: Height

This is one of our preferred office architects. He is doing our Netflix HQ expansion as well as our Stanford RP project. He is active in the valley and in the city. As you can see, he suggests 159.5' all in below.

However, if I reduce the upper floors to 14' (as Jay Paul did) and use his shorter notion of a penthouse (13') I am down to 155'. Of course, 9.5' of that penthouse is mechanical and elevator overrun screening, so the 3.5' parapet really is what gives the appearance as the building's max height. So, if we don't have to include the rooftop elements in the height calc, we can live with 145.5' and up.

Of course 159.5' gives us the greatest flexibility for interesting design and tenant desired qualities.

Begin forwarded message:

From: Bob Giannini <bgiannini@form4inc.com>
Date: December 23, 2013 at 10:17:01 AM PST
To: Reed Moulds <rmoulds@shpco.com>
Subject: Re: Height

Hi Reed: Floors in a building like that can go anywhere from 13'-6" floor to floor, to 14'-6". You can get about a 9'-6" floor in 13'-6" which some developers are OK with (like Hines), but most like at least 10'.

So for your estimate we assume this: 16' first floor (to give the building a good base proportion, and to accommodate some higher uses on the ground floor), then 14'-6" upper floors, plus a 3.5 foot parapet, or 13' for a penthouse.

So: $16 + 9 \times 14.5 + 13 = 159' - 6"$

Thanks

Bob Giannini, AIA
President
Form4 Architecture, Inc.
126 Post Street, 3rd floor
San Francisco, Ca, 94108
415 254 7515

On Dec 20, 2013, at 3:27 PM, Reed Moulds <rmoulds@shpco.com> wrote:

Bob, a seemingly random question for you for which I am hoping you can provide a quick answer.

If we asked you to design a first class office building in 10 stories, how tall would it be (at parapet and then all-in with rooftop components)?

Reed Moulds
Managing Director
Sand Hill Property Company
203 Redwood Shores Parkway, Suite 200
Redwood City, CA 94065
650-344-1500 x110

October 13, 2014

Via Overnight Delivery and E-Mail

Chair Brophy and Members of the Planning Commission
Cupertino City Hall
10300 Torre Avenue
Cupertino, CA 95014-3202

Re: General Plan Amendment: Office Allocation for Vallco Shopping District

Dear Chair Brophy and Members of the Planning Commission:

I am writing on behalf of Sand Hill Property Company (“Sand Hill”) regarding the treatment of the Vallco Shopping District (“Vallco”) in the General Plan Amendment. Sand Hill is in the midst of acquiring the Vallco parcels for potential redevelopment, so we are keenly interested in working with the City of Cupertino (“City”) to develop a feasible plan that can benefit all stakeholders. I am writing to request that the Planning Commission recommends to the City Council that the General Plan include an office allocation for Vallco of 2,000,000 square feet and the height limits set out in “Alternative C,” as analyzed in the draft General Plan’s environmental review. Without this specific office allocation, as well as the necessary retail and housing components, there will not be adequate critical mass to make it possible for Sand Hill, or any other prospective developer, to successfully redevelop Vallco.

Vallco presents a unique opportunity for redevelopment and revitalization that is unmatched in the City of Cupertino. The site sits at a prime location in the City, yet for many reasons, it has long been neglected and numerous redevelopment efforts were either abandoned or have failed. Sand Hill has the financial capacity and proven track record with such projects and is poised to bring to the City what its citizens have long yearned for: a dynamic downtown where the community can live, work and play. Sand Hill plans to completely transform the current derelict site by redeveloping it with a vibrant, sustainable mixed-use neighborhood. Our plan envisions a balanced mix of 600–700 residential units, approximately 600,000 square feet of retail, a full service hotel, and 2,000,000 square feet of office space. The overarching vision is to create a pedestrian oriented “town center” consistent with the General Plan vision that will have synergies between the uses and nearby projects, such as Main Street.

sf-3467260

882 SAND HILL ROAD, SUITE 241 • MENLO PARK, CA 94025 • (650) 344-1500 • FAX (650) 344-0652

The benefits to the City of such a project go well beyond creating a sense of place. With 600,000 square feet, the retail component of the project would be the same size as Santana Row and would generate millions in sales tax revenues way in excess of what is being collected today. Property taxes would also increase significantly, perhaps by 800%, given the billion-dollar plus investment Sand Hill is prepared to make in the City of Cupertino. In addition, we recognize that in order to obtain increased height limits for Vallco under Alternative C, projects must comply with the new General Plan's community benefits program. Although our specific project plans are still developing, the community benefits we anticipate providing include ground floor retail components and [transit improvements and amenities, space for public entities, senior housing, construction of a new, or expansion to, a community facility/community gathering place, creation or dedication of new or expanded park, cash in-lieu contribution for such community benefits]. We would also be amenable to exploring, with other property developers, the potential of providing a community shuttle program in order to provide transportation between employment and community centers. As required by the General Plan, these community benefits will be equivalent to at least 15 percent in value of the parcel attributed to the increase in height.

The opportunity to transform the Vallco site is now. Sand Hill has a real plan, the capabilities to implement it, and the history of working closely with the City and the community. Prior attempts at Vallco redevelopment have all run into the same problem: full ownership of the site is needed for a successful project, and the current split and passive ownership structure has made parcel assemblage extremely difficult. After nearly three years of intensive negotiations with the various Vallco ownership entities, Sand Hill is now in the process of completing purchases for the entire mall. Single ownership will remove the key barrier to redevelopment that has hampered the site for decades. However, in order to close on the Vallco parcels, Sand Hill needs assurance now that it can build a project that is financially viable. At present, the development allocation recommended in the Staff Report precludes such a project, and thus, a feasible redevelopment of the property. In particular, the Staff Report's recommendations to limit office to 1,000,000 square feet and heights to 75 feet (west of Wolfe Road) and 90 feet (east of Wolfe Road) does not work for our plan, or any plan for that matter.

Redevelopment of Vallco is a substantial undertaking. It entails demolition of approximately 1.2 million square feet of existing buildings and construction of an entire new downtown over 50 acres. The General Plan's vision for a redeveloped Vallco is ambitious: a "town center" layout, a newly configured street grid, an expanded Wolfe Road bridge of I-280 to accommodate a bikeable and walkable "boulevard," a new town square and plazas interspersed throughout. The General Plan calls for high-quality architecture and materials befitting a gateway site. Sand Hill shares this vision, but such elements are all very costly. While retail uses are critical for completing the overall vision, such uses do not support the type of amenities we and the City want to provide. In order for complete redevelopment to

Chair Brophy and Members of the Planning Commission
October 13, 2014
Page Three

be financially feasible, the project must include 2,000,000 square feet of office already studied in the EIR. Further, in order to provide this office square footage, while also respecting the neighborhoods to the west, increased height must be allowed, including up to 160 feet on the east side of Wolfe Road.

For these reasons, we respectfully request that the Planning Commission recommend to the City Council that the General Plan allocate to the Vallco Shopping District:

- 2,000,000 square feet of office space;
- Include the site in the Housing Element, including at least 600 units of housing;
- 600,000 square feet of retail; and
- Heights analyzed in "Alternative C" be permitted (i.e., up to 85 feet west of Wolfe Road and up to 160 feet east of Wolfe Road, with community benefits).

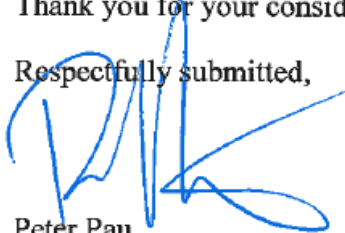
* * * * *

Sand Hill is proud of what it has done in the City of Cupertino. We have partnered with the City and the community on a number of successful commercial, retail and residential projects since the 1990's. As with those prior projects, we view Vallco as a long-term investment. We are a local owner and take pride in our commitment to the community and the City. Main Street is now under construction and will open as a new gathering place in 2015-2016. We look forward to continued collaboration with the City and community in the redevelopment of Vallco.

Sand Hill hopes it can build on its previous successes and realize a long-term community vision for a revitalized Vallco. The development team and funding is in place to move forward now. However, we want to be clear with the Planning Commission and City Council that without the necessary office, residential and retail allocations outlined above, we will not be in a position to redevelop Vallco and it will likely continue to languish for decades to come.

Thank you for your consideration.

Respectfully submitted,



Peter Pau
Principal and Founder

Apple Comments on DEIR to General Amendment:

COMMENT LETTER # B16



July 31, 2014

Piu Ghosh
Senior Planner
City of Cupertino
10300 Torre Avenue
Cupertino, CA 95014

Re: Apple Comments on DEIR for General Plan Amendment

Dear Piu:

This letter sets forth Apple's comments on the Draft Environmental Impact Report ("EIR") prepared for the General Plan Amendment, Housing Element Update, and associated Rezoning Project (collectively, the "General Plan Amendment").

Apple has a strong interest in the City's future growth and development. We are investing billions of dollars to remain in our hometown. As a general matter, Apple supports the increases in office and hotel development allocations in the General Plan Amendment. The positive impact of Apple Campus 2 on the area is already apparent. We believe Apple Campus 2 and Apple's continued presence in the area will continue to drive demand for new office space and generate additional visitors to the area. We support the City's efforts to accommodate economic development and reasonable growth.

We also value our good relations with The Irvine Company. We have worked cooperatively on a number of initiatives. We understand The Irvine Company's desire to update and densify the Hamptons, and we are not opposed to reasonable development on that site.

However, we have grave concerns about the dramatic increases in density and height the General Plan Amendment would allow at the Hamptons. Such increases are unprecedented in Cupertino. The impact of these increases on the unique privacy and security needs of Apple Campus 2, which the City has acknowledged in the EIR for the campus, have not been considered. We also have concerns about the impact buildings of this height will have on view corridors, sunlight and emission of light and glare. ***For the reasons outlined below, we respectfully request that the updated General Plan maintain the longstanding height limit of 60 feet for the Hamptons site, for all structures located within 50 feet of the parcel line abutting Apple Campus 2 or***

B16-01

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Pruneridge. The height limit should remain at 60 feet for the remainder of the Hamptons site, unless the City makes special findings that an increased height, up to 75 feet, would not infringe on the privacy and security needs of Apple Campus 2, nor unreasonably impact view corridors or sunlight, or create light or glare trespass. We also request that setbacks, transitions, landscaping, or other mitigations be imposed, unless the City makes the special findings specified above.

B16-01
cont.

1. The Proposed Height Increase and Elimination of Setbacks for the Hamptons Site Threatens the Security of Apple Campus 2

As we have discussed extensively in the past, the key purpose of Apple Campus 2 is to provide a single, unified and secure campus where Apple will invent future generations of Apple products. The Apple Campus 2 Environmental Impact Report ("AC2 EIR") acknowledges that security is one of the Project's two "primary objectives": "[a]chiev[ing] the security and privacy required for the invention of new products by eliminating any public access through the site, and protecting the perimeters against unauthorized persons." AC 2 DEIR, page 63. The AC2 EIR followed this imperative in its analysis. For example, it concluded that the Mobility and Park alternative, which would have placed a public trail along the southern portion of the site, was such a threat to security that it was not even studied. According to the AC2 EIR, "[a] public trail traversing the project site and Calabazas Creek would conflict with Apple's safety and security needs" and even security measures would be insufficient "because Apple is under intense scrutiny." AC 2 DEIR, page 626. Likewise, the Pruneridge Open alternative was rejected because it posed too much of a security threat.

B16-02

Placing 85-foot residential towers immediately adjacent to Apple Campus 2 poses the same security concerns as a trail through the site. A penthouse at that height along the perimeter of the campus would provide a direct view into the activities and patterns of behavior at the campus. Even allowing lower heights with no setbacks, transitions or landscaping jeopardizes the privacy and security of Apple Campus 2. It's inconsistent with the AC2 EIR's acknowledgment of Apple's security and privacy needs to permit a building envelope that would breach those needs. The only way to remedy the issue is to limit heights and impose setbacks, transitions, landscaping or other mitigations, and require special findings that security and privacy at Apple Campus 2 will not be compromised if the City approves a larger building envelope at the Hamptons site.

2. Apple Designed the Apple Campus 2 Project Assuming Compliance with Existing General Plan Policies

While Apple's goals for the campus are hugely ambitious, Apple carefully stayed within the existing General Plan development standards, and went to great lengths to respect our neighbors. None of the buildings exceed 60 feet, even though taller buildings would have been a logical choice. The parking garage is setback from the Hamptons and

B16-03

screened from view. Other setbacks were greatly increased over the previously existing condition. Where our campus comes closest to residential neighbors – along the eastern boundary adjacent to Santa Clara – great attention has been paid to ensure that our neighbors' privacy is protected and impacts minimized. We made these investments at a considerable cost.

Our multi-billion dollar investment was based on the good faith understanding that adjacent land uses would not be dramatically changed to the detriment of our campus. We recognize that land use policies may evolve, but we never anticipated a wholesale rewrite of the rules targeted solely for our most immediate neighbor, which would more than triple the permitted density and increase height limits by more than 40%.

3. The General Plan Amendment Proposes a Dramatic Increase in Density and Height at the Hamptons Site

The Hamptons site currently is developed with 342 apartment units, built at a density of approximately 27 units/acre and at a height of about 45 feet. This is already considered high density in Cupertino. The General Plan Amendment proposes to dramatically increase the permitted density to 110 units/acre, which would allow up to 1,368 units, a 300% increase and over 1,000 new units. While the General Plan Amendment states that the "realistic" yield is 1,162 units, which would be an increase of 820, for EIR purposes the maximum, not the "realistic", density should be analyzed. Further, by taking advantage of the State Density Bonus Law, a project could exceed even this higher limit, and require the City to waive development standards, such as height, to achieve the desired density. Government Code § 65915. The result would be to take control of development on this site out of the City's hands.

Currently, the greatest density allowed anywhere in the City is 35 units/acre; the proposal would allow over three times that density on this single site. The Hamptons site is the only site in the City proposed for such a dramatic increase. The next densest sites under the new General Plan would allow only 40 units/acre and most multi-family residential sites are proposed at 25 to 35 units/acre. In addition to density, the General Plan Amendment would allow residential towers of up to 85 feet at the Hamptons, an increase of more than 40% over the current 60 foot height limit. Further, unlike other areas in the City where a "bonus" height requires inclusion of a retail component and "community benefits," neither are required for the Hamptons.

Finally, the General Plan Amendment appears to abandon longstanding setback requirements, and where setbacks may be required, they must account only for impacts to residential uses. For example, the current General Plan includes setback ratios in the Vallco area, including a 1:1 slope line drawn from the Wolfe Road curb line. General Plan, Figure 2-D. According to the EIR Appendix I, it appears the General Plan Amendment would delete the setback ratios, and instead require unspecified "appropriate setbacks" to promote active uses along street frontage and "minimize potential conflict with adjacent

B16-03
cont.

B16-04

low-density single-family neighborhoods." Appendix I, Revised Policy 2-15. It appears that setbacks would be determined during the project entitlement process, yet there is no General Plan language that requires any consideration of impacts to or privacy concerns of adjacent commercial uses. There is nothing currently in the General Plan to prevent approval of an 85 foot residential tower that immediately abuts Apple Campus 2.

B16-04
cont.

The General Plan Amendment needs to better balance the desire for increased density at the Hamptons with Apple's security needs and rational planning. These needs are well documented in the AC2 EIR and in City findings for the campus, and must be respected.

4. The General Plan Amendment EIR Should Acknowledge the Environmental Impacts of the Increased Height and Density

Greatly increasing height, and eliminating setbacks at The Hamptons would result in adverse environmental impacts. In addition to amending the General Plan to limit height, as described above, we also request that the EIR impose setbacks, transitions, landscaping and other mitigations to reduce the environmental impacts of tall structures. The following discusses areas of the EIR where this should be addressed.

In the discussion of AES-2 (impacts to scenic resources), the EIR notes that as part of the Architecture and Site Approval process, the City "could" require "suitable setbacks for buildings along the public rights-of-way and appropriate buffers and/or height transitions adjacent to low-density residential development." EIR, at 4.1-30. However, the General Plan does not mention the Hamptons' nearest neighbor, Apple, the party most likely to be impacted by the Hamptons' development. Moreover, the EIR appears to rely on the *potential* for setbacks as the basis for its less than significant conclusion. Without an actual setback requirement, the EIR should assume that residential buildings will be built to the maximum height on the parcel lines. For the EIR to rely on setbacks as mitigating the impact, it should in fact require setbacks. We request that the General Plan either include policy language requiring adequate setbacks, to protect Apple's privacy and security needs, view corridors and sunlight, and eliminate light and glare trespass, or add such requirements as mitigation.

B16-05

As for the analysis of impacts to Apple Campus 2 in particular, the EIR is conclusory when it simply states that "the taller heights may marginally impede views of the Santa Cruz mountains for the users of the Apple Campus." EIR, at 4.1-30. There is no data or analysis to support this statement. The EIR contains no visual simulation, shade and shadow study, lighting study, or the like. We request that the City prepare a visual simulation and shade and shadow study and analyze the impacts of light and glare from the Hamptons, assuming a project built within the maximum envelope permitted. We believe these will show that 85-foot towers along the parcel lines would have significant impacts, which could be mitigated by reasonable measures.

B16-06

Impact AES-3 is also conclusory. It states in a single sentence that the prior analysis in the EIR showed that future development in the North Vallco Park Special Area, as well as in several other large portions of the City, would not result in a substantial change to the existing visual character or its surroundings. However, the prior analysis did not look at this question. The discussion in AES-2, which is the only portion of the chapter with any substance, looked at impacts to scenic resources, not changes to the existing visual character or surroundings. These are distinct questions. We believe there will be a dramatic change in the existing visual character and surroundings. In order to build out the Hamptons site at the proposed density of 110 units/acre, the buildings must grow taller, must be closer together and must move closer to the lot lines. To fully appreciate the extent of the change to the existing visual character, we request that the City prepare visual simulations.

B16-07

We also note that the General Plan Amendment proposes to delete existing Policy 2-14, Strategy 6, View Preservation. That Strategy requires that the City “[d]evelop and implement a policy to encourage developers to limit building heights in order to preserve hillside views throughout the City.” Deletion of Policy 2-14, Strategy 6 paves the way for allowing taller buildings that impede hillside views, but the EIR fails to even mention the deletion. The EIR should be revised to either delete, or to acknowledge and study, the impact of this very significant policy change. Further, although the EIR recognizes that the impact of shade and shadow “is an important environmental issue,” it contains no analysis of such impacts. EIR, at 4.1-21. When describing this issue, the EIR identifies certain land uses as being “shadow-sensitive” because they have “expectations for direct sunlight and warmth from the sun.” EIR, at 4.1-21. The list of such sensitive uses includes private enterprises, such as outdoor restaurants. However, it fails to recognize that corporate campuses, such as Apple Campus 2, may similarly be “shadow-sensitive” and have an expectation of sunlight. One of the signature features of Apple Campus 2 is its extensive outdoor space. This space is designed to invite employees to interact in a relaxed, park-like setting. Creating this open space comes at an enormous cost, particularly the elimination of impervious spaces for surface parking by constructing high cost underground and structured parking. The value of that investment and the healthy lifestyle amenity to Apple employees would be threatened by new residential towers casting long shadows across this key campus feature. Apple’s expectation of sunlight clearly warrants at least the same attention as an outdoor restaurant, and the EIR should address this potential impact.

B16-08

B16-09

Likewise, the EIR doesn’t mention the light and glare trespass resulting from residential towers within this building envelope. We were very careful to avoid any light or glare trespass from Apple Campus 2 (see *Apple Campus 2 Project Environmental Impact Report Lighting Technical Report*, October 29, 2012, by Arup and AC2 EIR, Section V.B.2.b.(4)). We request the City to study this topic in connection with the proposed building envelope.

5. Apple Requests Additional Changes and Corrections to the General Plan Amendment

B16-10

Below are minor additional changes that we request be made to the General Plan Amendment and the EIR:

- Remove Pruneridge. The EIR acknowledges that Pruneridge has been vacated for Apple Campus 2, but it remains depicted in all figures. The General Plan and its figures should reflect the vacation of Pruneridge and the amendment to the General Plan's Circulation Element effected as part of the Apple Campus 2 approvals.
- Acknowledge the Development Agreement. A key entitlement for Apple Campus 2 is the Development Agreement, which vested Apple's right to build out the campus under the policies, plans and regulations that were in place at the time of the Development Agreement, including the General Plan. This General Plan Amendment should acknowledge that, so long as the Development Agreement is in place, the prior General Plan policies apply to Apple Campus 2. We note that the current General Plan takes this approach with respect to Hewlett-Packard's development agreement.
- Clarify "Major Employer." We believe the entities that qualify for the "major employer" pool of development allocations should be clarified. First, we note that Appendix I mistranscribes the existing General Plan language. Policy 2-44 describes "major employers" as those "companies with sales offices and corporate headquarters in Cupertino," but EIR Appendix I shows this as companies with "sales offices or corporate headquarters." This needs to be corrected. However, we think the definition could be further clarified. The purpose of the "major employer" category is to encourage large, established companies to stay and grow in Cupertino. We believe that only requiring a sales office and corporate headquarters is too broad.
- Assumption for Hamptons. Table 3-5 indicates a net increase of 528 units within the North Vallco Special Area, but elsewhere the EIR states that redevelopment of The Hamptons will result in a net increase of 820 units. The full density anticipated in the EIR should be assumed. Further, we were unable to determine in the traffic section how many units were assumed at that site. Please clarify this issue.
- I-280 Northbound Ramp Improvements. It appears that the EIR does not assume some of the improvements Apple is making to the Wolfe Road and I-280 northbound ramp. We believe this accounts for the discrepancy between the finding in the AC2 EIR that with mitigation, that intersection would operate at LOS B (see MM TRANS-5, pg. 404) and the finding in the General Plan Amendment EIR that the same intersection would operate at LOS F in the "no project" scenario. In particular, the Transportation Impact Analysis for Apple Campus 2 assumed widening the northbound Wolfe approach to three lanes (see AC2 TIA, pg. 3-10, Intersection #21, Wolfe Road and I-280 NB Ramps providing data for Cumulative

B16-10
cont.

B16-11

B16-12

plus Project conditions, for both AM and PM traffic), but the General Plan Amendment EIR assumed only two lanes for this approach (see EIR, Appendix G, pg. 231-76). Apple is, in fact, constructing this third northbound approach lane, so it should be assumed.

B16-12
cont.

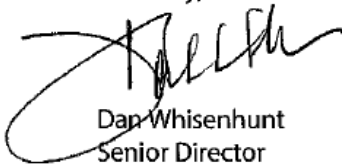
- Bridge Widening Should Not be Assumed. Mitigation Measure TRAF-1 commits the City to preparing and implementing a Traffic Mitigation Fee Program and then identifies several improvements that would mitigate the impacts. EIR, at 4.13-53. Several of these improvements are ambitious, particularly the potential for widening the Wolfe Road overcrossing. These very substantial improvements have not been studied. Please clarify in the text of the EIR that there may be other solutions available and that any mitigation measures will be identified and fully studied when preparing the Fee Program. There should be no assumption at this point that the bridge may need to be widened.

B16-13

Apple has made an unprecedented investment in Cupertino and the decision to do so was based on certain understandings about our neighborhood. We respectfully request that the City continue to collaborate with Apple and The Irvine Company to identify appropriate development standards for the Hamptons site, including 60-foot height limits along the property lines, reasonable setbacks, transitions, landscaping or other mitigations, and findings that any structure will not breach the privacy and security needs of Apple Campus 2, and that the impacts of any project on view corridors, sunlight, and emission of light and glare will be thoroughly studied and adverse impacts mitigated.

B16-14

Sincerely,



Dan Whisenhunt
Senior Director
Real Estate & Development
Apple

cc: Mayor and City Council of Cupertino
David Brandt, City Manager
Aarti Shrivastava, Director of Community Development

Future Noise Contours

FUTURE NOISE CONTOURS

Ensuring that future land use and infrastructure decisions consider the potential adverse impacts of noise is a key concern for the City of Cupertino. **Figure D-2** identifies future noise contours within the city, and in combination with the policies included in the Health and Safety Element, will be used to help reduce future noise impacts.

FIGURE D-2
FUTURE NOISE CONTOURS

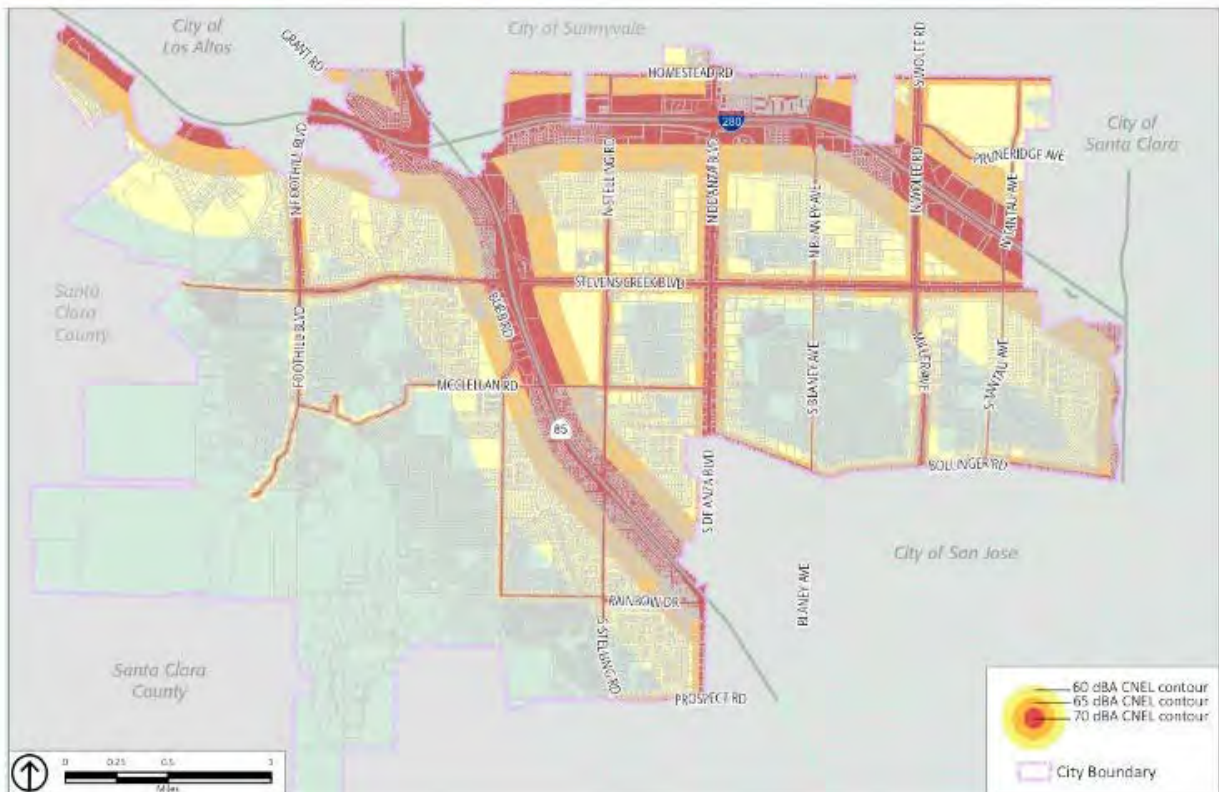


Table V.J-9: City of Cupertino Noise and Land Use Compatibility Standards

| Land Use Category | Community Noise Exposure in Decibels (CNEL) or Day/Night Average Noise Level in Decibels (Ldn) | | | | | |
|---|---|----|----|---|----|----|
| | 55 | 60 | 65 | 70 | 75 | 80 |
| Residential – Low Density (Single-Family, Duplex, Mobile Homes) | | | | | | |
| Residential – Multi-Family | | | | | | |
| Transient Lodging (Motels, Hotels) | | | | | | |
| Schools, Libraries, Churches, Hospitals, Nursing Homes | | | | | | |
| Auditoriums, Concert Halls, Amphitheaters | | | | | | |
| Sports Arena, Outdoor Spectator Sports | | | | | | |
| Playgrounds, Neighborhood Parks | | | | | | |
| Golf Courses, Riding Stables, Water Recreation, Cemeteries | | | | | | |
| Office Buildings, Business Commercial and Professional Centers | | | | | | |
| Industrial, Manufacturing, Utilities, Agriculture | | | | | | |
| | NORMALLY ACCEPTABLE Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements. | | | NORMALLY UNACCEPTABLE New construction or development should generally be discouraged. If new construction or development does proceed, a detailed analysis of the noise reduction requirements must be made and needed noise insulation features included in the design. | | |
| | CONDITIONALLY ACCEPTABLE New construction or development should be undertaken only after a detailed analysis of the noise reduction requirements is made and needed noise reduction features included in the design. Conventional construction, but with windows closed and fresh air supply systems or air conditioning will normally suffice. | | | CLEARLY UNACCEPTABLE New construction or development should generally not be undertaken. | | |

Source: Cupertino, City of, 2005. *Cupertino General Plan 2000 – 2020*. Figure 6-L. November 15.

Connection between Cal/EPA Strategic Vision Goals and Goals in ARB's Strategic Plan

| Cal/EPA Vision Goals ARB Strategic Plan Goals | Goal 1 Clean Air | Goal 2 Clean River, Lake, Estuary, and Marine Waters | Goal 3 Clean Drinking Water | Goal 4 Communities Free from Toxic Risk | Goal 5 Reduce or Eliminate Disproportionate Pollution Impacts | Goal 6 Efficient Use of Natural Resources | Goal 7 Continuous Improvement | Goal 8 Efficient and Effective Cal/EPA |
|---|----------------------------|--|---------------------------------------|---|---|---|---|--|
| Goal 1 New Strategies to Effectively Reduce Air Pollution | X | X | X | X | X | | X | X |
| Goal 2 Environmental Justice Principles | X | | | X | X | | X | X |
| Goal 3 Zero-Emission Technologies | X | X | X | X | X | X | X | X |
| Goal 4 Effective Compliance Assistance and Enforcement | X | X | X | X | X | | X | X |
| Goal 5 Sound Understanding of Health Effects | X | | | | | | X | X |
| Goal 6 Sound Technical Tools | X | X | | | | | X | X |
| Goal 7 Recognize ARB's Employee's Strengths | | | | | | | X | X |

MEMORANDUM

TO: Carol Korade, City Attorney
FROM: Ellen J. Garber
DATE: February 25, 2014
RE: Application of SB 50 to Consideration of Development Applications

INTRODUCTION and SUMMARY OF CONCLUSIONS

The Leroy F. Greene School Facilities Act of 1998 (“SB 50”)¹ preempts the issue of impacts of new development on school facilities. Therefore, if a developer agrees to pay the fees established by SB 50, the impacts on school facilities may not be analyzed under the California Environmental Quality Act (“CEQA”),² no mitigation for impacts on school facilities may be required, and the project may not be denied due to impacts on schools or due to the inadequacy of school facilities. Hence, state law limits the City’s discretion to (i) consider the effects of new development on the ability of schools to accommodate enrollment, (ii) require mitigation, and (iii) deny projects.

A relatively recent case, *Chawanakee Unified School District v. County of Madera* (2011) 196 Cal. App. 4th 1016, holds that development applications may be analyzed under CEQA, and mitigation may be required, if the potential impacts are indirectly caused by the operation or construction of schools on the non-school physical environment.

¹ Gov. Code §§ 65995-65998 and Educ. Code §§ 17620-17621.

² Pub. Resources Code § 21000 *et seq.*

DISCUSSION

I. SB 50

Pursuant to SB 50, which was enacted in 1998, impacts on school facilities are not to be considered in an EIR, and SB 50 fees constitute adequate mitigation of those impacts. As SB 50 states, payment of fees “shall be the exclusive method[] of considering and mitigating impacts on school facilities,” and “are . . . deemed to provide full and complete school facilities mitigation. Gov. Code §§ 65996 (a) and (b). See Part II, below. In addition,

A state or local agency may not deny or refuse to approve a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization as defined in Section 56021 or 56073 on the basis of a person's refusal to provide school facilities mitigation that exceeds the amounts authorized pursuant to this section or pursuant to Section 65995.5 or 65995.7, as applicable.

Gov. Code § 65995(i).

Even where applicants have agreed to pay school impact mitigation fees, however, if the proposed development, including the school expansion it requires, would cause other environmental impacts—traffic or construction impacts, for example—then those impacts to non-school resources may be analyzed under CEQA. This is discussed in Part III, below.

II. Impacts of New Development On School Facilities

SB 50 limited the scope of CEQA analysis of impacts on school facilities, making the fees set forth in Government Code section 65995 “the exclusive means of both ‘considering’ and ‘mitigating’ school facilities impacts of projects. The provisions of [S.B. 50] are ‘deemed to provide full and complete school facilities mitigation.’” Kostka & Zischke, *Practice Under the California Environmental Quality Act* (2012), § 14.28 (citations omitted). According to the Kostka & Zischke treatise, SB 50 appears to transform CEQA review of impacts on school facilities into a ministerial function after the applicant agrees to pay the required mitigation fees. *Id.*, § 14.28 (concluding that the law limits not only mitigation but also the scope of the EIR).³ No case expressly reached

³ *Cf.* 9 Miller & Starr, *Cal. Real Estate* (3d ed. 2001) § 25.49, 25–213 to 25–214, fns. omitted (“SB 50 employs three primary means to preempt the field of development (footnote continued)

this conclusion until the *Chawanakee Unified School District* case, discussed below, but logic seemed to dictate this outcome based on the statutory language.

Therefore, if a project applicant has agreed to pay school mitigation fees, the lead agency may not consider the following items in an EIR, nor deny the project based on these considerations:

- impacts on the physical structures at the school (on school grounds, school buildings, etc.) related to the ability to accommodate enrollment;
- mitigation measures above and beyond the school mitigation fee ;
- other non-fee mitigation measures the school district's ability to accommodate enrollment.

3. Physical Effects on the Environment Because of School Facilities

Despite the restrictions on environmental review and mitigation discussed above, SB 50 also states that “[n]othing in this section shall be interpreted to limit or prohibit the ability of a local agency to mitigate the impacts of land use approvals other than on the need for school facilities, as defined in this section.” Gov. Code, § 65996(e). This leaves the agency free to reject a project based on impacts *other* than impacts on the need for “school facilities.”⁴ Any number of impacts could fall outside of this definition; for example, impacts on wildlife in the development site, impacts on air quality, or inadequate water supply.

fees and mitigation measures related to school facilities and to overturn [*Mira* and its progeny]. First, it provides for a *cap on the amount of fees, charges, dedications or other requirements* which can be levied against new construction to fund construction or reconstruction of school facilities. Second, SB 50 *removes denial authority* from local agencies by prohibiting refusals to approve legislative or adjudicative acts based on a developer's refusal to provide school facilities mitigation exceeding the capped fee amounts, or based on the inadequacy of school facilities. Third, it *limits mitigation measures* which can be required, under the California Environmental Quality Act or otherwise, to payment of the statutorily capped fee amounts and deems payment of these amounts ‘to provide full and complete school facilities mitigation [.]’ (emphasis in original).

⁴ SB 50 defines “school facilities” as “any school-related consideration relating to a school district's ability to accommodate enrollment.” Gov. Code § 65996(c).

In 2011, the court in *Chawanakee Unified School District* carefully interpreted the statutory language of SB 50 and held that while an EIR need not analyze the impacts on school facilities as a result of accommodating more students, the document must consider the impacts on traffic of additional students traveling to the school and consider other impacts to the non-school physical environment from construction of additional facilities. 196 Cal. App. 4th at 1028-1029.⁵

Courts have found the physical activities caused by school growth to be outside the definition of “school facilities,” and therefore not shielded from review by SB 50. For example, as discussed above, *Chawanakee Unified School District* interpreted the traffic associated with more students traveling to a school to be something other than impacts on school facilities, and therefore subject to review and mitigation under CEQA. Accordingly, traffic impacts resulting from more students traveling to the school, dust and noise from construction of new or expanded school facilities, and any other impacts to the non-school physical environment were not impacts on “school facilities,” and must be addressed in an EIR. According to the court in *Chawanakee*:

Consequently, the phrase ‘impacts on school facilities’ used in SB 50 does not cover all possible environmental impacts that have any type of connection or relationship to schools. As a matter of statutory interpretation . . . the prepositional phrase ‘on school facilities’ limits the type of impacts that are excused from discussion or mitigation to the adverse physical changes to the school grounds, school buildings and ‘any school-related consideration relating to a school district’s ability to accommodate enrollment.’ Therefore, the project’s indirect impacts on parts of the physical environment that are not school facilities are not excused from being considered and mitigated.

196 Cal. App. 4th at 1028 (internal citation omitted).

Hence, the lead agency must determine whether impacts fall outside the definition of “school facilities,” thereby making them subject to environmental review. In light of the *Chawanakee* case, however, the agency’s discretion to conduct environmental review, to require mitigation, and to consider denying the would be limited to physical effects on the non-school environment.

⁵ While SB 50 was not at issue in this case, in *City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal. App. 4th 889 the court held that an EIR prepared in connection with the construction of a new school properly analyzed health and safety issues, air quality, traffic impacts, and land use issues.

Therefore, a lead agency may consider, in an EIR, among other factors the following impacts potentially caused by school expansion or construction:

- traffic impacts associated with more students traveling to school;
- dust and noise from construction of new or expanded school facilities;
- effects of construction of additional school facilities (temporary or permanent) on wildlife at the construction site;
- effects of construction of additional school facilities on air quality;
- other “indirect effects” as defined by CEQA Guidelines § 15258 (a)(2) (growth-inducing effects, changes in pattern of land use and population density, related effects on air and water and other natural systems). *See Chawanakee Unified School District*, 196 Cal. App. 4th at 1029.

CONCLUSION

When it comes to arguments about the impact of a proposed development on existing school facilities and their ability to accommodate more students, the CEQA process is essentially ministerial. Agencies must accept the fees mandated by SB 50 as the exclusive means of considering and mitigating the impacts of the proposed development on school facilities. However, nothing in SB 50 or in CEQA or current case law prohibits an agency from conducting environmental review of an application that creates significant environmental impacts on non-school-facility settings or sites, regardless of whether the applicant has agreed to pay mitigation fees under SB 50.

EXHIBIT EA-1

CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS FOR GENERAL PLAN AMENDMENT, HOUSING ELEMENT UPDATE, AND ASSOCIATED REZONING

I. INTRODUCTION

The City of Cupertino (City), as lead agency under the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 *et seq.*, has prepared the Final Environmental Impact Report for the General Plan Amendment, Housing Element Update, And Associated Rezoning (the “Project”) (State Clearinghouse No. 2014032007) (the “Final EIR” or “EIR”). The Final EIR is a program-level EIR pursuant to Section 15168 of the State CEQA Guidelines.¹ The Final EIR consists of Volumes I and II of the June 2014 Public Review Draft Project Environmental Impact Report (the “Draft EIR”); the August 2013 Response to Comments Document; and the November 3, 2014 Supplemental Text Revisions memorandum,² which contains typographical corrections, insignificant modifications, amplifications and clarifications of the EIR.

In determining to approve the Project, which is described in more detail in Section II, below, the City makes and adopts the following findings of fact and statement of overriding considerations, and adopts and makes conditions of project approval the mitigation measures identified in the Final EIR, all based on substantial evidence in the whole record of this proceeding (administrative record). Pursuant to Section 15090(a) of the State CEQA Guidelines, the Final EIR was presented to the City Council, the City Council reviewed and considered the information contained in the Final EIR prior to making the findings in Sections II through XIII, below, and the City Council determined that the Final EIR reflects the independent judgment of the City. The conclusions presented in these findings are based on the Final EIR and other evidence in the administrative record.

II. PROJECT DESCRIPTION (the “Balanced Plan”)

As fully described in Chapter 3 of the Draft EIR, the Balanced Plan (also, the “Project”) involves all of the following: (1) a focused General Plan Amendment consisting of revised city-wide development allocations for office commercial, hotel and residential uses, as well

¹ The State CEQA Guidelines are found at California Code of Regulations, Title 14, Section 15000 *et seq.*

² PlaceWorks, *Supplemental Text Revisions to the General Plan Amendment, Housing Element Update and Associated Rezoning Project Final Environmental Impact Report (EIR)* (November 3, 2014) (“Supplemental Text Revisions”).

as buildings heights and densities for Major Mixed-Use Special Areas; (2) updating the General Plan Housing Element to accommodate the Regional Housing Needs Allocation (RHNA) for the 2014-2022 planning period to meet the City's fair-share housing obligation of 1,064 units; (3) amending certain Zoning and Density Bonus portions of the City's Municipal Code to be consistent with the Housing Element and to be consistent with requirements pertaining to emergency shelters; and (4) conforming changes to the General Plan Land Use Map, Zoning Ordinance and Zoning Map for consistency and for revisions required by State law, and reorganization for purposes of increasing clarity and ease of use.

The increased development allocations would be allowed in specific locations throughout the City, which are categorized as follows and are described and depicted on figures in the EIR:

- Special Areas (including City Gateways and Nodes along major transportation corridors);
- Study Areas;
- Other Special Areas (including Neighborhoods and Non-Residential/Mixed-Use Special Areas); and
- Housing Element Sites

The buildout of the potential future development in these identified locations is based on a horizon year of 2040; therefore, the EIR analyzes growth occurring between 2014 and 2040. The 2040 horizon year is generally consistent with other key planning documents, including Plan Bay Area, which is the Bay Area's Regional Transportation Plan/ Sustainable Community Strategy to Senate Bill 375, the Sustainable Communities and Climate Protection Act.

The EIR analyzed the proposed Project (which is "Land Use Alternative C")³ and three additional alternatives (No Project Alternative, Land Use Alternative A, and Land Use Alternative B), all at the same level of detail. The Balanced Plan is a revised version of Alternative C consisting of the same development allocations and Housing Element sites that were analyzed in the EIR for Alternative C, except, as described in more detail in the next section below, that the office allocation is reduced to the amount analyzed in the EIR for Alternative B, and the maximum height limits are reduced except at one location (Stelling Gateway) as part of reducing the office allocation. The purpose of the revisions to Alternative C in the Balanced Plan is to more closely achieve a balance among the project objectives (see Section II.A, below).

³ Draft EIR, p. 2-5 (Table 2-1, footnote a).

A. General Plan Amendment

Every city and county in California is required to prepare and to adopt a comprehensive, long-term general plan for the physical development of the county or city and, in some cases, land outside the city or county boundaries. Government Code § 65300. The City's current, 2000-2020 General Plan controls the area and density of commercial, office, hotel, and residential uses built in the city through development allocations in terms of square feet (commercial and office), rooms (hotel), and units (residential). The allocations are geographically assigned in certain neighborhoods, commercial, and employment centers so that private development fulfills both City goals and priorities and reduces adverse impacts to the environment. The City allocates development potential on a project-by-project basis to applicants for net new office and commercial square footage, hotel rooms, and/or residential units. As a result of several recent approvals of projects, a large amount of the current office, commercial and hotel development allocation has been granted, leaving an inadequate pool to allocate to additional development in the city.

While the Project is not a complete revision of the City's 2000-2020 General Plan. The current General Plan contains many goals, policies, standards, and programs that the City and community would like to continue into the future. The Project instead focuses on identifying and analyzing potential changes along the major transportation corridors in Cupertino that have the greatest ability to evolve in the near future because the rest of the city consists primarily of single-family residential neighborhoods.

The development allocations in the Balanced Plan are as follows:

- Office allocation (reduced to amount in Alternative B): 2,540,231 square feet (net increase of 2,000,000 square feet from the 2000-2020 General Plan)⁴
- Commercial allocation (same as Alternative C): 1,343,679 square feet (net increase of 0 square feet from the 2000-2020 General Plan)⁵

⁴ The Alternative C proposed office allocation is 4,040,231 square feet (net increase from 2000-2020 General Plan of 3,500,000 square feet).

⁵ The EIR provided an analysis for the commercial development allocation of 1,343,679 square feet for Alternative C, which is an increase in commercial development allocation of 642,266 square feet over the remaining allocation of 701,413 square feet in the 2020 General Plan; however, the additional 642,266 square footage does not constitute a net increase in commercial development in Cupertino during the planning period of the General Plan Amendment (through 2040). That is because the entire 642,266 square feet of the increased allocation would come from demolition of Vallco Shopping Center and rebuilding and/or relocating that existing commercial square footage to other sites. Due to the high vacancy rate at the Vallco Shopping Mall under existing conditions, however, the EIR conservatively analyzed the total commercial development allocation of 1,343,679 square feet (642,266 existing square feet + 701,413 new square feet).

- Hotel allocation (same as Alternative C): 1,339 rooms (net increase of 1,000 rooms from the 2000-2020 General Plan)
- Residential allocation (same as Alternative C): 4,421 units (net increase of 2,526 units from the 2000-2020 General Plan)

As shown above, these development allocations consist of a balance among the development allocations in Alternatives B and C. The recommended heights are lower than those studied in Alternative C, however. In most Special Areas the Balanced Plan would have the same height limits as Alternative B, but in one case (South De Anza Avenue) the height limits would be the same as Alternative A. See Land Use and Community Design Element, Table LU-2.

The Balanced Plan provides a better balance of land uses than the Alternative C or any of the other alternatives due to the fact that the office/commercial-to-residential balance is even better than that in Alternative B, which had the lowest VMT of all of the alternatives studied in the EIR. However, it will continue to have significant avoidable impacts for traffic, air quality and noise even after incorporation of all feasible mitigation measures.

The majority of the Balanced Plan is located in the City's Special Areas as identified in the current General Plan. The development allocations can generally be used in Special Areas, Study Areas, Housing Element Sites and Other Special Areas; however, hotel development allocations may not be used in Other Special Areas. The boundaries and proposed changes within each Special Area, Study Area and Other Special Area are described in detail in Section 3.7 (Project Components) of Chapter 3 (Project Description) of the Draft EIR.

B. Housing Element Update

The Balanced Plan includes a comprehensive update to the City's Housing Element (the "2014-2022 Housing Element") in compliance with State law. The Housing Element's policies and programs are intended to guide the City's housing efforts through the 2014 to 2022 Housing Element period. The 2014-2022 Housing Element keeps many of the existing policies and strategies in the 2007-2014 Housing Element and revises them to conform to changes in State law or based on a critical evaluation of the programs and policies. The Housing Element assesses housing needs for all income groups and establishes a program to meet these needs. The policies and strategies have also been reorganized to provide for better readability and to eliminate redundancies.

State law requires each jurisdiction to address how it will satisfy the quantified objectives for new residential units as represented by the Regional Housing Needs Allocation (RHNA). The RHNA identifies Cupertino's housing needs by income levels. The City's housing needs allocation for the period 2014 to 2022 is 1,064 new housing units. The income levels are separated into four categories: very low, low, moderate and above moderate, shown in Draft EIR Table 3-20. Draft EIR, p. 3-66. State law allows jurisdictions

to take credit for residential projects that have been approved, building permits issued during the plan period in which the review is taking place, and second dwelling units (also known as accessory dwelling units) that are anticipated to be constructed during the plan period.

The City has issued entitlements and/or building permits for 30 units since January 1, 2014. Additionally, it is anticipated that because 32 second units (on single-family lots) were constructed in the 2007-2014 plan period, 32 second units will be constructed in the current plan period as well. Therefore, the City can take credit for a total of 62 units (30 units approved and 32 second units anticipated). As a result, the City is required to identify sites for the construction of 1,064 minus 62 units, or 1,002 units.

To accommodate the current planning period's RHNA, the Available Land Inventory in the Draft 2014-2022 Housing Element identified 19 potential housing sites, which are analyzed in the EIR. The State Department of Housing and Community Development (HCD) generally requires jurisdictions to show a surplus of sites/units in order to guarantee that the City could realistically accommodate the RHNA allocations. Of the original 19 sites identified in the Draft EIR, 12 remain for consideration.⁶ Approximately 2,085 units could be accommodated on these 12 sites. Draft EIR, Table 3-21, pp. 3-68 to 3-70 and City Council Staff Report for November 10, 2-14 (Table 3). The maximum number for the residential allocation pursuant to the Balanced Plan is 4,421 units, which allows for net new development of 2,526 units above the current General Plan buildout.

HCD generally requires jurisdictions to show a surplus of sites/units in order to guarantee that the RHNA realistically can be accommodated. Based on consultation with HCD and the City's housing consultant expert, it is anticipated that HCD will require sites to accommodate units equivalent to a moderate surplus, between 25% and 40% above the City's housing need, or approximately between 1,250 and 1,400 units. Of the 12 identified sites, the City Council has directed staff to submit six sites to HCD for review as to their adequacy under State Planning and Zoning Law. These six sites can accommodate 1,386 units.

⁶ Of the 19 studied in the EIR, only 12 sites are available for selection. That is because the largest property owner associated with the Intrahealth/Valley Church etc. site on Stelling Road, and the owners of two of the three parcels at Cypress Building/Hall property site notified the City that their properties should not be included in the Housing Sites Inventory. The property owner of a small portion of Shan Restaurant/Q-Mart/China Dance indicated that their parcel should not be included in the Housing Sites Inventory, the resulting reduction in size does not result in a significant change in the size of the site and the balance of the site is included as an Alternate Site. While the property owner of 40% of the Arya/Scandinavian Design site indicated that their property should be removed from the Housing Sites Inventory, this site was already recommended for removal in the Balanced Plan. In addition, four other sites were removed from consideration.

The means of achieving the development of these units are provided for in the policies and programs described in the Housing Element. The City's quantified objectives are identified in Table 3.4 of the Housing Element. The City is not obligated to construct the housing units identified by the RHNA. Rather, the City is required to demonstrate adequate capacity for 1,064 housing units by identifying sufficient specific sites in order to satisfy the RHNA under existing zoning and land use policy.

In addition to analyzing the 2014-2022 Housing Element for the specified planning period, the Final EIR analyzes the overall environmental effects of increasing housing units on a citywide basis to address, which is necessary to address the two future housing elements that are expected to be adopted during the period between 2014 and General Plan Amendment horizon year of 2040. The Plan Bay Area (the Bay Area Region's Sustainability Communities Strategy and Regional Transportation Plan) identifies that the City of Cupertino's housing need by 2040 will be 4,421 units. Therefore, while the Housing Element only identifies the potential for development of 1,064 units on six Available Land Inventory housing sites, the Balanced Plan also adds 2,526 units to the City's current residential development allocation for a total of 4,421 units, the impacts of which are analyzed in the EIR.

C. Conforming General Plan Amendments, Zoning Amendments, and Density Bonus Amendments

As part of the Housing Element update process, Chapter 19.56 (Density Bonus) in Title 19 (Zoning) of the City's Municipal Code will be amended to be consistent with the 2007-2014 Housing Element Program 12 (Density Bonus Program). Chapter 19.20 (Permitted, Conditional and Excluded Uses in Agricultural and Residential Zones), Chapter 19.76 (Public Building (BA), Quasi-Public Building (BQ) and Transportation (T) Zones), and Chapter 19.84 (Permitted, Conditional And Excluded Uses In Open Space, Park And Recreation And Private Recreation Zoning Districts), also in Title 19 (Zoning) of the City's Municipal Code, will be amended to ensure conformance with SB 2 requirements pertaining to permanent emergency shelters and to comply with the State Employee Housing Act with respect to farmworker housing and employee housing. In addition, Program 17 of the Housing Element, which addresses the potential loss of multi-family housing and displacement of lower- and moderate-income households due to new development, will be amended to comply with recent legislation and to mitigate the potential displacement impacts to renters (e.g. tenant relocation benefits).

The Balanced Plan also includes revisions to the General Plan Land Use Map, Zoning Ordinance (including the Chapters listed above and 19.08 (Definitions) and 19.144 (Development Agreements), and the Zoning map to ensure consistency with the General Plan as a result of changes to Housing Element policies or to address changes required as a result of State legislation adopted since the last General Plan update (such as Assembly Bill

1358, Complete Streets), and as a result of bringing non-conforming land uses into conformance with the General Plan and Zoning Ordinance.

D. Project Objectives

The project objectives are as follows:

- Emphasize employment and a mix of economic development opportunities by replenishing, reallocating, and increasing city-wide office, commercial, and hotel, allocations in order to capture:
 - A share of the regional demand for office and hotel development, and
 - Retail sales tax leakage in the trade area.
- Address local needs and regional requirements for new housing, including affordable housing, in Cupertino by replenishing, re-allocating and increasing city-wide residential allocations to be consistent with 2040 Bay Area Plan projections to allow flexibility for the city when future state-mandated updates are required to the Housing Element.
- Update the Housing Element as required by State law.
- Creating opportunities for mixed-use development consistent with Regional Sustainable Communities Strategies for greenhouse gas emissions reductions as required by SB 375.
- Investing in improvement to adapt to climate change over time.
- Consider increased heights in key nodes and gateways, if proposed development provides retail development and benefits directly to the community.
- Update General Plan policies to implement multi-modal traffic standards as opposed to LOS thresholds currently identified. Balancing development objectives with transportation constraints and opportunities.
- Revitalize the Vallco Shopping District by adopting policies to support its redevelopment, so it becomes a cohesive, vibrant shopping and entertainment destination that serves both the region and the local community.

III. ENVIRONMENTAL REVIEW PROCESS

A. Environmental Impact Report

On March 5, 2014, the City circulated a Notice of Preparation (NOP) of the Draft EIR to the Office of Planning and Research (OPR) State Clearinghouse and interested agencies and

persons. A postcard notice had previously been delivered in February 2014 to all postal addresses in the City to announce upcoming dates for the General Plan and Housing Element projects. The NOP was circulated for comment by responsible and trustee agencies and interested parties for a total of 30 days, from March 5, 2014 through April 7, 2014, during which time the City held a public scoping meeting on March 11, 2014. Comments on the NOP were received by the City and considered during preparation of the Draft EIR.

The Draft EIR was made available for review by the public and interested parties, agencies, and organizations for a 45-day comment period starting on June 18, 2014 and ending August 1, 2014. The Draft EIR was distributed to local, regional and State agencies. Copies of the Draft EIR in paper or electronic format were available to interested parties for purchase or review at Cupertino City Hall. The Draft EIR was also available for review at libraries in the City and in surrounding communities, and an electronic version of the Draft EIR and all appendices were posted on a website the City created for the combined General Plan and Housing Element projects at www.cupertino.org, which included an electronic comment portal to receive public comment 24 hours a day, seven days a week. The City continues to make these documents available on its website for the Project at the following URL: http://www.cupertino.org/app_folders/view/1. The public was also invited to submit written comments on the Draft EIR to the City of Cupertino Community Development Department by mail or e-mail to planning@cupertino.org.

Notice of availability of the Draft EIR was made in several ways. The City sent a postcard announcing the availability of the Draft EIR and inviting attendance at the Draft EIR comment meeting to all postal addresses in Cupertino. In addition, in accordance with CEQA, the City posted the Notice of Availability (NOA) on the Project website. The City also sent emails providing notice of the Draft EIR's availability to all persons who had indicated an interest in the Project and signed up for notifications through the City's website. The local media publicized the availability of the Draft EIR and the public comment period.

The City held a Community Open House and EIR Comment Meeting during the comment period on June 24, 2014. The City solicited written comments at the meeting by distributing comment cards that were collected at the end of the evening.

The 45-day comment period on the Draft EIR ended on August 1, 2014 at 4:30 p.m. Agencies, organizations, and members of the public submitted written comments on the Draft EIR. The Responses to Comments Document, which is the third volume of the Final EIR, was issued for public review on August 28, 2014 and sent to public agencies who had commented on the Draft EIR. Chapter 5 of the Responses to Comments Document provides responses to the comments received during the comment period on the Draft EIR. Late comments received after the close of the public comment period have been addressed in memoranda submitted to the City Council.

On September 9, 2014, the Planning Commission held a Study Session on the EIR and took public comments. On October 7, 2014, the City Council held a Study Session on the Final EIR and took public comments.

On October 2, 2014, the Environmental Review Committee determined that the EIR was adequate and recommended that the City Council certify the EIR. On October 20, 2014, following a duly noticed public hearing on October 14, 2014 that was continued on October 20, 2014, the City Planning Commission, recommended that the City Council certify the Final EIR.

B. Additional Housing Element Public Review Process

The Housing Element must identify community involvement and decision-making processes and techniques that constitute affirmative steps for receiving input from all economic segments of the community, especially low-income persons and their representatives, as well as from other members of the community. Public participation, pursuant to Section 65583(c)(8) of the Government Code, was accomplished in a variety of ways. Outreach was conducted in the form of in-person interviews with stakeholders including several housing-related non-profits and organizations that provide services to low income families and individuals in the City; and with parties interested in the Housing Element process, including property owners and community groups such as the Concerned Citizens of Cupertino and neighborhood groups. Below are some examples of outreach and noticing conducted as part of the Housing Element update.

- Notice postcard sent to every postal address in the City.
- Joint Housing Commission and Planning Commission workshop – January 23, 2014
- Housing Commission Workshop – February 12, 2014
- Open House – February 19, 2014, September 16, 2014
- Study Session held with Planning Commission – February 19, 2014
- Study Session held with City Council – March 3, 2014
- Housing Commission meeting on housing policy – March 19, 2014
- Joint Planning Commission/City meeting on housing policy – April 1, 2014
- Newspaper notices.
- Notices sent to all prospective housing element site property owners prior to City Council authorization to commence environmental review.

- Notices sent to all prospective housing element site property owners prior to Planning Commission and City Council prioritization of the sites for HCD review.
- Webpage hosted focusing on the Housing Element Update process.
- Notice of website additions and Workshop reminders e-mailed to over 300 Housing Element website subscribers.
- Staff presentations at the Chamber of Commerce.
- Housing Commission Meeting – August 28, 2014
- Planning Commission Hearing – October 14, 2014 and October 20, 2014

The City's outreach also included stakeholder meetings with non-profit and for-profit housing developers, building industry trade groups, architects, planners, and affordable housing funders. The Housing Element update process in the City has involved a number of groups and individuals in the process of reviewing current housing conditions and needs and considering potential housing strategies. Two public workshops were held at Housing Commission meeting and at a Joint Planning Commission Housing Commission meeting. In addition, one publicly noticed Planning Commission Study Session was held and included opportunity for public comment. Feedback from these study sessions and public workshops was used to identify needs, assess constraints and develop draft programs for the Housing Element update, and are included in Section 1.3 of Appendix A of the General Plan.

IV. FINDINGS

The findings, recommendations, and statement of overriding considerations set forth below (the "Findings") are made and adopted by the Cupertino City Council as the City's findings under CEQA and the State CEQA Guidelines relating to the Project. The Findings provide the written analysis and conclusions of this City Council regarding the Project's environmental impacts, mitigation measures, alternatives to the Project, and the overriding considerations that support approval of the Project despite any remaining environmental effects it may have.

These findings summarize the environmental determinations of the Final EIR with regard to project impacts before and after mitigation, and do not attempt to repeat the full analysis of each environmental impact contained in the Final EIR. Instead, these findings provide a summary description of and basis for each impact conclusion identified in the Final EIR, describe the applicable mitigation measures identified in the Final EIR, and state the City's findings and rationale about the significance of each impact following the adoption of mitigation measures. A full explanation of these environmental findings and conclusions can be found in the Final EIR, and these findings hereby incorporate by reference the discussion and analysis in the Final EIR supporting the Final EIR's determinations regarding mitigation measures and the Project's impacts.

When evaluating cumulative impacts, CEQA allows the use of either a list of past, present, and probable future projects, including projects outside the control of the lead agency, or a summary of projections in an adopted planning document. The cumulative impacts analysis in the Final EIR uses the projections approach and takes into account growth from the Project within the Cupertino city boundary and Sphere of Influence (SOI), in combination with impacts from projected growth in the rest of Santa Clara County and the surrounding region, as forecast by the Association of Bay Area Governments (ABAG).

In adopting mitigation measures, below, the City intends to adopt each of the mitigation measures identified in the Final EIR. Accordingly, in the event a mitigation measure identified in the Final EIR has been inadvertently omitted from these findings, such mitigation measure is hereby adopted and incorporated into the Project in the findings below by reference. In addition, in the event the language of a mitigation measure set forth below fails to accurately reflect the mitigation measure in the Final EIR due to a clerical error, the language of the mitigation measure as set forth in the Final EIR shall control unless the language of the mitigation measure has been specifically and expressly modified by these findings.

Sections V and VI, below, provide brief descriptions of the impacts that the Final EIR identifies as either significant and unavoidable or less than significant with adopted mitigation. These descriptions also reproduce the full text of the mitigation measures identified in the Final EIR for each significant impact.

V. SIGNIFICANT AND UNAVOIDABLE ADVERSE IMPACTS AND DISPOSITION OF RELATED MITIGATION MEASURES RESULTING IN SIGNIFICANT AND UNAVOIDABLE ADVERSE IMPACTS

The Final EIR identifies the following significant and unavoidable adverse impacts associated with the approval of the Project, some of which can be reduced, although not to a less-than-significant level, through implementation of mitigation measures identified in the Final EIR. Public Resources Code § 21081(a)(1). In some cases, the City cannot require or control implementation of mitigation measures for certain impacts because they are within the responsibility and jurisdiction of other public agencies. Public Resources Code § 21081(a)(2). Therefore, as explained below, some impacts will remain significant and unavoidable notwithstanding adoption of feasible mitigation measures. To the extent that these mitigation measures will not mitigate or avoid all significant effects on the environment, and because the City cannot require mitigation measures that are within the responsibility and jurisdiction of other public agencies to be adopted or implemented by those agencies, it is hereby determined that any remaining significant and unavoidable adverse impacts are acceptable for the reasons specified in Section XII, below. Public Resources Code § 21081(a)(3). As explained in Section IX, below, the findings in this Section

V are based on the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

A. Impact AQ-1: Implementation of the Project would conflict with or obstruct implementation of the applicable air quality plan.

The Final EIR finds that while the Project would support the primary goals of the 2010 Bay Area Clean Air Plan, the buildout of the Project would conflict with the BAAQMD Bay Area Clean Air Plan goal for community-wide VMT to increase at a slower rate compared to population and employment growth. The rate of growth in VMT would exceed the rate of population and employment growth, resulting in a substantial increase in regional criteria air pollutant emissions in Cupertino.

There are no mitigation measures to reduce this impact to a less-than-significant level. Policies and development standards in the Project would lessen the impact, but due to the level of growth forecast in the city and the programmatic nature of the Project, the impact would be significant and unavoidable.

B. Impact AQ-2: Implementation of the Project would violate any air quality standard or contribute substantially to an existing or projected air quality violation.

The Final EIR finds that future development under the Project would result in a substantial long-term increase in criteria air pollutants over the 26-year General Plan horizon. Criteria air pollutant emissions would be generated from on-site area sources (e.g., fuel used for landscaping equipment, consumer products), vehicle trips generated by the project, and energy use (e.g., natural gas used for cooking and heating). Because cumulative development within the City of Cupertino could exceed the regional significance thresholds, the Project could contribute to an increase in health effects in the basin until such time as the attainment standards are met in the San Francisco Bay Area Air Basin (SFBAAB). The impact is considered significant and unavoidable.

Implementation of Mitigation Measures AQ-2a and AQ-2b, set forth below, which are hereby adopted and incorporated into the Project, would reduce these impacts, but not to a less-than-significant level. Due to the programmatic nature of the Project, no additional mitigation measures are available beyond Mitigation Measures AQ-2a and AQ-2b; therefore, the impact would be significant and unavoidable.

Mitigation Measure AQ-2a:

As part of the City's development approval process, the City shall require applicants for future development projects to comply with the current Bay Area Air Quality Management District's basic control measures for reducing construction emissions of PM10.

Mitigation Measure AQ-2b:

As part of the City's development approval process, the City shall require applicants for future development projects that could generate emissions in excess of the Bay Area Air Quality Management District's (BAAQMDs) current significance thresholds during construction, as determined by project-level environmental review, when applicable, to implement the current BAAQMD construction mitigation measures (e.g. Table 8-3 of the BAAQMD CEQA Guidelines) or any construction mitigation measures subsequently adopted by the BAAQMD.

- C. Impact AQ-3: Implementation of the Project would result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is nonattainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors).**

The Final EIR finds that the Project will combine with regional growth within the air basin to result in a cumulatively considerable net increase of pollutants for the SFBAAB, which is currently designated a nonattainment area for California and National O₃, California and National PM_{2.5}, and California PM₁₀ ambient air quality standards (AAQS). Any project that produces a significant regional air quality impact in an area that is in nonattainment adds to the cumulative impact. Mitigation measures AQ-2a and AQ-2b, set forth and incorporated above, would reduce impacts to the extent feasible, but the Project's impacts would remain significant and unavoidable.

There are no mitigation measures to reduce the impact to a less-than-significant level. Air pollutant emissions associated with the Project would result in a cumulatively considerable contribution to air quality impacts, and the Project's impacts would be significant and unavoidable.

- D. Impact AQ-6: Implementation of the Project would cumulatively contribute to air quality impacts in the San Francisco Bay Area Air Basin.**

As described in the discussion of Impact AQ-3, the Final EIR finds that regional air quality impacts will be significant. Implementation of the Project, in combination with past, present, and reasonably foreseeable projects, would result in a significant cumulative impact with respect to air quality even with the applicable regulations, as well as the Mitigation Measures AQ-2a, AQ-2b, AQ-4a and AQ-4b and the General Plan policies outlined in Impact AQ-1 through AQ-5. Therefore, this cumulative impact would be significant and unavoidable.

There are no mitigation measures to reduce the impact to a less-than-significant level. Implementation of Mitigation Measures AQ-2a, AQ-2b, AQ-4a and AQ-4b and the General Plan policies outlined in Impact AQ-1 through AQ-5, would lessen the impact, but not to a less-than-significant level. Because the San Francisco Bay Area Air Basin is currently

designated as a nonattainment area for California and National O₃, California and National PM_{2.5}, and California PM₁₀ AAQS , the Project's cumulative impact would be significant and unavoidable.

E. Impact NOISE-3: Implementation of the Project would result in a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project.

The Final EIR finds that implementation of the Project would have a significant impact if it results in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the Project. The Final EIR anticipates that there would be substantial permanent increases to ambient noise levels throughout Cupertino as a result of implementation of the Project and ongoing regional growth, and that these increases would result primarily from increases in transportation-related noise, especially noise from automobile traffic.

Although the Project contains policies that could in certain cases reduce or prevent significant increases in ambient noise at sensitive land uses upon implementation (e.g., noise-reducing technologies, rubberized asphalt, soundwalls, berms, and improved building sound-insulation), the measures described in these policies would not be universally feasible, and some of the most effective noise-attenuation measures, including sound walls and berms, would be infeasible or inappropriate in a majority of locations where sensitive land uses already exist.

There are no mitigation measures to reduce the impact to a less-than-significant level. All conceivable mitigations would be either economically impractical, scientifically unachievable, outside the City's jurisdiction, and/or inconsistent with City planning goals and objectives. Therefore, even after the application of relevant, feasible regulations and General Plan policies, the impact to ambient noise levels would remain significant and unavoidable.

F. Impact NOISE-5: Implementation of the Project, in combination with past, present, and reasonably foreseeable projects, would result in significant cumulative impacts with respect to noise.

The Final EIR finds that the analysis of the Project, as described in the discussions of Impact NOISE-3, addresses cumulative noise impacts from implementation of the Project. Similarly, the noise contours and traffic-related noise levels developed for the Project include and account for regional travel patterns as they affect traffic levels in the City. Thus, the future noise modeling which served as the foundation for the overall Project analysis was based on future, cumulative conditions, and finds that implementation of the Project would result in significant cumulative impacts.

The Final EIR finds that even after the application of pertinent policies and strategies of the General Plan Amendment cumulative noise impacts of the Project, as described in the discussion of Impact NOISE-3, would remain significant and unavoidable. Thus, implementation of the Project would result in a significant and unavoidable cumulative impact with respect to noise.

There are no feasible mitigation measures to reduce the impact to a less-than-significant level. As explained in the discussion of Impact NOISE-3, all conceivable cumulative noise mitigations would be economically impractical, scientifically unachievable, outside the City's jurisdiction, and/or inconsistent with City planning goals and objectives, and would be infeasible. Therefore, even after the application of relevant, feasible regulations and General Plan policies, the cumulative impact would remain significant and unavoidable.

G. Impact TRAF-1: Implementation of the Project would conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit.

The Final EIR finds that implementation of the Project would generate additional motor vehicle trips on the local roadway network, resulting in significant impacts to sixteen (16) out of 41 study intersections during at least one of the AM or PM peak hours. See Draft EIR, Table 4.13-13.⁷

Implementation of Mitigation Measure TRAF-1, set forth below, which is hereby adopted and incorporated into the Project, would secure a funding mechanism for future roadway and infrastructure improvements that are necessary to mitigate impacts from future projects based on then current standards, but not to a less-than-significant level. Impacts would remain significant and unavoidable because the City cannot guarantee improvements at these intersections at this time. This is in part because the nexus study has yet to be prepared and because some of the impacted intersections are within the jurisdiction of the City of Sunnyvale, the City of Santa Clara, and Caltrans. The City will continue to cooperate with these jurisdictions to identify improvements that would reduce or minimize the impacts to intersections and roadways as a result of implementation of future development projects in Cupertino, but, because many of the improvements in Mitigation Measure TRAF-1 are within the responsibility and jurisdiction of other agencies and not the City of Cupertino, this impact would remain significant and unavoidable.

⁷ Following completion of the Draft EIR, the impacts to Intersection #29 were determined to be less-than-significant rather than significant. See Supplemental Text Revisions Memo.

Mitigation Measure TRAF-1:

The City of Cupertino shall commit to preparing and implementing a Transportation Mitigation Fee Program to guarantee funding for roadway and infrastructure improvements that are necessary to mitigate impacts from future projects based on the then current City standards. As part of the preparation of the Transportation Mitigation Fee Program, the City shall also commit to preparing a "nexus" study that will serve as the basis for requiring development impact fees under AB 1600 legislation, as codified by California Code Government Section 66000 et seq., to support implementation of the Project. The established procedures under AB 1600 require that a "reasonable relationship" or nexus exist between the transportation improvements and facilities required to mitigate the transportation impacts of new development pursuant to the Project. The following examples of transportation improvements and facilities would reduce impacts to acceptable level of service standards and these, among other improvements, could be included in the development impact fees nexus study:

- ◆ ***SR 85 Northbound Ramps and Stevens Creek Boulevard (#2):*** *An exclusive left-turn lane for the northbound leg of the intersection (freeway off-ramp) at the intersection of SR 85 and Stevens Creek Boulevard would result in one left-turn lane, one all-movement lane, and one right turn lane. The additional lane could be added within the existing Caltrans right-of-way.*
- ◆ ***Stelling Road and Stevens Creek Boulevard (#3):*** *The addition of a second exclusive left-turn lane for the eastbound leg of the intersection from Stevens Creek Boulevard to northbound Stelling Road, which could be accomplished by reworking the median. Right turns would share the bike lane.*
- ◆ ***Sunnyvale-Saratoga Road/De Anza Boulevard and Homestead Road (#5):*** *Widen De Anza Boulevard to four lanes in each direction or the installation of triple left-turn lanes.*
- ◆ ***De Anza Boulevard and I-280 Northbound Ramp (#6):*** *Restriping of De Anza Boulevard in the southbound direction to provide room for right turn vehicles to be separated from through traffic may be required. The bike lane would be maintained, and right turns would occur from the bike lane. The right turns would continue to be controlled by the signal and would need to yield to pedestrians.*
- ◆ ***De Anza Boulevard and Stevens Creek Boulevard (#8):*** *Restripe westbound Stevens Creek Boulevard to provide room for right turn vehicles to be separated from through vehicles may be required. The right turn vehicles will share the bike lane and will still be controlled by the traffic signal. Paint a bike box at the front of the lane to provide bikes a place to wait at red lights. The pedestrian crossings will not be affected may enhance the bicycling experience.*
- ◆ ***De Anza Boulevard and McClellan Road/Pacifica Drive (#9):*** *Realign the intersection that is currently offset resulting in inefficient signal timing such that the McClellan Road and*

Pacifica Drive legs are across from each other may be required. In addition, double left turn lanes may be required to be added to De Anza Boulevard with sections of double lanes on McClellan Road and Pacifica Drive to receive the double left turn lanes. These improvements will require the acquisition of right-of-way and demolition of existing commercial buildings. However, some existing right-of-way could be abandoned, which would reduce the net right-of-way take.

- ◆ ***Wolfe Road and Homestead Road (#16):*** *The addition of a third southbound through lane to the southbound approach of the intersection of Wolfe Road and Homestead Road may be required, as well as the addition of a southbound exclusive right-turn lane. Three southbound receiving lanes on the south side of the intersection currently exist. An additional westbound through lane for a total of three through-movement lanes, an additional receiving lane on Homestead westbound to receive the additional through lane, as well as the addition of a westbound exclusive right-turn lane may be required. This will require widening Homestead Road. An additional eastbound through lane for a total of three through-movement lanes, an additional receiving lane on Homestead eastbound to receive the additional through lane, as well as the addition of an eastbound exclusive left-turn lane for a total of two left-turn lanes may be required. These improvements will require the acquisition of right-of-way and demolition of parking areas.*
- ◆ ***Wolfe Road and I-280 Northbound Ramp (#18):*** *The Apple Campus 2 project will be adding a third northbound through lane starting at the northbound on ramp. This third lane will need to be extended farther south to effectively serve the additional northbound traffic due to the General Plan development. This could require widening the Wolfe Road overcrossing. Right-of-way acquisition may be required. In accordance with Caltrans procedures, a Project Study Report (PSR) will need to be prepared. The PSR will look at all interchange improvement options, which may include widening the overcrossing and may also include a redesign of the interchange to go from a partial cloverleaf design to a diamond design. This could help with heavy volumes in the right lane, which contributes to the level-of-service deficiency.*
- ◆ ***Wolfe Road and I-280 Southbound Ramp (#19):*** *An additional through lane for a total of three through-movement lanes for the northbound leg of the intersection at the Wolfe Road and I-280 Southbound Ramp may be required. This additional northbound through lane would require widening to the freeway overcrossing. In addition to widening the overcrossing, the City may wish to pursue a redesign of the interchange to go from a partial cloverleaf design to a diamond design. This could help with the problem of heavy volume in the right lane, which contributes to the level of service deficiency.*
- ◆ ***Wolfe Road/Miller Avenue and Stevens Creek Boulevard (#21):*** *The restriping of the westbound leg of the intersection to provide room so that right turn vehicles can be separated from through vehicles may be required. Right turn vehicles would share the bike lane. Right turn vehicles would still be controlled by the signal, and pedestrian crossings would not be affected. Paint a bike box at the front of the lane to provide bikes a place to wait at red lights may enhance the bicycling experience.*

- ◆ **North Tantau Avenue/Quail Avenue and Homestead Road (#24):** Restriping of the southbound leg of the intersection (Quail Avenue) to provide a separate left turn lane may be required. This will require the removal of on-street parking near the intersection. The level-of-service calculations show that with implementation of these improvements, the intersection would operate at an acceptable LOS D.
- ◆ **Tantau Avenue and Stevens Creek Boulevard (#27):** The addition of a separate left-turn lane to northbound Tantau Avenue may be required. Right-of-way acquisition and demolition of existing commercial buildings would be required.
- ◆ **Stevens Creek Boulevard and Agilent Technologies Driveway (#30):** The restriping of the westbound leg of the intersection to provide room so that right turn vehicles can be separated from through vehicles may be required. Right turn vehicles would share the bike lane. Right turn vehicles would still be controlled by the signal, and pedestrian crossings would not be affected. Paint a bike box at the front of the lane to provide bikes a place to wait at red lights may enhance the bicycling experience.
- ◆ **Lawrence Expressway Southbound Ramp and Stevens Creek Boulevard (CMP, County)(#31):** The addition of a second right-turn lane for the southbound leg of the intersection at the Lawrence Expressway Southbound Ramp and Stevens Creek Boulevard may be required. Both lanes would need to be controlled by the signal, and disallow right turns on red. Right-of-way acquisition may be required.
- ◆ **Lawrence Expressway Northbound Ramp and Stevens Creek Boulevard (CMP, County) (#32):** Redesign of the northbound leg of the intersection at the Lawrence Expressway Northbound Ramp and Stevens Creek Boulevard to provide one through-movement lane, and one exclusive right-turn lane may be required. Right-of-way acquisition would be required.

The fees shall be assessed when there is new construction, an increase in square footage in an existing building, or the conversion of existing square footage to a more intensive use. The fees collected shall be applied toward circulation improvements and right-of-way acquisition. The fees shall be calculated by multiplying the proposed square footage, dwelling unit, or hotel room by the appropriate rate. Traffic mitigation fees shall be included with any other applicable fees payable at the time the building permit is issued. The City shall use the traffic mitigation fees to fund construction (or to recoup fees advanced to fund construction) of the transportation improvements identified above, among other things that at the time of potential future development may be warranted to mitigate traffic impacts.

- H. Impact TRAF 2: Implementation of the Project would conflict with an applicable congestion management program, including, but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways.**

The Final EIR finds that of the 41 intersections studied in the EIR traffic analysis, 21 are included in Santa Clara County's Congestion Management Program (CMP). See Table 4.3-13, Draft EIR. The Project would result in significant impacts to 11 CMP intersections during at least one of the peak hours. Implementation of Mitigation Measure TRAF-1, set forth and incorporated above, would reduce these impacts, but not to a less-than-significant level.

Mitigation Measure:

Implement Mitigation Measure TRAF-1.

As described in the discussion of Impact TRAF-1, because many of the improvements in Mitigation Measure TRAF-1 are within the responsibility and jurisdiction of other agencies and not the City of Cupertino, these impacts would remain significant and unavoidable.

- I. Impact TRAF-6: Implementation of the Project, in combination with past, present, and reasonably foreseeable projects, would result in additional cumulatively considerable impacts.**

The Final EIR finds that the analysis of the Project, as described in the discussions of Impact TRAF-1 and Impact TRAF-2, addresses cumulative impacts to the transportation network in the city and its surroundings; accordingly, cumulative impacts would be the same as Project-specific impacts. Therefore, the cumulative impacts to the City's transportation network resulting from the Project would be significant and unavoidable.

Mitigation Measure:

Implement Mitigation Measure TRAF-1.

As discussed under TRAF-1, because many of the improvements in Mitigation Measure TRAF-1 are within the responsibility and jurisdiction of other agencies and not the City of Cupertino, this cumulative impact would remain significant and unavoidable.

VI. SIGNIFICANT ADVERSE IMPACTS IDENTIFIED IN THE FINAL EIR THAT ARE REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL BY MITIGATION MEASURES ADOPTED AND INCORPORATED INOT THE PROJECT

The Final EIR identifies the following significant impacts associated with the Project. It is hereby determined that the impacts addressed by these mitigation measures will be mitigated to a less than significant level or avoided by adopting and incorporating these mitigation measures conditions into the Project. Public Resources Code § 21081(a)(1). As explained in Section IX, below, the findings in this Section VI are based on the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

A. Impact AQ-4: Implementation of the Project would expose sensitive receptors to substantial concentrations of air pollution.

The Final EIR finds that the Project could result in locating sensitive receptors in proximity to major sources of air pollution or the siting of new sources of air pollution in proximity to sensitive receptors in the city. Nonresidential land uses that generate truck trips may generate substantial quantities of air pollutants within 1,000 feet of off-site sensitive receptors. In addition, proposed sensitive land uses in Cupertino may be within 1,000 feet of major sources of air pollutants, which would create a significant and unavoidable impact.

Implementation of the Mitigation Measures AQ-4a and AQ-4b, set forth below, which are hereby adopted and incorporated into the Project, would reduce this impact to a less-than-significant level.

Mitigation Measure AQ-4a:

Applicants for future non-residential land uses within the city that: 1) have the potential to generate 100 or more diesel truck trips per day or have 40 or more trucks with operating diesel-powered Transport Refrigeration Units (TRUs), and 2) are within 1,000 feet of a sensitive land use (e.g. residential, schools, hospitals, nursing homes), as measured from the property line of the Project to the property line of the nearest sensitive use, shall submit a health risk assessment (HRA) to the City of Cupertino prior to future discretionary Project approval. The HRA shall be prepared in accordance with policies and procedures of the State Office of Environmental Health Hazard Assessment and the Bay Area Air Quality Management District. If the HRA shows that the incremental cancer risk exceeds ten in one million (10E-06), PM_{2.5} concentrations exceed 0.3 µg/m³, or the appropriate noncancer hazard index exceeds 1.0, the applicant will be required to identify and demonstrate that Best Available Control Technologies for Toxics (T-BACTs) are capable of reducing potential cancer and noncancer risks to an acceptable level, including appropriate enforcement mechanisms. T-BACTs may include but are not limited to:

- *Restricting idling on-site.*
- *Electrifying warehousing docks.*
- *Requiring use of newer equipment and/or vehicles.*
- *Restricting offsite truck travel through the creation of truck routes.*

T-BACTs identified in the HRA shall be identified as mitigation measures in the environmental document and/or incorporated into the site development plan as a component of the Project.

Mitigation Measure AQ-4b:

Applicants for residential and other sensitive land use projects (e.g. hospitals, nursing homes, day care centers) in Cupertino within 1,000 feet of a major sources of TACs (e.g. warehouses, industrial areas, freeways, and roadways with traffic volumes over 10,000 vehicle per day), as measured from

the property line of the project to the property line of the source/edge of the nearest travel lane, shall submit a health risk assessment (HRA) to the City of Cupertino prior to future discretionary Project approval. The HRA shall be prepared in accordance with policies and procedures of the State Office of Environmental Health Hazard Assessment (OEHHA) and the Bay Area Air Quality Management District. The latest OEHHA guidelines shall be used for the analysis, including age sensitivity factors, breathing rates, and body weights appropriate for children age 0 to 16 years. If the HRA shows that the incremental cancer risk exceeds ten in one million (10E-06), PM2.5 concentrations exceed 0.3 µg/m3, or the appropriate noncancer hazard index exceeds 1.0, the applicant will be required to identify and demonstrate that mitigation measures are capable of reducing potential cancer and non-cancer risks to an acceptable level (i.e. below ten in one million or a hazard index of 1.0), including appropriate enforcement mechanisms. Measures to reduce risk may include but are not limited to:

- *Air intakes located away from high volume roadways and/or truck loading zones.*
- *Heating, ventilation, and air conditioning systems of the buildings provided with appropriately sized Maximum Efficiency Rating Value (MERV) filters.*

Mitigation measures identified in the HRA shall be identified as mitigation measures in the environmental document and/or incorporated into the site development plan as a component of the Project. The air intake design and MERV filter requirements shall be noted and/or reflected on all building plans submitted to the City and shall be verified by the City's Planning Division.

B. Impact BIO-1: Implementation of the Project would have a substantial adverse effect, either directly or through habitat modifications, on a plant or animal population, or essential habitat, defined as a candidate, sensitive or special-status species.

The Final EIR finds that some special-status bird species such as Cooper's hawk and white-tailed kite could utilize the remaining riparian corridors and heavily wooded areas for nesting, dispersal and other functions when they pass through urbanized areas. More common birds protected under MBTA may nest in trees and other landscaping on the Project Component locations. Given the remote potential for occurrence of nesting birds at one or more of the Project Component locations and possibility that nests could be inadvertently destroyed or nests abandoned as a result of construction activities, this would be considered a potentially significant impact.

Implementation of Mitigation Measure BIO-1, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure BIO-1:

Nests of raptors and other birds shall be protected when in active use, as required by the federal Migratory Bird Treaty Act and the California Department of Fish and Game Code. If construction activities and any required tree removal occur during the breeding season (February 1 and August 31), a qualified biologist shall be required to conduct surveys prior to tree removal or construction activities. Preconstruction surveys are not required for tree removal or construction activities outside the nesting period. If construction would occur during the nesting season (February 1 to August 31), preconstruction surveys shall be conducted no more than 14 days prior to the start of tree removal or construction. Preconstruction surveys shall be repeated at 14-day intervals until construction has been initiated in the area after which surveys can be stopped. Locations of active nests containing viable eggs or young birds shall be documented and protective measures implemented under the direction of the qualified biologist until the nests no longer contain eggs or young birds. Protective measures shall include establishment of clearly delineated exclusion zones (i.e. demarcated by identifiable fencing, such as orange construction fencing or equivalent) around each nest location as determined by a qualified biologist, taking into account the species of birds nesting, their tolerance for disturbance and proximity to existing development. In general, exclusion zones shall be a minimum of 300 feet for raptors and 75 feet for passerines and other birds. The active nest within an exclusion zone shall be monitored on a weekly basis throughout the nesting season to identify signs of disturbance and confirm nesting status. The radius of an exclusion zone may be increased by the qualified biologist if project activities are determined to be adversely affecting the nesting birds. Exclusion zones may be reduced by the qualified biologist only in consultation with California Department of Fish and Wildlife. The protection measures shall remain in effect until the young have left the nest and are foraging independently or the nest is no longer active.

- C. Impact BIO-6: Implementation of the Project, in combination with past, present, and reasonably foreseeable projects, would result in significant cumulative impacts with respect to biological resources.**

The Final EIR finds that implementation of the Project could result in further conversion of existing natural habitats to urban and suburban conditions, limiting the existing habitat values of the surrounding area and potentially resulting in significant cumulative impacts with respect to biological resources.

With implementation of Mitigation Measure BIO-1, set forth and incorporated above, the Project would not make a cumulatively considerable contribution to this cumulative impact, and the impact would be less than significant.

Mitigation Measure:

Implement Mitigation Measure BIO-1.

- D. Impact HAZ-4: Implementation of the Project would be located on a site which is included on a list of hazardous materials sites compiled pursuant**

to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment.

The Final EIR finds that because hazardous materials are known to be present in soil, soil gas, and/or groundwater due to past land uses at certain sites that may be redeveloped as part of the Project, the direct contact, inhalation, or ingestion of hazardous materials could potentially cause adverse health effects to construction workers and future site users. The severity of health effects would depend on the contaminant(s), concentration, use of personal protective equipment during construction, and duration of exposure. The disturbance and release of hazardous materials during earthwork activities, if present, could pose a hazard to construction workers, nearby receptors, and the environment and impacts could be potentially significant.

Implementation of Mitigation Measures HAZ-4a and HAZ-4b, set forth below, which are hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure HAZ-4a:

Construction at the sites with known contamination shall be conducted under a project-specific Environmental Site Management Plan (ESMP) that is prepared in consultation with the Regional Water Quality Control Board (RWQCB) or the Department of Toxic Substances Control (DTSC), as appropriate. The purpose of the ESMP is to protect construction workers, the general public, the environment, and future site occupants from subsurface hazardous materials previously identified at the site and to address the possibility of encountering unknown contamination or hazards in the subsurface. The ESMP shall summarize soil and groundwater analytical data collected on the project site during past investigations; identify management options for excavated soil and groundwater, if contaminated media are encountered during deep excavations; and identify monitoring, irrigation, or other wells requiring proper abandonment in compliance with local, State, and federal laws, policies, and regulations.

The ESMP shall include measures for identifying, testing, and managing soil and groundwater suspected of or known to contain hazardous materials. The ESMP shall: 1) provide procedures for evaluating, handling, storing, testing, and disposing of soil and groundwater during project excavation and dewatering activities, respectively; 2) describe required worker health and safety provisions for all workers potentially exposed to hazardous materials in accordance with State and federal worker safety regulations; and 3) designate personnel responsible for implementation of the ESMP.

Mitigation Measure HAZ-4b:

For those sites with potential residual contamination in soil, gas, or groundwater that are planned for redevelopment with an overlying occupied building, a vapor intrusion assessment shall be performed

by a licensed environmental professional. If the results of the vapor intrusion assessment indicate the potential for significant vapor intrusion into an occupied building, project design shall include vapor controls or source removal, as appropriate, in accordance with regulatory agency requirements. Soil vapor mitigations or controls could include vapor barriers, passive venting, and/or active venting. The vapor intrusion assessment and associated vapor controls or source removal can be incorporated into the ESMP (Mitigation Measure HAZ-4a).

- E. Impact HAZ-7: Implementation of the Project, in combination with past, present, and reasonably foreseeable projects, would result in less than significant cumulative impacts with respect to hazards and hazardous materials.**

The Final EIR takes into account growth projected by the Project within the Cupertino city boundary and Sphere of Influence (SOI), in combination with impacts from projected growth in the rest of Santa Clara County and the surrounding region, as forecast by the Association of Bay Area of Governments (ABAG). Potential cumulative hazardous materials impacts could arise from a combination of the development of the Project together with the regional growth in the immediate vicinity of the Project Study Area. As discussed under Impact HAZ-4, disturbance and release of hazardous materials during earthwork activities, if present, could pose a hazard to construction workers, nearby receptors, and the environment and impacts could be potentially significant.

With implementation of Mitigation Measures HAZ-4a and HAZ-4b, set forth and incorporated above, in conjunction with compliance with General Plan policies and strategies, other local, regional, State, and federal regulations, the Project would not make a cumulatively considerable contribution to this cumulative impact, and the impact would be less than significant.

Mitigation Measure:

Implement Mitigation Measures HAZ-4a and HAZ-4b.

- F. Impact UTIL-6: Implementation of the Project would result in a determination by the wastewater treatment provider, which serves, or may serve the project, that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.**

Buildout of the Project would have a significant impact if future projected demand exceeds the wastewater service capacity of the San Jose/Santa Clara Water Pollution Control Plan (SJ/SCWPCP) or the Sunnyvale Water Pollution Control Plan (SWPCP), or the Cupertino Sanitary District (CSD) or City of Sunnyvale collection systems.

Implementation of Mitigation Measures UTIL-6a, UTIL-6b, and UTIL-6c, set forth below, which are hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure UTIL-6a:

The City shall work with the Cupertino Sanitary District to increase the available citywide treatment and transmission capacity to 8.65 million gallons per day, or to a lesser threshold if studies justifying reduced wastewater generation rates are approved by CSD as described in Mitigation Measure UTIL-6c.

Mitigation Measure UTIL-6b:

The City shall work to establish a system in which a development monitoring and tracking system to tabulate cumulative increases in projected wastewater generation from approved projects for comparison to the Cupertino Sanitary District's treatment capacity threshold with San Jose/Santa Clara Water Pollution Control Plant is prepared and implemented. If it is anticipated that with approval of a development project the actual system discharge would exceed the contractual treatment threshold, no building permits for such project shall be issued prior to increasing the available citywide contractual treatment and transmission capacity as described in Mitigation Measure UTIL-6a.

Mitigation Measure UTIL-6c:

The City shall work with the Cupertino Sanitary District to prepare a study to determine a more current estimate of the wastewater generation rates that reflect the actual development to be constructed as part of Project implementation. The study could include determining how the green/LEED certified buildings in the City reduce wastewater demands.

G. Impact UTIL-7: Implementation of the Project, in combination with past, present, and reasonably foreseeable projects, would not result in significant cumulative impacts with respect to wastewater treatment.

The Final EIR finds that buildout of the Project would generate a minor increase in the volume of wastewater delivered for treatment at SJ/SCWPCP and SWPCP, representing less than 1 percent of the available treatment capacity at the SJ/SCWPCP and SWPCP, and it would occur incrementally over a period of 26 years. Based on the recent trends of diminishing wastewater treatment demand and the projected population growth in the service areas, cumulative wastewater treatment demand over the Project buildout period is far below the excess capacity of the SJ/SCWPCP and SWPCP. Because the cumulative demand would not substantially impact the existing or planned capacity of the wastewater treatment systems, which have sufficient capacity for wastewater that would be produced

by the Project, the construction of new wastewater treatment facilities would not be necessary.

With implementation of Mitigation Measures UTIL-6a, UTIL-6b and UTIL-6c, set forth and incorporated above, cumulative development combined with the Project would not exceed wastewater treatment requirements. Therefore, the Project would not make a cumulatively considerable contribution to this cumulative impact, and the impact would be less than significant.

Mitigation Measure:

Implement Mitigation Measures UTIL-6a, UTIL-6b, and UTIL-6c.

- H. Impact UTIL-8: The Project would not be served by a landfill(s) with sufficient permitted capacity to accommodate the Project's solid waste disposal needs.**

The Final EIR finds that anticipated rates of solid waste disposal would have a less-than-significant impact with regard to target disposal rates, and that the City would continue its current recycling ordinances and zero-waste policies. Nevertheless, the 2023 termination of the agreement between the Newby Island Landfill facility, as well as that facility's estimated closure date in 2025, would result in insufficient solid waste disposal capacity at buildout of the Project, resulting in a significant impact.

Implementation of Mitigation Measure UTIL-8, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impacts to a less-than-significant level.

Mitigation Measure UTIL-8:

The City shall continue its current recycling ordinances and zero-waste policies in an effort to further increase its diversion rate and lower its per capita disposal rate. In addition, the City shall monitor solid waste generation volumes in relation to capacities at receiving landfill sites to ensure that sufficient capacity exists to accommodate future growth. The City shall seek new landfill sites to replace the Altamont and Newby Island landfills, at such time that these landfills are closed.

- I. Impact UTIL-10: Implementation of the Project, in combination with past, present and reasonably foreseeable projects, would result in significant cumulative impacts with respect to solid waste.**

The Final EIR finds that buildout of the Project will increase the quantity of solid waste for disposal. AB 939 established a goal for all California cities to provide at least 15 years of ongoing landfill capacity; however, growth from other cities in the region may exceed the growth that was taken into account when determining landfill capacity. Also, because the

Newby Island Landfill facility, which currently takes approximately 92 percent of the City's solid waste, is expected to close in 2025, Cupertino may eventually experience insufficient landfill capacity to accommodate existing or increased population and employment levels. Although implementation of existing waste reduction programs and diversion requirements would reduce the potential for exceeding existing capacities of landfills, the potential lack of landfill capacity for disposal of solid waste would be a significant cumulative impact.

With implementation of Mitigation Measure UTIL-8, set forth and incorporated above, the Project would not make a cumulatively considerable contribution to this cumulative impact, and the impact would be less than significant.

Mitigation Measure

Implement Mitigation Measure UTIL-8.

VII. GROWTH INDUCING IMPACTS

An EIR is required to discuss growth inducing impacts, which consist of the ways in which the project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. State CEQA Guidelines § 15126.2(d); Public Resources Code § 21100(b)(5). Direct growth inducement would result, for example, if a project involves the construction of substantial new housing that would support increased population in a community or establishes substantial new permanent employment opportunities. This additional population could, in turn, increase demands for public utilities, public services, roads, and other infrastructure. Indirect growth inducement would result if a project stimulates economic activity that requires physical development or removes an obstacle to growth and development (e.g., increasing infrastructure capacity that would enable new or additional development). It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment. State CEQA Guidelines § 15126.2(d). Section 6.3 of the Draft EIR analyzes the growth inducing impacts of the Project. As explained in Section IX, below, the findings in this Section VII are based on the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

Implementation of the Project would directly induce population, employment and economic growth by replenishing the commercial, residential, hotel, and office space allocation within some areas of the city. The Project would result in the following growth patterns based on the expected growth assumptions for the city boundary:

- Implementation of the Project to the year 2040 would result in increased office space development allocation of approximately 2,540,231 square feet. This would result in a total anticipated office space of approximately 11,470,005 square feet by 2040.⁸
- Implementation of the Project to the year 2040 would result in a commercial space development allocation of approximately 1,343,679 square feet, which is an increase of 642,266 square feet in the allocation pool but a net increase of 0 square feet. That is because all 642,266 square feet of increase allocation would come from demolition and rebuilding of existing commercial square footage (see footnote 5, above). This would result in a total anticipated commercial space of approximately 4,430,982 square feet by 2040.⁹
- Implementation of the Project to the year 2040 would result in increased hotel room development allocation of approximately 1,339 rooms. This would result in a total anticipated hotel room inventory of approximately 2,429 rooms by 2040.¹⁰
- Implementation of the Project to the year 2040 would result in increased residential unit development allocation of approximately 4,421 units. This would result in a total anticipated residential unit inventory of approximately 25,820 residential units by 2040.¹¹

State law requires the City to promote the production of housing to meet its Regional Housing Needs Allocation made by ABAG. The housing and commercial/ industrial growth in Cupertino would allow the City to address its regional fair-share housing obligations.

The Project is considered growth inducing because it encourages new growth in the urbanized areas of Cupertino. Development in these areas would consist of infill development on underutilized sites, sites that have been previously developed, and sites that are vacant and have been determined to be suitable for development. However, because infrastructure is largely in place and commercial or office growth would be required to comply with the City's General Plan, Zoning regulations and standards for public services and utilities; secondary or indirect effects associated with this growth do not represent a new significant environmental impact which has not already been addressed in the individual resource chapters of this EIR.

⁸ Existing built/approved office space was 8,929,774 square feet in 2013.

⁹ Existing built/approved commercial space was 3,729,569 square feet in 2013.

¹⁰ Existing built/approved hotel rooms are 1,090 rooms. With the remaining commercial allocation, commercial buildout by 2040 is estimated to be 4,430,982 square feet. Cupertino Community Development Department (October 31, 2014).

¹¹ Existing built/approved residential units was 21,339 units in 2014.

VIII. ALTERNATIVES

The Final EIR analyzed four alternatives, examining the environmental impacts and feasibility of each alternative, as well as the ability of the alternatives to meet project objectives. The project objectives are listed in Chapter 3 (Project Description) of the Draft EIR; the potentially significant environmental effects of the Project, including feasible mitigation measures identified to avoid these impacts, are analyzed in Chapter 4 (Environmental Evaluation) of the Draft EIR; and the alternatives are described in detail in Chapter 5 (Alternatives to the Proposed Project) of the Draft EIR.

Brief summaries of the alternatives are provided below. A brief discussion of the Environmentally Superior Alternative follows the summaries of the alternatives. As explained in Section IX, below, the findings in this Section VII are based on the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

A. The No Project Alternative

CEQA requires evaluation of the “no project” alternative. State CEQA Guidelines § 15126.6(e). Consistent with State CEQA Guidelines section 15126.6(e)(3)(A), the No Project Alternative assumes that growth and development would continue to occur under the provisions of the current 2000-2020 General Plan, including the development allocations for office and commercial space, and hotel and residential unit allocations. Thus, no new development potential beyond what is currently permitted in the 2000-2020 General Plan would occur.

As shown in Draft EIR Table 5-1, the No Project Alternative would allow for the following new development allocations:

- **Office allocation: 540,231 square feet** (no net increase from 2000-2020 General Plan)
- **Commercial allocation: 701,413 square feet** (no net increase from 2000-2020 General Plan)
- **Hotel allocation: 339 rooms** (no net increase from 2000-2020 General Plan)
- **Residential allocation: 1,895 units** (no net increase from 2000-2020 General Plan)

As discussed in Section 5.1.7 of the Draft EIR, the No Project Alternative would not achieve any of the City’s project objectives, which are as follows, except that it would provide for the RHNA for the 20014-2022 planning period:

- Emphasize employment and a mix of economic development opportunities by replenishing, reallocating, and increasing city-wide office, commercial, and hotel, allocations in order to capture:

- A share of the regional demand for office and hotel development, and
- Retail sales tax leakage in the trade area.
- Address local needs and regional requirements for new housing, including affordable housing, in Cupertino by replenishing, re-allocating and increasing city-wide residential allocations to be consistent with 2040 Bay Area Plan projections to allow flexibility for the city when future state-mandated updates are required to the Housing Element.
- Update the Housing Element as required by State law.
- Creating opportunities for mixed-use development consistent with Regional Sustainable Communities Strategies for greenhouse gas emissions reductions as required by SB 375.
- Investing in improvement to adapt to climate change over time.
- Consider increased heights in key nodes and gateways, if proposed development provides retail development and benefits directly to the community.
- Update General Plan policies to implement multi-modal traffic standards as opposed to LOS thresholds currently identified. Balancing development objectives with transportation constraints and opportunities.
- Revitalize the Vallco Shopping District by adopting policies to support its redevelopment, so it becomes a cohesive, vibrant shopping and entertainment destination that serves both the region and the local community.

For the foregoing reasons, the No Project Alternative is hereby rejected as infeasible.

B. Land Use Alternative A

Land Use Alternative A identifies how growth would occur if the City largely continues the policies of the current 2005 General Plan, while making minor development allocation and boundary changes. The 2005 General Plan land use standards would continue to apply to Vallco Shopping Mall, and it would not be redeveloped in any substantial manner. Alternative A would increase city-wide office and hotel allocation but would not increase allocations for commercial and residential uses. No maximum height increases are proposed under this alternative.

As shown in Draft EIR Table 5-1, the Land Use Alternative A would allow for the following new development allocations:

- **Office allocation: 1,040,231 square feet** (net increase of 500,000 square feet from the 2000-2020 General Plan)
- **Commercial allocation: 701,413 square feet** (no net increase from the 2000-2020 General Plan)
- **Hotel allocation: 600 rooms** (net increase of 261 rooms from the 2000-2020 General Plan)
- **Residential: 1,895 units** (no net increase from the 2000-2020 General Plan)

As discussed in Section 5.2.8 of the Draft EIR, Alternative A would not achieve the project objectives concerning local needs and regional requirements for new housing, including affordable housing, in Cupertino, because it would not provide sufficient residential units to meet the City's Regional Housing Needs Allocation (RHNA) of 1,064 units minus 62, or 1,002 units. In order to fully comply with the RHNA, the City would need to provide a moderate surplus of 25% to 40 % in addition to the 1,002 units or approximately 1,250 to 1,400 units. Alternative A only allows for a surplus of only eight units, however. Alternative A also would not increase the allocation of residential units to accommodate Plan Bay Area projections for residential growth by 2040 (4,421 units).

Alternative A fails to meet project objectives with regard to reallocating, replenishing and increasing city-wide office, commercial and hotel allocations for purposes of economic development, because Alternative A does not allow for any commercial growth beyond that allocated under the 2000-2020 General Plan and allows in insufficient amount of office and hotel growth. Further, Alternative A does not meet the project objective to consider increased heights in key Nodes and Gateways, because no maximum height increases are proposed under this alternative.

Alternative A also does not meet the City's objective of creating mixed use development consistent with Plan Bay Area and SB 375, because it would not concentrate development in major transportation corridors to the same degree as Alternatives B and C and the Balanced Plan. Alternative A does not envision a complete redevelopment for Vallco Shopping District that would involve adding office and residential uses as in Alternatives B and C. This would not completely meet the project objective to revitalize the Shopping District so it becomes a cohesive, vibrant shopping and entertainment destination that serves both the region and the local community.

For the foregoing reasons, Land Use Alternative A is hereby rejected as infeasible.

C. Land Use Alternative B

Land Use Alternative B identifies how the City can focus development along major mixed-use corridors in order to create more complete commercial, office and entertainment areas,

and to address mid-term housing needs. It would increase development allocations for office, commercial and hotel land uses in order to better capture retail sales leakage and regional demand for office development. Alternative B also envisions the transformation of the Vallco Shopping Mall into a retail, employment, housing and entertainment destination, but possibly at a slightly smaller scale than under Alternative C. Although the zoning and land use designations are the same in the Alternative B and Alternative C, the Foothill Market and Bateh Housing Element sites were not studied as part of Alternative B. Alternative B would allow for revised density and height standards at key Gateways and Nodes within Special Areas along major transportation corridors that are different from Alternative C. Alternative B also would increase residential allocations to the amount necessary to meet the City's housing need of 1,002 units plus a moderate surplus of 25% to 40%, or approximately 1,250 to 1,400 units, but would increase the allocation of residential units to accommodate only 75 percent of Plan Bay Area projections for residential growth by 2040.

As shown in Draft EIR Table 5-1 and the Supplemental Text Revisions, the Land Use Alternative B would allow for the following new development allocations:

- **Office allocation: 2,540,231 square feet** (net increase of 2,000,000 square feet from the 2000-2020 General Plan)
- **Commercial allocation: 1,343,679 square feet** (net increase of 0 square feet from the 2000-2020 General Plan)¹²
- **Hotel allocation: 839 rooms** (net increase of 500 rooms from the 2000-2020 General Plan)
- **Residential: 3,316 units** (net increase of 1,421 units from the 2000-2020 General Plan)

While Alternative B meets all of the project objectives, in comparison with the Balanced Plan, described in Section II.A, above, the commercial, hotel, and residential allocations under Alternative B would not strike the optimal balance in attempting to achieve the City's economic development objectives. Furthermore, as described in Section 5.3.8 of the Draft EIR, Alternative B would not go as far as Alternative C in meeting project objectives with regard to reallocating, replenishing and increasing city-wide commercial and hotel allocations for purposes of economic development, and replenishment of the residential allocation because it would add less office square footage and fewer hotel rooms, thereby failing to capture as much regional demand for office and hotel uses and failing to capture as much retail sales tax leakage. Similar to the Balanced Plan, Alternative B envisions that the Vallco Shopping District will be completely redeveloped. Alternative B allows for 500 fewer hotel rooms and 1,105 fewer residential units than the Balanced Plan, however.

¹² See footnote 5, above.

The City commissioned a Market Study¹³ which indicates that the City has a strong market for office, hotel room and residential development. An allocation of only 500 hotel rooms and only 75 percent of the Plan Bay Area projection for residential development by 2040 would not achieve the City's goal of capturing a share of the regional demand for hotel development or meeting the City's goals of providing fewer affordable housing options.

For the foregoing reasons, Land Use Alternative B is hereby rejected as infeasible.

D. Land Use Alternative C

Land Use Alternative C identifies a way to transform the Vallco Shopping Mall into a locally and regionally significant retail, employment, housing and entertainment destination, and account for a large portion of the City's RHNA. Similar to the Balanced Plan, Alternative B envisions that the Vallco Shopping District will be completely redeveloped. In addition, under Alternative C, the Vallco area would become the "downtown" of Cupertino, serving the mixed-use hub for residents, workers and the larger region. Alternative C would increase development allocations to levels higher than those that would be allowed under either Land Use Alternative A or Land Use Alternative B in order to fully capture retail sales leakage and regional demand for office and hotel development. Alternative C would allow for revised height standards at key Gateways and Nodes within Special Areas along major transportation corridors at heights greater than those allowed under Alternative B. The increases in heights and densities in key Nodes, Gateways and Sub-areas are consistent with the City's goals of concentrating development along the five mixed-use corridors. Alternative C also would increase residential allocations to the amount necessary to meet the City's housing need of 1,002 units plus a moderate surplus 25% to 40%, or approximately 1,250 to 1,400 units, and would increase the allocation of residential units to accommodate 100 percent of Plan Bay Area projections for residential growth by 2040.

As shown in Draft EIR Table 5-1 and the Supplemental Text Revisions, the Land Use Alternative C (the "proposed Project" in the EIR) would allow for the following new development allocations:

- **Office allocations: 4,040,231 square feet** (net increase of 3,500,000 square feet from the 2000-2020 General Plan)
- **Commercial allocation: 1,343,679 square feet** (net increase of 0 square feet from the 2000-2020 General Plan)¹⁴
- **Hotel allocation: 1,339 rooms** (net increase of 1,000 rooms from the 2000-2020 General Plan)

¹³ BAE Urban Economics, General Plan Amendment Market Study (February 13, 2014).

¹⁴ See footnote 5, above.

- **Residential allocation: 4,421 units** (net increase of 2,526 units from the 2000-2020 General Plan)

While Land Use Alternative C would meet all of the project objectives, the combination of the office allocation in Alternative C together with the other land use allocations in Alternative C would not be as effective or as balanced as the Balanced Plan, which includes the lower office allocation in Alternative B, in achieving the project objective of creating a mix of economic development opportunities.

Furthermore, the environmental effects from the larger office allocation in Alternative C would be marginally greater than the environmental effects from the office allocation in the Balanced Plan (which has the same office allocation as Alternative B). That is because the Alternative C office allocation is 59 percent greater than the office allocation in the Balanced Plan. Increased allocation to office development would mean more jobs and, as people move to Cupertino to fill those jobs, a higher population. Draft EIR Table 5-2 projects a 70 percent greater increase in jobs and a 75 percent greater increase in population under Alternative C compared to the increases under Alternative B. The increased development and population growth resulting from the Alternative C office allocation would have greater effects on the environment than the office allocation component of the Balanced Plan and Alternative B. Alternative B would reduce air quality impacts, as described in the analysis of Impact AIR-1, because the Vehicle Miles Traveled (VMT) for Alternative B is lower and reduces the impact to less than significant. See Draft EIR Table 5.5. This is because the mix of development in the Balanced Plan, which includes the same office allocation as Alternative B, represented a better balance of development. In categories where all of the alternatives were found to have significant and unavoidable impacts, namely air quality, noise, and traffic, Land Use C's office allocation would result in greater environmental impacts, as it represents the greatest amount of development, which would result in higher consumption of non-renewable resources, generate the greatest amount of waste and pollutants, and increase the demand of public facilities and infrastructure.

For the foregoing reasons, Land Use Alternative C is hereby rejected as infeasible.

E. Environmentally Superior Alternative

In addition to the discussion and comparison of impacts of the Balanced Plan and the Alternatives, Section 15126.6(e)(2) of the State CEQA Guidelines requires that an "environmentally superior" alternative be selected and the reasons for such a selection be disclosed. The environmentally superior alternative is the alternative that would be expected to create the least significant environmental effects. Identification of the environmentally superior alternative is an informational procedure and the alternative selected may not be the alternative that best meets the goals or needs of Cupertino.

As shown in Draft EIR Table 5-5, the impacts associated with each of the four land use scenarios analyzed in this EIR would essentially be the same. As previously stated, this is

because the recommended mitigation measures would apply to all of the alternatives, and compliance with the General Plan policies designed to reduce environmental impacts would also apply to all future development in Cupertino. However, as shown in Draft EIR Table 5-5, for Land Use Alternative B air quality Impact AQ-1 (Conflict with or obstruct implementation of the applicable air quality plan) would be less than significant for Alternative B but would be significant and unavoidable for the other alternatives. That is because the mix of development in Alternative B would increase office square footage, but to all lesser extent than Alternative C, while at the same time increasing the residential allocation unlike Alternative A and the No Project Alternative.

While Alternative C represents the maximum extent of residential development anticipated by the Plan Bay Area for Cupertino by 2040, Alternative C's higher increase in office square footage (4,040,231 square feet compared to the lower office increase in Alternative B of 2,540,231 square feet), together with the total increase in residential allocation, does not reflect a balanced jobs-housing ratio that results in lower per capita VMT when compared to Alternative B. Under Alternative C, land uses allocations in the General Plan would generate 897,419 VMT per day (10.47 miles per service population per day in 2013). Based on the future estimates of VMT per person for Cupertino for year 2040, 1,264,271 VMT per day (10.94 miles per service population per day in 2040) would be generated in Cupertino. Accordingly, the daily VMT in the Project Study Area under Alternative C would increase at a slightly greater rate (40.9 percent) between 2013 and 2040 than would the service population of the Project Study Area (34.8 percent). In comparison, under Alternative B, based on the future estimates of VMT per person for Cupertino for year 2040, 1,097,596 VMT per day (10.24 miles per service population per day in 2040) would be generated in the City. Under Alternative B, daily VMT in the Project Study Area would increase at a slower rate (22.3 percent) between 2013 and 2040 than would the service population of the Project Study Area (25.0 percent). When the VMT increase is less than or equal to the projected population increase, this represents a balanced jobs-housing ratio.

In identifying an Environmental Superior Alternative, the analysis in the EIR is based on the principle that less development would mean reduced effects on the environment. Each incremental increase in development allocations among the alternatives represents increased population and activity which would result in increased noise, air quality, greenhouse gas, traffic, and utilities impacts. Although a number of these impacts would be significant and unavoidable under every alternative, the severity of the significant and unavoidable impacts would vary according to the development allocations within a given alternative. For example, while Land Use Alternative B would reduce Air Quality Impact AQ-1, as described above in Section VIII.D, the No Project Alternative would be the environmentally superior alternative because it would not allow for new development to occur beyond what is currently planned for in the 2000-2020 General Plan, which would result in the least amount of development in the City and thereby reduce the consumption of renewable resources (e.g., lumber and water) and nonrenewable resources (e.g., fossil fuels, natural gas, and gasoline). Less development would place fewer demands on public

service providers (which could require new facilities), would require fewer road, sewer, water and energy infrastructure improvements, and would generate less waste, which would overall reduce impacts on the environment.

In accordance with State CEQA Guidelines Section 15126.6(e)(2), if the environmentally superior alternative is the No Project alternative, the EIR shall also identify an environmentally superior alternative from among the other alternatives. Accordingly, the environmentally superior alternative would be Land Use Alternative A, because less development would occur compared to Land Use Alternative B, Land Use Alternative C, and the Balanced Plan. Under Land Use Alternative A, no new commercial space, hotel rooms or residential units would be permitted beyond the allocations in the current General Plan.

For the foregoing reasons, Alternative A is considered the environmentally superior alternative.

IX. INCORPORATION BY REFERENCE

These findings incorporate the text of the Final EIR for the Project, the Mitigation Monitoring and Reporting Program, City staff reports relating to the Project and other documents relating to public hearings on the Project, by reference, in their entirety. Without limitation, this incorporation is intended to elaborate on the scope and nature of mitigation measures, project and cumulative impacts, the basis for determining the significance of impacts, the comparison of the alternatives to the Project, the determination of the environmentally superior alternative, and the reasons for approving the Project.

X. RECORD OF PROCEEDINGS

Various documents and other materials related to the Project constitute the record of proceedings upon which the City bases its findings and decisions contained herein. Those documents and materials are located in the offices of the custodian for the documents and materials, which is the City of Cupertino Community Development Department, Cupertino City Hall, 10300 Torre Avenue, Cupertino, CA 95014-3202.

XI. NO RECIRCULATION REQUIRED

State CEQA Guidelines Section 15088.5 requires a lead agency to recirculate an EIR for further review and comment when “significant new information” is added to the EIR after public notice is given of the availability of the Draft EIR but before certification. No significant new information was added to the Draft EIR as a result of the public comment process. The Final EIR responds to comments, and clarifies, amplifies and makes insignificant modifications to the Draft EIR. The Final EIR does not identify any new significant effects on the environment or a substantial increase in the severity of an environmental impact.

The EIR analyzes full buildout of 2040 growth for Cupertino as projected in Plan Bay Area. The Balanced Plan consists of the same development allocations and Housing Element sites that were analyzed in the EIR for Alternative C except, as described in more detail in the next section below, the office allocation is reduced to the amount analyzed in the EIR for Alternative B, the maximum height limits are reduced except at one location. Accordingly, all portions of the Balanced Plan were analyzed in the EIR, either as part of Alternative C or as part of Alternative B. There are no new significant effects on the environment or a substantial increase in the severity of an environmental impact associated with substituting the smaller office allocation from Alternative B for the original, larger office allocation in Alternative B in order to create the Balanced Plan that are the subject of these Findings nor are there new significant effects on the environment or a substantial increase in the severity of an environmental impact associated with the changes in maximum height limits.

For the foregoing reasons, recirculation of the Final EIR is not required.

XII. STATEMENT OF OVERRIDING CONSIDERATIONS

As set forth above, the City has found that the Project will result in project and cumulative significant adverse environmental impacts related to air quality, noise, and traffic and transportation that cannot be avoided following adoption, incorporation into the Project, and implementation of mitigation measures described in the EIR. In addition, there are no feasible project alternatives that would mitigate or avoid all of the Project's significant environmental impacts. Section 15093(b) of the State CEQA Guidelines provides that when the decision of the public agency results in the occurrence of significant impacts that are not avoided or substantially lessened, the agency must state in writing the reasons to support its actions. See also Public Resources Code Section 21081(b). Having balanced the economic, legal, social, technological or other benefits of the Project, including region-wide or statewide environmental benefits, against its significant and unavoidable environmental impacts, the City finds that the Project benefits outweigh its unavoidable adverse environmental effects, and that the adverse environmental effects are therefore acceptable.

The following statement identifies the reasons why, in the City's judgment, specific benefits of the Project outweigh the significant and unavoidable effects. The substantial evidence supporting the benefits of the Project can be found in the preceding sections of these Findings, in the Project itself, and in the record of proceedings as defined in Section X, above. The City further finds that each of the project benefits discussed below is a separate and independent basis for these findings. The reasons set forth below are based on the Final EIR and other information in the administrative record.

- 1) The Vision Statement in the General Plan states that "Cupertino aspires to be a balanced community with quiet and attractive residential neighborhoods; exemplary parks and schools; accessible open space areas, hillsides and creeks; and a vibrant,

mixed use 'Heart of the City.' Cupertino will be safe, friendly, healthy, connected, walkable, bikeable and inclusive for all residents and workers, with ample places and opportunities for people to interact, recreate, innovate and collaborate." In incorporating the office allocation from Land Use Alternative B, the commercial allocations from Land Use Alternatives B and C, and the hotel and residential allocations from Land Use Alternative C, the Project provides the City with a balanced mix of economic development opportunities while seeking to lessen significant impacts by pursuing the highest possible levels of development.

- 2) The Project provides the City with the commercial development allocation it needs to increase sales and avoid retail leakage in the trade area as, recommended on page 85-86 of the General Plan Amendment Market Study (BAE Urban Economics, February 13, 2014), and would allow the City flexibility to encourage new commercial uses in other parts of the City in the future that will generate additional sales taxes. and as set forth in the project objectives.
- 3) The Project provides for economic growth by creating employment-related land uses. This will attract new businesses and allow existing businesses to stay and grow within the City, improve sales tax and property tax revenue to help the City maintain a healthy fiscal balance to provide its residents with high quality services.
- 4) The Project concentrates growth along the City's major transportation corridors and in the City's employment centers, which are areas that are within walking distance/bus distance of large employment areas. Encouraging development in existing urbanized areas results in fewer impacts from the construction of new infrastructure, maximizes use of existing impervious surfaces, provides multi-modal transportation opportunities, and reduces miles traveled, which translates into air quality benefits.
- 5) The Project concentrates growth at locations with existing uses and, as a result, potential future development under the Project would consist largely of either redevelopment of existing building, selective demolition of existing structures and replacement with new construction, or new infill development adjacent to existing uses, all of which would serve to lessen environmental impacts.
- 6) The Project policies concentrating growth along transportation corridors and in employment centers contributes to community goals of protecting the City's neighborhoods and connectivity.
- 7) The Project includes policies that encourage conservation of water and energy resources in conformance with the City's sustainability goals.

- 8) The Project is in conformance with the principles of planning sustainable communities by meeting both the present and future housing needs of the City, and fulfills the City Council's charge to prepare a Housing Element.
- 9) The Project is consistent with key planning documents, including Plan Bay Area, which is the Bay Area's Regional Transportation Plan (RTP)/Sustainable Community Strategy (SCS), as well as SB 375, the Sustainable Communities and Climate Protection Act.
- 10) The Project meets the City's Regional Housing Needs Allocation (RHNA) of 1,064 units, and provides a moderate surplus above the City's housing need of 1,002 units, or approximately 1,400 units.
- 11) The Project provides opportunities for increased building heights in key Nodes and Gateways, and makes additional building height and residential density increases contingent on future development projects in Cupertino providing the City with community benefits.
- 12) The Project provides for revitalizing the Vallco Shopping Mall and transforming it into a locally and regionally significant retail, employment, housing and entertainment destination, which would become the "downtown" of Cupertino.
- 13) The Gateways and Nodes located within some of the Project's Special Areas represent key locations in the City that, with the use of design elements, such as buildings, arches, fountains, banners, signage, special lighting, landscaping and public art, have the opportunity to create a memorable impression of Cupertino. These key locations are essential for providing residents, visitors, and workers an attractive, friendly, and comfortable place with inviting active pedestrian spaces and services.

XIII. SUMMARY

1. Based on the foregoing Findings and the information contained in the record, the City has made one or more of the following Findings with respect to each of the significant environmental effects of the Project:
 - a. Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effects identified in the Final EIR.
 - b. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other public agency.
 - c. Specific economic, legal, social, technological, or other considerations, make infeasible the mitigation measures or alternatives identified in the Final EIR

that would otherwise avoid or substantially lessen the identified significant environmental effects of the Project.

2. Based on the foregoing Findings and the information contained in the record, the City determines that:
 - a. All significant effects on the environment due to the approval of the Project have been eliminated or substantially lessened where feasible.
 - b. Any remaining significant effects on the environment found to be unavoidable are acceptable due to the factors described in the Statement of Overriding Considerations, above.

633792.9



FILED
SAN MATEO COUNTY

AUG 26 2016

Clerk of the Superior Court
By 
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SAN MATEO
COMPLEX CIVIL LITIGATION

2

REDWOOD CITY RESIDENTS FOR
RESPONSIBLE DEVELOPMENT,

Civil No. 16CIV01069
CEQA

Petitioner,

Assigned for All Purposes to
Hon. Marie S. Weiner, Dept. 2

vs.

CASE MANAGEMENT ORDER #1

CITY OF REDWOOD CITY,

Respondent,

JEFFERSON RES LLC, and DOES 1-
25,

Real Parties in Interest.

This CEQA case is assigned for all purposes, according to Local Rule 2.1.3, to the Honorable Marie S. Weiner in Department 2, the Court's designated CEQA judge, pursuant to Public Resources Code Section 21167.1(b),

IT IS HEREBY ORDERED as follows:

**PETITIONER SHALL SERVE A COPY OF THIS ORDER UPON ALL
RESPONDENTS AND REAL PARTIES IN INTEREST.**



1. All pleadings, motions, applications, briefs, and any and all other papers in this case shall be filed with (and related filing fees paid to) the Civil Clerk's Office located in the Hall of Justice, First Floor, Room A, 400 County Center, Redwood City, California. **One extra copy of any such filing shall be stamped "Judge's Copy" and delivered by overnight or first class mail directly to Department 2** located at Courtroom 2E, 400 County Center, Redwood City, California 94063. DO NOT LEAVE THE JUDGE'S COPY WITH THE CLERK'S OFFICE. PLEASE ADD DEPARTMENT 2 TO YOUR MAILING SERVICE LIST IN THE CASE AS TO ANY AND ALL PAPERS FILED WITH THE COURT. All motions and briefs shall conform with the California Rules of Court, especially Rule 3.1113, **and indicate on the caption page that this matter is assigned for all purposes to Department 2.** DO NOT FAX COPIES OR CORRESPONDENCE TO DEPARTMENT 2, AS THERE IS NO DEDICATED FAX LINE FOR THE CIVIL COMPLEX DEPARTMENT.

2. As to any and all motions or other matters requiring a hearing, the hearing date shall be obtained *directly* from and approved by Department 2 at **(650) 261-5102** (and *not* with the Civil Clerk's Office nor with the Research Attorney), *prior* to filing of the moving papers or other initial filings..

3. *Ex parte* applications in this matter shall heard by Department 2, **on Tuesdays and Thursday between 2:00 p.m. and 3:30 p.m.**, and the parties are required to meet the requirements of CRC Rule 3.120 *et seq.*. With the consent of counsel for *all* parties, telephone conferences on *simple* interim case management matters may be scheduled with the Court for a mutually convenient time and date – with the scheduling and logistics of such telephone conferences to be the responsibility of the requesting party/parties.

4. As to any discovery motions, the parties are relieved of the statutory obligation under CRC Rule 3.1345, and thus need *not* file a separate statement – instead the subject discovery requests (or deposition questions) and written responses (or deposition answers or objections) must be attached to the supporting declaration on the discovery motion.

5. In regard to all discovery disputes, counsel for the parties (and any involved third parties) shall meet and confer on any and all discovery disputes and, if there are remaining disputes, then counsel for each side shall serve on each other and mail/deliver *directly* to Department 2 a letter brief setting forth the dispute and attaching as *tabbed* exhibits to the letter the subject discovery requests and discovery responses (if any). At the time or prior to submitting the letter briefs, counsel for the parties shall also schedule a discovery conference with the Court to occur no sooner than five court days after *delivery* of the last letter brief to the Court, in order to discuss the dispute. **THE DISCOVERY DISPUTE LETTER BRIEFS AND THE DISCOVERY CONFERENCE SHALL BE DONE *WELL PRIOR TO* THE STATUTORY DEADLINES FOR FILING OF ANY MOTION TO COMPEL OR OTHER DISCOVERY MOTION. No discovery motion may be filed by any party unless and until there is compliance with the requirement of this Order, i.e., (i) substantive meet and confer, (ii) exchange of letter briefs, and (iii) discovery conference with the Court. This requirement does *not* constitute an extension of time for any statutory time period for filing and serving any motion under the Civil Discovery Act.**

6. Pursuant to CRC Rule 3.1113(i), the Complex Civil Department, Dept. 2, requires that if any authority other than California cases, statutes, constitutional


provisions or state or local rules are cited, a copy of that authority must be lodged (not filed) with the papers that cite that authority and tabbed as required by Rule 3.1110(f).

7. The initial Case Management Conference is set for **Friday, October 7, 2016 at 1:30 p.m.** in Department 2 of this Court, located at Courtroom 2E, 400 County Center, Redwood City, California.

8. In anticipation of the Case Management Conference, counsel for the parties should be prepared to discuss at the hearing *and* submit written case management conference statements (in prose and details, *not* using the standardized Judicial Council form) directly to Department 2 on or before **September 30, 2016**, as to the following:

- a. Status of Service upon or appearance by Respondents and Real Parties in Interest;
- b. Status of Administrative Record;
- c. Status of Settlement Conference;
- d. Status of Request for Hearing;
- e. Conclusions reached after meet and confer on all matters set forth in CRC Rule 3.750 and Rule 3.724(8);
- f. Anticipated motions and proposed briefing schedule;
- g. Setting of Briefing Schedule and Hearing/Trial;
- h. Setting of next CMC date; and
- i. Any other matters for which the parties seek Court ruling or scheduling.

DATED: August 26, 2016



HON. MARIE S. WEINER
JUDGE OF THE SUPERIOR COURT

SERVICE LIST

Redwood City Residents v. RWC and Jefferson Res., CEQA No. 16CIV01069
as of August 26, 2016

Attorneys for Petitioner:

GEOFFREY CARR
CARR YELEY & ASSOCIATES
605 Middlefield Road
Redwood City, CA 94063
(650) 364-3346

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

Geoffrey T. Carr, SBN 88055
CARR YELEY & ASSOCIATES
605 Middlefield Road
Redwood City, CA 94063

TELEPHONE NO: 650.364.3346

FAX NO: 650.365.4206

ATTORNEY FOR (Name): Petitioners 605 Middlefield, LLC, et al.

FOR COURT USE ONLY

ENDORSED FILED
SAN MATEO COUNTY

AUG 25 2016

Clerk of the Superior Court
By JORDAN MAXWELL
DEPUTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Mateo

STREET ADDRESS: 400 County Center

MAILING ADDRESS:

CITY AND ZIP CODE: Redwood City, CA 94063

BRANCH NAME: Southern Branch - Hall of Justice

CASE NAME:

Redwood City Residents for Resp. Dev. v. City of Redwood City

CIVIL CASE COVER SHEET

Unlimited (Amount demanded exceeds \$25,000)
 Limited (Amount demanded is \$25,000 or less)

Complex Case Designation

Counter Joinder

Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:

10 CIV 01069

JUDGE:

DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

Auto Tort

Auto (22)
 Uninsured motorist (46)

Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort

Asbestos (04)
 Product liability (24)
 Medical malpractice (45)
 Other PI/PD/WD (23)

Non-PI/PD/WD (Other) Tort

Business tort/unfair business practice (07)
 Civil rights (08)
 Defamation (13)
 Fraud (16)
 Intellectual property (19)
 Professional negligence (25)
 Other non-PI/PD/WD tort (35)

Employment

Wrongful termination (36)
 Other employment (15)

Contract

Breach of contract/warranty (06)
 Rule 3.740 collections (09)
 Other collections (09)
 Insurance coverage (18)
 Other contract (37)

Real Property

Eminent domain/Inverse condemnation (14)
 Wrongful eviction (33)
 Other real property (26)

Unlawful Detainer

Commercial (31)
 Residential (32)
 Drugs (38)

Judicial Review

Asset forfeiture (05)
 Petition re: arbitration award (11)
 Writ of mandate (02)
 Other judicial review (39)

Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)

Antitrust/Trade regulation (03)
 Construction defect (10)
 Mass tort (40)
 Securities litigation (28)
 Environmental/Toxic tort (30)
 Insurance coverage claims arising from the above listed provisionally complex case types (41)

Enforcement of Judgment

Enforcement of judgment (20)

Miscellaneous Civil Complaint

RICO (27)
 Other complaint (not specified above) (42)

Miscellaneous Civil Petition

Partnership and corporate governance (21)
 Other petition (not specified above) (43)

2. This case is is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a. Large number of separately represented parties
- b. Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
- c. Substantial amount of documentary evidence
- d. Large number of witnesses
- e. Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- f. Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a. monetary b. nonmonetary; declaratory or injunctive relief c. punitive

4. Number of causes of action (specify): 2

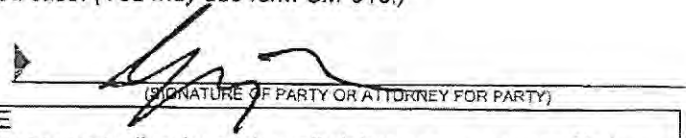
5. This case is is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: August 25, 2016

Geoffrey T. Carr

(TYPE OR PRINT NAME)



(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

1 GEOFFREY T. CARR (SBN 88055)
2 CARR YELEY & ASSOCIATES
3 Attorneys at Law
4 605 Middlefield Road
5 Redwood City, California 94063
6 650.364.3346; 650.365.4206 (fax)
7 E-mail: geoffreycarr@sbcglobal.net
8 Attorney for Petitioner

ENDORSED FILE
SAN MATEO COUNTY
AUG 27 2016
Clerk of the Superior Court
By - [Signature]
DEPUTY CLERK

8 IN THE SUPERIOR COURT OF CALIFORNIA
9
10 COUNTY OF SAN MATEO

11 REDWOOD CITY RESIDENTS FOR
12 RESPONSIBLE DEVELOPMENT;

13 Petitioner,

14 vs.

15 CITY OF REDWOOD CITY,

16 Respondent;

17
18 JEFFERSON RES, LLC, and
19 DOES 1 through 25, inclusive,

20 Real Parties in Interest.

Case No.: 16CIV01069

REQUEST TO PREPARE RECORD
OF PROCEEDINGS (COST
ESTIMATE); CONDITIONAL
NOTICE OF ELECTION OF
PREPARATION BY PETITIONER

(Public Res. Code § 21167.6.)

CEQA MATTER

(San Mateo Local Rule 2.1.3)

1 Pursuant to Public Resources Code section 21167.6, and Code of Civil Procedure
2 section 1094.5(a), Petitioner REDWOOD CITY RESIDENTS FOR RESPONSIBLE
3 DEVELOPMENT hereby requests that Respondent CITY OF REDWOOD CITY provide it
4 with a cost estimate for preparing the administrative record in the above-captioned matter,
5 including indexing, page-numbering, and photocopying.

6 Petitioner requests that Respondent designate in the record all documents, including
7 all transcripts, minutes of meetings, notices, correspondence, reports, studies, proposed
8 decisions, final decisions, findings, and any and all other documents relating to its actions
9 made July 26, 2016 through its City Council approving a Downtown Planned Community
10 Permit including five guideline deviations, a Tentative Map, Condominium Permit, and a
11 Planned Development permit for a new 8-story residential condominium and retail building
12 consisting of 91 residential units and 4,500 square feet of ground floor retail, located at 603
13 Jefferson Avenue in the City ("Project"). The Project sponsor is Real Party In Interest
14 JEFFERSON RES, LLC ("Jefferson")

15 Please refer to Public Resources Code section 21167.6(e) for a list of materials
16 required to be included in the administrative record.

17 PLEASE TAKE NOTICE that pursuant to Public Resources Code section
18 21167.6(b)(2), Petitioner hereby reserves the right to elect to prepare the record itself after
19 receiving Respondent's cost estimate, subject to future discussion and any alternative
20 arrangement to which the parties to this action may agree.

21
22 Dated: August 25, 2016

CARR, YELEY & ASSOCIATES

23
24
25 By: 

Geoff Carr

Attorney for Petitioner
26
27
28

REQUEST TO PREPARE RECORD

Redwood City Residents for Responsible Development v. City of Redwood City
Case No.

1 Notice is hereby given to Respondent CITY OF REDWOOD CITY of
2 commencement of this lawsuit challenging its July 25, 2016 actions approving a Downtown
3 Planned Community Permit including five guideline deviations, a Tentative Map,
4 Condominium Permit, and a Planned Development permit for a new 8-story residential
5 condominium and retail building consisting of 91 residential units and 4,500 square feet of
6 ground floor retail, located at 603 Jefferson Avenue in the City ("Project"). The Project
7 sponsor is Real Party In Interest JEFFERSON RES, LLC ("Jefferson").

8 The action is brought by Petitioner *Redwood City Residents For Responsible*
9 *Development* pursuant to the judicial review provisions of the California Environmental
10 Quality Act ("CEQA"), Public Resources Code sections 21167 and 21168, and the writ of
11 mandate provisions of Code of Civil Procedure section 1094.5.

12
13 Dated: August 25, 2016

CARR, YELEY & ASSOCIATES

14
15
16 By: 

Geoff Carr

Attorney for Petitioner
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PROOF OF SERVICE
(C.C.P. § 1013(a), 2015.5)

I am employed in the County of San Mateo, California. I am over the age of eighteen years and not a party to the within action. My business address is 605 Middlefield Road, Redwood City, California 94063.

On 8/26/16 I served the attached **NOTICE OF COMMENCEMENT OF ACTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT** on the parties in this action by placing a true copy thereof in a sealed envelope, addressed as follows:

City Clerk
City of Redwood City
1017 Middlefield Road
Redwood City, CA 94063

(BY MAIL) I placed each such sealed envelope, with postage thereon fully prepaid for first class mail, for collection and mailing at Carr, Yeley & Associates, Redwood City, California, following ordinary business practices. I am readily familiar with the practice of the firm of Carr, Yeley & Associates for collection and processing of correspondence, said practice being that in the ordinary course of business, correspondence is deposited with the United States Postal Service the same day it is placed for collection.

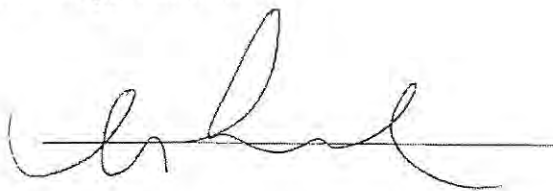
(BY PERSONAL SERVICE) I caused each such envelope to be delivered by hand to the addressee noted above.

(BY FEDERAL EXPRESS) I caused such sealed envelope to be delivered by overnight service to the addressee noted above.

(BY FACSIMILE) I transmitted the above described documents by facsimile machine, pursuant to Rule 2008 from Fax number (650) 365-4206 to fax number listed above. The facsimile machine that I used complied with Rule 2003(3) and no error was reported by the machine. Pursuant to Rule 2008(e)(4) I caused the machine to print a transmission record, a copy of which is attached to this declaration.

I, Manica Lal, declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Executed on 8/26/16 at Redwood City, California.



1 GEOFFREY T. CARR (SBN 88055)
2 CARR YELEY & ASSOCIATES
3 Attorneys at Law
4 605 Middlefield Road
5 Redwood City, California 94063
6 650.364.3346; 650.365.4206 (fax)
7 E-mail: geoffreycarr@sbcglobal.net

8 Attorney for Petitioner

ENDORSED FILE
SAN MATEO COUNTY

AUG 25 2016

Clerk of the Superior Court
By JORDAN MARWELL
DEPUTY CLERK

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IN THE SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN MATEO

11 REDWOOD CITY RESIDENTS FOR
12 RESPONSIBLE DEVELOPMENT;

13 Petitioner,

14 vs.

15 CITY OF REDWOOD CITY.

16 Respondent;

17
18 JEFFERSON RES, LLC, and
19 DOES 1 through 25, inclusive,

20 Real Parties in Interest.

Case No.: 16CIV01069

PETITION FOR WRIT OF MANDATE

(Code Civ. Proc. §1094.5; Pub. Res. Code
§§ 21168; 21168.5 et seq.)

CEQA MATTER

(San Mateo Local Rule 2.1.3)

1 INTRODUCTION

2 With this lawsuit, Petitioner REDWOOD CITY RESIDENTS FOR RESPONSIBLE
3 DEVELOPMENT ("Petitioner") challenges the July 25, 2016 actions of Respondent CITY
4 OF REDWOOD CITY ("City"), taken by and through its City Council, approving a
5 Downtown Planned Community Permit including five guideline deviations, a Tentative Map,
6 Condominium Permit, and a Planned Development permit for a new 8-story residential
7 condominium and retail building consisting of 91 residential units and 4,500 square feet of
8 ground floor retail, located at 603 Jefferson Avenue in the City ("Project"). The Project
9 sponsor is Real Party In Interest JEFFERSON RES, LLC ("Jefferson").

10 In approving the Project, the City erroneously determined it was consistent with the
11 Downtown Precise Plan ("DTPP") for which a Program environmental impact report
12 ("DTPP EIR") was certified in 2011; that the Project would have no new significant
13 environmental impacts that were not already identified, analyzed, and mitigated in the DTPP
14 EIR; that there is no new information that was not known at the time the DTPP EIR was
15 certified that identifies new or more severe significant effects; and that CEQA therefore did
16 not require preparation of any subsequent EIR.

17 Petitioner contends the City violated applicable provisions of the California
18 Environmental Quality Act ("CEQA") by making these determinations. Substantial
19 evidence in the administrative record before the City shows the Project will have new and/or
20 more severe significant environmental impacts that were not adequately identified,
21 evaluated, or mitigated in the DTPP EIR. CEQA therefore mandated preparation of a
22 subsequent EIR under Public Resources Code section 21166 and Sections 15162 and/or
23 15163 of the CEQA Guidelines. Petitioner further contends the City violated the applicable
24 provisions of the State Planning and Zoning Law, Government Code section 65000 et seq.
25 and applicable provisions of its own Municipal Code by approving the Project despite
26 numerous inconsistencies with governing policies and goals contained in the DTPP. The
27 City therefore prejudicially abused its discretion by approving the Project in violation of
28 CEQA and the State Planning and Zoning law.

1 Petitioner accordingly seeks a peremptory writ of mandate under Code of Civil
2 Procedure section 1094.5, and Public Resources Code section 21168 and/or 21168.5,
3 commanding the City to set aside its actions approving land use entitlements for the Project,
4 and to reconsider its actions only after complying fully with the CEQA, the State Planning
5 and Zoning Law, and the Redwood City Municipal Code. Petitioner further seeks a stay of
6 the effect of the City's approvals during the pendency of these proceedings. Finally,
7 Petitioner seeks an award of costs and attorneys fees under Code of Civil Procedure section
8 1021.5, together with any other relief the Court deems necessary and proper.

9 In support whereof, Petitioner alleges:

10 **PARTIES**

11 **Redwood City Residents For Responsible Development**

12 1. Petitioner REDWOOD CITY RESIDENTS FOR RESPONSIBLE
13 DEVELOPMENT is an unincorporated association of Redwood City and San Mateo County
14 citizens and businesses organized in accordance with Public Resources Code section
15 21177(c). Its constituent members include, but are not limited to, Kevin Frederick, Kris
16 Johnson, Eileen Lepera, Stasha Powell, Lynn Utrecht, and Vicki Yeley, all of whom live
17 and/or work in Redwood City.

18 2. Petitioner's members maintain a direct and regular geographic nexus with the
19 City of Redwood City, including and especially the Downtown Area, and will suffer direct
20 harm as a result of any adverse environmental and/or public health impacts caused by the
21 Project. Petitioner's members have a clear and present right to, and beneficial interest in, the
22 City's performance of its duties to comply with CEQA and the State Planning and Zoning
23 Law, and is within the class of entities to whom the City owes such duties.

24 3. Petitioner's members presented oral and/or written comments in opposition to
25 the Project prior to and/or during the public hearings culminating in the City's July 25, 2016
26 approval actions, and raised or supported all objections to the Project and alleged grounds for
27 noncompliance with CEQA and other applicable law presented herein.

1 4. By this action, Petitioner seeks to protect the interests of its members and the
2 general public by enforcing a public duty owed to them by the City. Because the claims
3 asserted and the relief sought in this petition are broad-based and of a public as opposed to a
4 purely private or pecuniary nature, direct participation in this litigation by Petitioner's
5 individual members is not necessary.

6 **City of Redwood City**

7 5. Respondent CITY OF REDWOOD CITY ("City") is a California Charter City
8 situated in San Mateo County. On or around July 25, 2016, the City, acting through its City
9 Council, approved the construction and operation of the Project challenged herein. At all
10 times relevant, the City served as the "lead agency" under CEQA responsible for evaluating
11 the environmental impacts of the Project.

12 **Jefferson Res, LLC**

13 6. Petitioner is informed and believe that Real Party in Interest JEFFERSON
14 RES, LLC ("Jefferson"), is a Delaware limited liability company maintaining its principal
15 place of business in Denver, Colorado.

16 7. Petitioner is informed and believe that Jefferson is the sponsor and developer
17 of the Project, and was the applicant for and recipient of the land use entitlements challenged
18 herein.

19 **Does**

20 8. Petitioner currently does not know the true names of Real Parties In Interest
21 DOES 1 through 25 inclusive, and therefore names them by such fictitious names. Petitioner
22 will seek leave from the court to amend this petition to reflect the true names and capacities
23 of DOES 1 through 25 inclusive if and when ascertained.

24 **JURISDICTION & VENUE**

25 9. This action is brought pursuant to Public Resources Code sections 21167,
26 21168, and 21168.5, and Code of Civil Procedure section 1094.5. Venue is proper in San
27 Mateo County under Code of Civil Procedure section 395.
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FACTUAL BACKGROUND

10. On September 4, 2015, Jefferson submitted an application for a Downtown Planned Community Permit, Tentative Map, Condominium Permit, and Planned Development Permit to develop the Project.

11. The Project is within the Downtown Precise Plan Area, and therefore it is subject to the DTPP, which was approved by the City in January 2011. The DTPP contains mandatory development standards and design guidelines for development of projects within the DTPP area.

12. Jefferson's original application sought deviations from eight of the DTPP's design guidelines. On February 9, 2016, the City's Architectural Advisory Committee ("AAC") held a public hearing and recommended denial of three of the deviations. Thereafter, Jefferson modified the Project design to address the AAC's recommendation, but continued to seek approval for five deviations from the DTPP guidelines.

13. On February 11, 2015, the City's Historic Resources Advisory Committee ("HRAC") held a public hearing to consider whether the Project would create a substantial adverse change in the significance of the adjacent historic resource located at 620 Jefferson Avenue. The HRAC determined the Project would not create a substantial adverse change in the significance of the historic resource, and that the historic resource would remain eligible to be listed on the California Register.

14. On May 17, 2016, the City's Planning Commission held a public hearing on the Project, including the proposed deviations from the DTPP guidelines. Petitioner's members submitted oral and written testimony objecting to the Project prior to and/or during the public hearing before the Planning Commission.

15. After closing the hearing, a majority of the Planning Commission voted to approve the Downtown Planned Community Permit including five guideline deviations, Tentative Map, Condominium Permit, and Planned Development permit for the Project. The Planning Commission based its action in part on an initial study "checklist" prepared by the City's Planning Division. The checklist concluded the Project was within the scope of the

1 previously approved DTPP; was adequately described in the previously certified DTPP EIR
2 for purposes of CEQA; that the Project will not result in any new environmental impact, or a
3 substantial increase in the severity of any environmental impact, or require new mitigation
4 measures beyond those identified in the DTPP EIR; and that no new environmental
5 document was therefore required.

6 16. Certain of Petitioner's members timely appealed the Planning Commission's
7 actions to the City Council in accordance with the appeal procedures contained in the City's
8 Municipal Code.

9 17. On July 25, 2016, the City Council held a public hearing on the appeals.
10 Petitioner's members again submitted oral and/or written testimony objecting to the Project
11 and the Planning Commission's determinations prior to or during the City Council hearing.

12 18. After closing the public hearing, a majority of the City Council voted to deny
13 Petitioner's members' appeals and to uphold and reaffirm the Planning Commission's
14 approval actions in full, including the approvals of all the entitlements that Jefferson sought,
15 the five deviations from the DTPP design guidelines, and the determination that no new
16 environmental document was required in order to comply with CEQA.

17 19. The City posted a notice of determination in accordance with Public Resources
18 Code section 21152 on July 26, 2016.

19 **FIRST CLAIM FOR RELIEF**

20 **(Violations of CEQA)**

21 20. Petitioner here incorporates by reference all preceding paragraphs in their
22 entirety.

23 21. At all times relevant to this action the City was the "lead agency" responsible
24 for the review and approval of the Project under Public Resources Code section 21067.

25 22. Public Resources Code section 21166 requires a lead agency to prepare a
26 subsequent or supplemental EIR where one or more of the following events occurs: (a)
27 substantial changes are proposed in the project which will require major revisions of the
28 environmental impact report; (b) substantial changes occur with respect to the circumstances

1 under which the project is being undertaken which will require major revisions in the
2 environmental impact report; or (c) new information, which was not known and could not
3 have been known at the time the environmental impact report was certified as complete,
4 becomes available. *See also* CEQA Guidelines, 15 C.C.R. §§ 15162, 15163.

5 23. There is substantial evidence in the administrative record before the City that
6 substantial changes have occurred with respect to the circumstances under which the Project
7 is being undertaken, including but not limited to circumstances pertaining to cumulative
8 traffic volumes and intersection levels of service ("LOS") in the DTPP area, that will require
9 major revisions to the DTPP EIR.

10 24. There is substantial evidence in the administrative record before the City
11 showing that new information, which was not known and could not have been known at the
12 time the DTPP EIR was certified as complete, showing that the Project will have new and
13 more significant impacts on areas including, but not limited to, cumulative traffic and
14 circulation and intersection LOS impacts in the DTPP area, had become available prior to the
15 City's actions approving the Project.

16 25. The City therefore had a mandatory duty under Public Resources Code Section
17 21166 and sections 15162 and 15163 of the CEQA Guidelines to prepare a subsequent or
18 supplemental EIR before approving the Project.

19 26. The City therefore prejudicially abused its discretion by approving the Project
20 in violation of CEQA, and by adopting findings that are not supported by substantial
21 evidence.

22 SECOND CLAIM FOR RELIEF

23 (Violations of State Planning & Zoning Law)

24 27. Petitioner here incorporates by reference all preceding paragraphs in their
25 entirety.

26 28. Under the State Planning and Zoning Law, Government Code section 65000 et
27 seq., a local public agency may entitle a proposed land use only if the land use is consistent
28

1 with the goals, policies, and objectives contained in its General Plan, any duly adopted
2 subsidiary land use plan, and zoning ordinances.

3 29. A project that is inconsistent with an applicable General Plan or subsidiary
4 land use plan may not be approved without an amendment to the Plan or a variance. See
5 Gov't Code § 65860. Where a project conflicts with even a single general plan policy, its
6 approval may be reversed. *San Bernardino County Audubon Society, Inc. v. County of San*
7 *Bernardino* (1984) 155 Cal.App.3d 738, 753; *Families Unafraid to Uphold Rural El Dorado*
8 *County v. Board of Supervisors of El Dorado County* (1998) 62 Cal.App.4th 1334, 1341.
9 Consistency demands that a project both "further the objectives and policies of the general
10 plan and not obstruct their attainment." *Families*, 62 Cal.App.4th at 1336; see *Napa*
11 *Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91
12 Cal.App.4th 342, 378. Accordingly, where a project opponent alleges that a project conflicts
13 with plan policies, a court need not find an "outright conflict." *Napa Citizens* at 379. "The
14 proper question is whether development of the [project] is compatible with and will not
15 frustrate the General Plan's goals and policies . . . without definite affirmative commitments
16 to mitigate the adverse effect or effects." *Id.*

17 30. The Project is substantially and materially inconsistent with several goals and
18 policies contained in the DTPP, the General Plan and Municipal Code, including but not
19 limited to policies pertaining to architectural design, scale, residential income mix, street
20 design, historic resource preservation, urban place-making, and community character.

21 31. The City therefore prejudicially abused its discretion by approving the Project
22 in violation of the State Planning and Zoning Law, and by adopted findings of DTPP
23 consistency that are not supported by the evidence.

24 EXHAUSTION OF ADMINISTRATIVE REMEDIES

25 32. This action is brought consistent with the requirements of Public Resources
26 Code section 21177 and Code of Civil Procedure section 1094.5. Petitioner's constituent
27 members or representatives objected to the City's approvals of the Project orally or in
28 writing prior to the close of the final public hearing on the Project. Petitioner's constituent

1 members, representatives, and/or other agencies, organizations and individuals raised or
2 affirmed each of the legal deficiencies asserted in this petition orally or in writing prior to the
3 close of the public hearing on the Project.

4 33. Petitioner has performed all conditions precedent to filing this action by
5 complying with the requirements of Public Resources Code section 21167.5 in serving notice
6 of the commencement of this action on the City on July 24, 2016.

7 INADEQUATE REMEDY AT LAW

8 34. Petitioner declares that they have no plain, speedy, and adequate remedy in the
9 ordinary course of law for the improper action of the City.

10 NEWLY PRODUCED EVIDENCE

11 35. In accord with Code of Civil Procedure section 1094.5(e), Petitioner may, prior
12 to or during the hearing on this petition, offer additional relevant evidence that could not, in
13 the exercise of reasonable diligence, have been produced at the administrative hearings
14 before the City's Planning Commission and/or City Council.

15 ATTORNEYS FEES

16 36. Petitioner is entitled to recover attorneys' fees as provided under Code of Civil
17 Procedure section 1021.5 if it prevails in this action and the Court finds that a significant
18 benefit has been conferred on the general public or a large class of persons, and that the
19 necessity and burden of private enforcement is such as to make an award of fees appropriate.

20 PRAYER

21 WHEREFORE, Petitioner prays for entry of judgment as follows:

22 1. For a peremptory writ of mandate directing the City:

- 23 (a) to set aside its action taken on or about July 25, 2016 approving a Downtown
24 Planned Community Permit including five guideline deviations, a Tentative Map,
25 Condominium Permit, and a Planned Development permit for the Project under CEQA; and
26 (b) to comply fully with CEQA and the State Planning and Zoning Law in any
27 subsequent action or actions taken to approve the Project.
28

1 2. For an order staying the effect of the City's actions pending the outcome of this
2 proceeding.

3 3. For a preliminary and permanent injunction directing the City to cease and
4 refrain from engaging in any action in reliance upon the approval actions challenged herein
5 until the City takes any necessary action to bring its actions into compliance with.

6 4. For costs of suit.

7 5. For an award of attorneys' fees.

8 6. For other legal or equitable relief that the court deems just and proper.

9
10 Dated: August 25, 2016

CARR, YELEY & ASSOCIATES

11
12
13 By: 

14 Geoff Carr

15 Attorney for Petitioner
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VERIFICATION

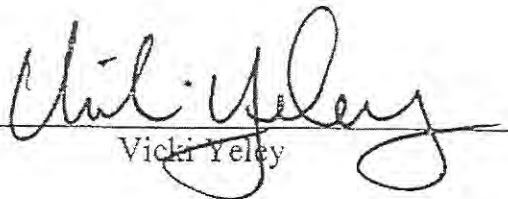
I, Vicki Yeley, declare:

I am a principal member of Redwood City Residents for Responsible Development, the Petitioner in the above-captioned action.

I have read the foregoing PETITION FOR WRIT OF MANDATE and know its contents. The statements made therein are true of my own knowledge, except as to those matters which are alleged on information and belief, and as to those matters I believe them to be true.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Dated: August 25, 2016

By: 
Vicki Yeley



July 31, 2014

Piu Ghosh
Senior Planner
City of Cupertino
10300 Torre Avenue
Cupertino, CA 95014

Re: Apple Comments on DEIR for General Plan Amendment

Dear Piu:

This letter sets forth Apple's comments on the Draft Environmental Impact Report ("EIR") prepared for the General Plan Amendment, Housing Element Update, and associated Rezoning Project (collectively, the "General Plan Amendment").

Apple has a strong interest in the City's future growth and development. We are investing billions of dollars to remain in our hometown. As a general matter, Apple supports the increases in office and hotel development allocations in the General Plan Amendment. The positive impact of Apple Campus 2 on the area is already apparent. We believe Apple Campus 2 and Apple's continued presence in the area will continue to drive demand for new office space and generate additional visitors to the area. We support the City's efforts to accommodate economic development and reasonable growth.

We also value our good relations with The Irvine Company. We have worked cooperatively on a number of initiatives. We understand The Irvine Company's desire to update and densify the Hamptons, and we are not opposed to reasonable development on that site.

However, we have grave concerns about the dramatic increases in density and height the General Plan Amendment would allow at the Hamptons. Such increases are unprecedented in Cupertino. The impact of these increases on the unique privacy and security needs of Apple Campus 2, which the City has acknowledged in the EIR for the campus, have not been considered. We also have concerns about the impact buildings of this height will have on view corridors, sunlight and emission of light and glare. ***For the reasons outlined below, we respectfully request that the updated General Plan maintain the longstanding height limit of 60 feet for the Hamptons site, for all structures located within 50 feet of the parcel line abutting Apple Campus 2 or***

B16-01

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Cupertino, CA 95014

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www.apple.com

Pruneridge. The height limit should remain at 60 feet for the remainder of the Hamptons site, unless the City makes special findings that an increased height, up to 75 feet, would not infringe on the privacy and security needs of Apple Campus 2, nor unreasonably impact view corridors or sunlight, or create light or glare trespass. We also request that setbacks, transitions, landscaping, or other mitigations be imposed, unless the City makes the special findings specified above.

B16-01
cont.

1. The Proposed Height Increase and Elimination of Setbacks for the Hamptons Site Threatens the Security of Apple Campus 2

As we have discussed extensively in the past, the key purpose of Apple Campus 2 is to provide a single, unified and secure campus where Apple will invent future generations of Apple products. The Apple Campus 2 Environmental Impact Report ("AC2 EIR") acknowledges that security is one of the Project's two "primary objectives": "[a]chiev[ing] the security and privacy required for the invention of new products by eliminating any public access through the site, and protecting the perimeters against unauthorized persons." AC 2 DEIR, page 63. The AC2 EIR followed this imperative in its analysis. For example, it concluded that the Mobility and Park alternative, which would have placed a public trail along the southern portion of the site, was such a threat to security that it was not even studied. According to the AC2 EIR, "[a] public trail traversing the project site and Calabazas Creek would conflict with Apple's safety and security needs" and even security measures would be insufficient "because Apple is under intense scrutiny." AC 2 DEIR, page 626. Likewise, the Pruneridge Open alternative was rejected because it posed too much of a security threat.

B16-02

Placing 85-foot residential towers immediately adjacent to Apple Campus 2 poses the same security concerns as a trail through the site. A penthouse at that height along the perimeter of the campus would provide a direct view into the activities and patterns of behavior at the campus. Even allowing lower heights with no setbacks, transitions or landscaping jeopardizes the privacy and security of Apple Campus 2. It's inconsistent with the AC2 EIR's acknowledgment of Apple's security and privacy needs to permit a building envelope that would breach those needs. The only way to remedy the issue is to limit heights and impose setbacks, transitions, landscaping or other mitigations, and require special findings that security and privacy at Apple Campus 2 will not be compromised if the City approves a larger building envelope at the Hamptons site.

2. Apple Designed the Apple Campus 2 Project Assuming Compliance with Existing General Plan Policies

While Apple's goals for the campus are hugely ambitious, Apple carefully stayed within the existing General Plan development standards, and went to great lengths to respect our neighbors. None of the buildings exceed 60 feet, even though taller buildings would have been a logical choice. The parking garage is setback from the Hamptons and

B16-03

screened from view. Other setbacks were greatly increased over the previously existing condition. Where our campus comes closest to residential neighbors – along the eastern boundary adjacent to Santa Clara – great attention has been paid to ensure that our neighbors' privacy is protected and impacts minimized. We made these investments at a considerable cost.

Our multi-billion dollar investment was based on the good faith understanding that adjacent land uses would not be dramatically changed to the detriment of our campus. We recognize that land use policies may evolve, but we never anticipated a wholesale rewrite of the rules targeted solely for our most immediate neighbor, which would more than triple the permitted density and increase height limits by more than 40%.

3. The General Plan Amendment Proposes a Dramatic Increase in Density and Height at the Hamptons Site

The Hamptons site currently is developed with 342 apartment units, built at a density of approximately 27 units/acre and at a height of about 45 feet. This is already considered high density in Cupertino. The General Plan Amendment proposes to dramatically increase the permitted density to 110 units/acre, which would allow up to 1,368 units, a 300% increase and over 1,000 new units. While the General Plan Amendment states that the "realistic" yield is 1,162 units, which would be an increase of 820, for EIR purposes the maximum, not the "realistic", density should be analyzed. Further, by taking advantage of the State Density Bonus Law, a project could exceed even this higher limit, and require the City to waive development standards, such as height, to achieve the desired density. Government Code § 65915. The result would be to take control of development on this site out of the City's hands.

Currently, the greatest density allowed anywhere in the City is 35 units/acre; the proposal would allow over three times that density on this single site. The Hamptons site is the only site in the City proposed for such a dramatic increase. The next densest sites under the new General Plan would allow only 40 units/acre and most multi-family residential sites are proposed at 25 to 35 units/acre. In addition to density, the General Plan Amendment would allow residential towers of up to 85 feet at the Hamptons, an increase of more than 40% over the current 60 foot height limit. Further, unlike other areas in the City where a "bonus" height requires inclusion of a retail component and "community benefits," neither are required for the Hamptons.

Finally, the General Plan Amendment appears to abandon longstanding setback requirements, and where setbacks may be required, they must account only for impacts to residential uses. For example, the current General Plan includes setback ratios in the Vallco area, including a 1:1 slope line drawn from the Wolfe Road curb line. General Plan, Figure 2-D. According to the EIR Appendix I, it appears the General Plan Amendment would delete the setback ratios, and instead require unspecified "appropriate setbacks" to promote active uses along street frontage and "minimize potential conflict with adjacent

**B16-03
cont.**

B16-04

low-density single-family neighborhoods." Appendix I, Revised Policy 2-15. It appears that setbacks would be determined during the project entitlement process, yet there is no General Plan language that requires any consideration of impacts to or privacy concerns of adjacent commercial uses. There is nothing currently in the General Plan to prevent approval of an 85 foot residential tower that immediately abuts Apple Campus 2.

B16-04
cont.

The General Plan Amendment needs to better balance the desire for increased density at the Hamptons with Apple's security needs and rational planning. These needs are well documented in the AC2 EIR and in City findings for the campus, and must be respected.

4. The General Plan Amendment EIR Should Acknowledge the Environmental Impacts of the Increased Height and Density

Greatly increasing height, and eliminating setbacks at The Hamptons would result in adverse environmental impacts. In addition to amending the General Plan to limit height, as described above, we also request that the EIR impose setbacks, transitions, landscaping and other mitigations to reduce the environmental impacts of tall structures. The following discusses areas of the EIR where this should be addressed.

In the discussion of AES-2 (impacts to scenic resources), the EIR notes that as part of the Architecture and Site Approval process, the City "could" require "suitable setbacks for buildings along the public rights-of-way and appropriate buffers and/or height transitions adjacent to low-density residential development." EIR, at 4.1-30. However, the General Plan does not mention the Hamptons' nearest neighbor, Apple, the party most likely to be impacted by the Hamptons' development. Moreover, the EIR appears to rely on the *potential* for setbacks as the basis for its less than significant conclusion. Without an actual setback requirement, the EIR should assume that residential buildings will be built to the maximum height on the parcel lines. For the EIR to rely on setbacks as mitigating the impact, it should in fact require setbacks. We request that the General Plan either include policy language requiring adequate setbacks, to protect Apple's privacy and security needs, view corridors and sunlight, and eliminate light and glare trespass, or add such requirements as mitigation.

B16-05

As for the analysis of impacts to Apple Campus 2 in particular, the EIR is conclusory when it simply states that "the taller heights may marginally impede views of the Santa Cruz mountains for the users of the Apple Campus." EIR, at 4.1-30. There is no data or analysis to support this statement. The EIR contains no visual simulation, shade and shadow study, lighting study, or the like. We request that the City prepare a visual simulation and shade and shadow study and analyze the impacts of light and glare from the Hamptons, assuming a project built within the maximum envelope permitted. We believe these will show that 85-foot towers along the parcel lines would have significant impacts, which could be mitigated by reasonable measures.

B16-06

Impact AES-3 is also conclusory. It states in a single sentence that the prior analysis in the EIR showed that future development in the North Vallco Park Special Area, as well as in several other large portions of the City, would not result in a substantial change to the existing visual character or its surroundings. However, the prior analysis did not look at this question. The discussion in AES-2, which is the only portion of the chapter with any substance, looked at impacts to scenic resources, not changes to the existing visual character or surroundings. These are distinct questions. We believe there will be a dramatic change in the existing visual character and surroundings. In order to build out the Hamptons site at the proposed density of 110 units/acre, the buildings must grow taller, must be closer together and must move closer to the lot lines. To fully appreciate the extent of the change to the existing visual character, we request that the City prepare visual simulations.

B16-07

We also note that the General Plan Amendment proposes to delete existing Policy 2-14, Strategy 6, View Preservation. That Strategy requires that the City "[d]evelop and implement a policy to encourage developers to limit building heights in order to preserve hillside views throughout the City." Deletion of Policy 2-14, Strategy 6 paves the way for allowing taller buildings that impede hillside views, but the EIR fails to even mention the deletion. The EIR should be revised to either delete, or to acknowledge and study, the impact of this very significant policy change. Further, although the EIR recognizes that the impact of shade and shadow "is an important environmental issue," it contains no analysis of such impacts. EIR, at 4.1-21. When describing this issue, the EIR identifies certain land uses as being "shadow-sensitive" because they have "expectations for direct sunlight and warmth from the sun." EIR, at 4.1-21. The list of such sensitive uses includes private enterprises, such as outdoor restaurants. However, it fails to recognize that corporate campuses, such as Apple Campus 2, may similarly be "shadow-sensitive" and have an expectation of sunlight. One of the signature features of Apple Campus 2 is its extensive outdoor space. This space is designed to invite employees to interact in a relaxed, park-like setting. Creating this open space comes at an enormous cost, particularly the elimination of impervious spaces for surface parking by constructing high cost underground and structured parking. The value of that investment and the healthy lifestyle amenity to Apple employees would be threatened by new residential towers casting long shadows across this key campus feature. Apple's expectation of sunlight clearly warrants at least the same attention as an outdoor restaurant, and the EIR should address this potential impact.

B16-08

B16-09

Likewise, the EIR doesn't mention the light and glare trespass resulting from residential towers within this building envelope. We were very careful to avoid any light or glare trespass from Apple Campus 2 (see *Apple Campus 2 Project Environmental Impact Report Lighting Technical Report*, October 29, 2012, by Arup and AC2 EIR, Section V.B.2.b.(4)). We request the City to study this topic in connection with the proposed building envelope.

5. Apple Requests Additional Changes and Corrections to the General Plan Amendment

B16-10

Below are minor additional changes that we request be made to the General Plan Amendment and the EIR:

- Remove Pruneridge. The EIR acknowledges that Pruneridge has been vacated for Apple Campus 2, but it remains depicted in all figures. The General Plan and its figures should reflect the vacation of Pruneridge and the amendment to the General Plan's Circulation Element effected as part of the Apple Campus 2 approvals.
- Acknowledge the Development Agreement. A key entitlement for Apple Campus 2 is the Development Agreement, which vested Apple's right to build out the campus under the policies, plans and regulations that were in place at the time of the Development Agreement, including the General Plan. This General Plan Amendment should acknowledge that, so long as the Development Agreement is in place, the prior General Plan policies apply to Apple Campus 2. We note that the current General Plan takes this approach with respect to Hewlett-Packard's development agreement.
- Clarify "Major Employer." We believe the entities that qualify for the "major employer" pool of development allocations should be clarified. First, we note that Appendix I mistranscribes the existing General Plan language. Policy 2-44 describes "major employers" as those "companies with sales offices and corporate headquarters in Cupertino," but EIR Appendix I shows this as companies with "sales offices or corporate headquarters." This needs to be corrected. However, we think the definition could be further clarified. The purpose of the "major employer" category is to encourage large, established companies to stay and grow in Cupertino. We believe that only requiring a sales office and corporate headquarters is too broad.
- Assumption for Hamptons. Table 3-5 indicates a net increase of 528 units within the North Vallco Special Area, but elsewhere the EIR states that redevelopment of The Hamptons will result in a net increase of 820 units. The full density anticipated in the EIR should be assumed. Further, we were unable to determine in the traffic section how many units were assumed at that site. Please clarify this issue.
- I-280 Northbound Ramp Improvements. It appears that the EIR does not assume some of the improvements Apple is making to the Wolfe Road and I-280 northbound ramp. We believe this accounts for the discrepancy between the finding in the AC2 EIR that with mitigation, that intersection would operate at LOS B (see MM TRANS-5, pg. 404) and the finding in the General Plan Amendment EIR that the same intersection would operate at LOS F in the "no project" scenario. In particular, the Transportation Impact Analysis for Apple Campus 2 assumed widening the northbound Wolfe approach to three lanes (see AC2 TIA, pg. 3-10, Intersection #21, Wolfe Road and I-280 NB Ramps providing data for Cumulative

B16-10
cont.

B16-11

B16-12

plus Project conditions, for both AM and PM traffic), but the General Plan Amendment EIR assumed only two lanes for this approach (see EIR, Appendix G, pg. 231-76). Apple is, in fact, constructing this third northbound approach lane, so it should be assumed.

B16-12
cont.

- Bridge Widening Should Not be Assumed. Mitigation Measure TRAF-1 commits the City to preparing and implementing a Traffic Mitigation Fee Program and then identifies several improvements that would mitigate the impacts. EIR, at 4.13-53. Several of these improvements are ambitious, particularly the potential for widening the Wolfe Road overcrossing. These very substantial improvements have not been studied. Please clarify in the text of the EIR that there may be other solutions available and that any mitigation measures will be identified and fully studied when preparing the Fee Program. There should be no assumption at this point that the bridge may need to be widened.

B16-13

Apple has made an unprecedented investment in Cupertino and the decision to do so was based on certain understandings about our neighborhood. We respectfully request that the City continue to collaborate with Apple and The Irvine Company to identify appropriate development standards for the Hamptons site, including 60-foot height limits along the property lines, reasonable setbacks, transitions, landscaping or other mitigations, and findings that any structure will not breach the privacy and security needs of Apple Campus 2, and that the impacts of any project on view corridors, sunlight, and emission of light and glare will be thoroughly studied and adverse impacts mitigated.

B16-14

Sincerely,



Dan Whisenhunt
Senior Director
Real Estate & Development
Apple

cc: Mayor and City Council of Cupertino
David Brandt, City Manager
Aarti Shrivastava, Director of Community Development

**VALLCO SHOPPING DISTRICT SPECIFIC PLAN AND
THE HILLS AT VALLCO PROJECT**

SB610 WATER SUPPLY ASSESSMENT

CUPERTINO, CALIFORNIA

MARCH 1, 2016

Prepared by:

Yarne & Associates, Inc.

For

**California Water Service
Los Alto Suburban District**

**949 B Street
Los Altos, CA 94024**

TABLE OF CONTENTS

| | |
|--|-----------|
| Introduction and Project Description | 3 |
| Vallco Specific Plan and Project Water Demand | 6 |
| LAS District Background Information | 11 |
| LAS District Water Demand | 12 |
| LAS District Water Supply | 22 |
| Supply Adequacy and Reliability Assessment | 29 |
| Climate Change | 35 |
| WSA Summary and Conclusion | 35 |
| References | 36 |

Introduction and Project Description

California Water Service (Cal Water) has prepared this California SB 610 Water Supply Assessment (WSA) for the Vallco Shopping District Specific Plan and The Hills at Vallco Project (hereafter referred to as “Vallco SP&P”). The Los Altos Suburban (LAS) district of Cal Water provides potable water service to all customers within the proposed development area of the Vallco SP&P.

The Vallco SP&P area is approximately 58 acres and includes 15 parcels. It is located at the intersection of North Wolfe Road, Stevens Creek Boulevard and Vallco Parkway in the City of Cupertino.

EIR Figure 1 shows the project site location in Cupertino. EIR Figure 2 is the vicinity map and EIR Figure 3 is an aerial photo of the existing site and surroundings.

The existing Vallco Shopping Center is an existing regional shopping mall of 1,199,699 square feet (ft²) of retail, restaurant and recreation space. The existing mall has experienced a decline in occupancy during the past 2 years resulting in a lower occupancy rate. Major anchor tenants including Sears and Macy’s closed their stores in the mall. In May 2015, 796,527 ft² or 66.4% were occupied and 403,172 ft² or 33.6% were vacant. For the six year period from December 2009 to December 2014, average occupancy was 993,464 ft² or 82.8% and average vacancy was 206,235 ft² or 17.2%.

Following are the facilities for the “Proposed Project” for the Vallco SP&P as of November 24, 2015:

1. Retail & Recreation Uses - **650,000 sq ft** which includes:
 - Retail – 420,000 sq ft
 - Recreation Uses: AMC Theatre, Bowling Alley, Ice Rink – 180,000 sq ft
 - Fitness Use - 50,000 sq ft
2. Residential - **800 units** (approximately 800,000 sq ft)
 - Market Rate Apartments – 680 units
 - Affordable Apartments – 80 units
 - Market Rate Senior Apartments – 40 units
3. Office Uses - **2,000,000 sq ft plus** related uses:
 - Rooftop Office Amenity - 35,000 sq ft
 - Other Office Amenity - 135,000 sq ft
 - Workshop and Testing Areas - 175,000 sq ft
4. Civic Uses - **40,000 sq ft** which includes:
 - Transit Center – 5,000 sq ft
 - Civic Meeting Space – 5,000 sq ft

High School Innovation Center – 10,000 sq ft
Community Banquet Hall – 20,000 sq ft

5. Other Supportive uses - **75,000 sq ft** which includes:
Loading, Security, Facilities, etc. - 75,000 sq ft

6. Central Plant:

The Central Plant is to provide centralized heating and cooling and will include a 10,000 ton condenser water system which would serve as a heat sink/source for individual water cooled HVAC systems throughout the development. In addition, a 16,000 ton per hour ice plant would be used for off hour thermal storage. The Central Plant would house conventional cooling and heating equipment including a boiler plant, a pump house, and switchgear. The heat pumped water for heating and cooling of the buildings on-site would be distributed throughout the site from the Central Plant via piping installed in the below-ground parking area. Water use of the Central Plant has been estimated by the developer's consultant.

7. Green Roof and Ground Landscaping – **40.59 acres total** comprised of:

10.13 acres ground surface landscaping

30.46 acres of green roof landscaping– largest proposed green roof area for a commercial development in the US.

The green roof would cover and cross over the tops of the buildings on-site come to existing grade at the western boundary of the project site at Stevens Creek Boulevard. It would include landscaping and active and passive open spaces. Plantings would consist of native and/or drought tolerant species such as native oak trees, manzanita, needlegrass, and native sedges, which would be irrigated by a drip system. Not all areas of the green roof would be accessible to the public. The proposed green roof would consist of the following five open space areas:

- a. Oak Grove – Located on the western edge of the site, it would provide at-grade public pedestrian access to the green roof from Stevens Creek Boulevard. This edge would be planted with canopy trees that would serve as a visual buffer to the adjacent residential neighborhood.
- b. Community Activities – Located in the center of the green roof, it would include active programmatic uses including a large play space and garden for children, community meeting spaces, and amphitheater and performance spaces. Amenities such as a café and wine bar may also be located within this area.
- c. Vineyards – Located in the northeastern portion of the roof, it would include trails, as well as public gathering and performance spaces.
- d. Orchards – Would include fruit trees and be located on the roof at the northwest corner of Stevens Creek Boulevard and Wolfe Road. It would provide agricultural-related educational and seasonal activities.
- e. Nature Preserve – Located on the eastern and western portions of the roof, it would include open areas, landscaping, and trails and storm water control and treatment.

8. New Public School – **700 student** elementary
Off-site location at Nan Allan School Site (10253 N. Portal Ave.)
9. Within Specific Plan Area but not within the Development Project Area
New **191-room hotel**
Commercial Retail – **10,000 sq ft**

In 2015, the City of Cupertino was preparing a CEQA Environmental Impact Report (EIR) which identified the following five other alternatives to the Proposed Project:

1. No Project – existing uses continue: No WSA required
2. Reduced Project Alternative – all uses reduced by 25%: No detailed water use evaluation made since water use will be approximately 75% of that estimated for the Proposed Project.
3. More Retail and Civic Alternative:
 - a. Retail increased to 850,000 sq ft – an increase of 200,000 sq ft
 - b. Civic increased to 140,000 sq ft – an increase of 100,000 sq ft
4. More Housing/Less Office Alternative
 - a. Retail remains as 650,000 sq ft
 - b. Housing units increased to 1,200 – an increase of 400 units
 - c. Office space reduced to 1,000,000 sq ft – a decrease of 1,000,000 sq ft
5. Reduced Construction alternatives – reduced parking and taller buildings; otherwise same as Proposed Project; hence, same water use

In December 2015, the developer decided to place the Proposed Project on a voter ballot initiative for the November 2016 elections. According to the City's consultant, a CEQA document is not required if a proposed project is voted upon by the general public and approved. Nonetheless, the WSA estimates water use for the Proposed Project and for Alternatives 3 and 4.

Construction of the Vallco SP&P is expected to start after City approval in the first quarter of 2017. The first phase is planned for completion in 2 years or first quarter 2019 when would facilities placed into use and all proposed improvements are completed. The second phase is planned for completion in 3 years and would start in 2019 and be completed in 2021.

The Vallco SP&P is not specifically covered in Cal Water's LAS District 2010 Urban Water Management Plan (UWMP); therefore, its water supply requirements are addressed in this WSA. The 2010 UWMP is based on data recorded to 2010 and is currently the most recent UWMP; however, updated Cal Water records data for 2011 – 2014 on population, customer services, water demand and well supply were obtained and used in the WSA.

The 2010 LAS District UWMP can be referenced for more detailed information on historic and forecasted water demand and supply.

Senate Bill 610 (Chapter 643, Statutes of 2001) (SB 610) amended state law as of January 1, 2002, to include consideration of water supply availability when cities and counties are making land use development decisions. SB 610 requires detailed information on water supply

availability be provided to local public agency decision-makers prior to approval of development projects that meet or exceed any of the following criteria:

1. A residential development of more than 500 dwelling units.
2. A shopping center or business establishment employing more than 1,000 persons or having more than 500,000 square feet.
3. A commercial office building employing more than 1,000 persons or having more than 250,000 square feet of floor space.
4. A hotel or motel with more than 500 rooms.
5. An industrial, manufacturing or processing plant or industrial park planned to house more than 1,000 persons occupying more than 40 acres of land or having more than 650,000 square feet of floor area.
6. A mixed-used project that includes one or more of the projects specified above.
7. A project that would demand an amount of water equivalent to, or greater than, the amount of water required by a 500 dwelling unit project.

Because the proposed Vallco Project exceeds criteria 1, 2, 3 and 6 above, a WSA is required. The WSA assesses the adequacy of the water supply to meet the estimated demands of the proposed Vallco Project over the next 20 years and those of Cal Water's LAS District customers and projected new users under normal, single dry year and multiple dry year conditions. (Water Code §10911(a)). SB 610 requires that the information presented in a WSA be included in the administrative record that is the basis for an approval action by the local public agency.

SB 610 recognizes local control and decision-making regarding availability of water for projects and approval of projects. A WSA is to be provided to local governments for inclusion in environmental documentation for projects subject to the California Environmental Quality Act (as defined in Water Code 10912 [a]).

Vallco Specific Plan and Project Water Demand

Forecasting net new water demand for the Proposed Project is generally based on multiplying the estimated water use on a gallons per day per square foot (gpd/ft²) basis for non-residential use categories by the new square footage for each category and summing the total. For residential single family and multi-family categories, water demand is based on LAS District residential use data.

Cal Water has used historic water use data by user classes to develop estimates of water demand for various projected development uses. Due to implementation of more aggressive water conservation practices and requirements, historic unit water use factors are viewed as being higher than the water use factors projected for new developments in 2015 and beyond. Accordingly, the method used here was to:

1. Estimate water demand of existing uses
2. Estimate water demand of proposed new development based on newer water conservation requirements for toilets, showers, dishwashers, washing machines and outdoor landscaping and irrigation systems.
3. Determine the net increase in project water demand by subtracting existing demand from estimated new development demand.

Following are water use factors by user categories historically experienced by Cal Water:

| <u>Category</u> | <u>Average Water Use Factors</u> <u>gpd/ft²</u> |
|-------------------------------|---|
| Dry goods stores: | 0.110 |
| Commercial offices: | 0.05 |
| Restaurants (food service): | 1.10 |
| Supermarkets and food stores: | 1.10 |
| Recreational & Entertainment: | 0.55 |

Updated US Census Bureau data for 2010 obtained by Cal Water indicate that the number of multi-family dwelling units in the LAS District was 8,517. The total water demand for multi-family services in 2010 was 656 AFY. Therefore, the 2010 water use factor is 0.077 AFY/dwelling unit or 68.7 gpd/dwelling units

Estimated Existing Average Daily Water Use in the Vallco Shopping Mall:

A breakdown of available space by user category for the existing shopping center is not available; therefore, the following assumption is made:

Dry goods stores: $80\% \times 993,464 \text{ ft}^2 = 794,771 \text{ ft}^2$
 Restaurants and food stores: $15\% \times 993,464 \text{ ft}^2 = 149,020 \text{ ft}^2$
 Commercial offices: $5\% \times 993,464 \text{ ft}^2 = 49,673 \text{ ft}^2$

Estimated Existing Building Water Use:

Dry goods stores: $794,771 \text{ ft}^2 \times 0.110 \text{ gpd/ft}^2 = 87,425 \text{ gpd}$
 Restaurants and food stores: $149,020 \text{ ft}^2 \times 1.10 \text{ gpd/ft}^2 = 163,922 \text{ gpd}$
 Commercial offices: $49,673 \text{ ft}^2 \times 0.05 \text{ gpd/ft}^2 = 2,484 \text{ gpd}$
 Total Estimated Existing Building Average Daily Water Use: 253,831 gpd

Estimated Existing Landscape Irrigation Water Use:

Metered data for only landscape irrigation in the LAS District is not available. In nearby Cal Water districts, irrigation usage for parks and landscaped areas ranges from 3.0 – 4.0 AFY per acre. For a park area in San Mateo, metered sales records for two existing parks for 34 months yielded an irrigation rate of 3,615 gallons per day/acre or 4.05 AFY per acre. For commercial office landscaping in South San Francisco for one year period, total landscape irrigation water use was 7,219,192 gallons for an area of 250,143 square feet. Therefore, average daily irrigation water use was: 0.079 gallons/day/ft² or 3.85 AFY per acre. Both of these irrigations rates were for non-drought periods. For the existing Vallco Shopping center site, a lower application rate of irrigation water is assumed due to the 4+ years of current drought or 3 AFY per acre or 2,676 gpd/acre. Based on an aerial photo, it is estimated that there are 4.7 acres of landscaped areas. Therefore, estimated existing irrigation water use is 2,676 gpd/acre x 4.7 acres = 12,577 gpd.

Estimated Existing Total Shopping Center Area Water Use: 253,831 gpd + 12,577 gpd = 266,408 gpd

Estimated Proposed Project Water Use:

The Proposed Project will replace facilities with buildings that will fully comply with more stringent and current city water conservation requirements including the California Plumbing Code and the California Green Building Code, which mandate installation of water conserving plumbing fixtures and fittings.

Existing water use in the Vallco Shopping Center is based on higher historic water use rate data (gpd/ft²). It is estimated that new Proposed Project facilities will achieve a reduction in water use rates of 25%.

For example, old toilets often exceed 2 gallons per flush. Later toilets use 1.6 gallons per flush. The latest water efficient toilets use only 0.6 gallons per flush. Depending on the reference toilet, the latest toilets achieve 62.5% to 70% reduction in water use. In residential dwelling units, new dishwashers will be installed which use less water than older conventional machines, which use between 7 and 14 gallons per wash load. New water efficient dishwashers use between 4.5 and 7 gallons per wash load. Using an average of 10.5 gallons for conventional machines and 5.75 gallons for new water efficient machines results in an average savings of 4.75 gallons per load or a reduction of 45%. Showers with restricted flow heads have an average flow rate of 2.0 gallons per minute (gpm) versus conventional shower head flows of 2.5 gpm or a 20% reduction. Washing machines 18 years or older used 40 gallons per standard load versus new machines using only 13 gallons per load or a reduction of 67.5%.

1. Retail and Recreational Uses:

1) Retail: Assume 80% of space is dry goods and 20% is restaurants and food stores
Therefore the average water use rate is: $0.8 \times 0.11 + 0.2 \times 1.10 = 0.308 \text{ gpd/ft}^2$

$0.75 \times 0.308 \text{ gpd/ft}^2 \times 420,000 \text{ ft}^2 = 97,020 \text{ gpd}$

2) Recreational & Entertainment:

$0.75 \times 0.55 \text{ gpd/ft}^2 \times 180,000 \text{ ft}^2 = 74,250 \text{ gpd}$

3) Fitness Club:

$0.75 \times 1.10 \text{ gpd/ft}^2 \times 50,000 \text{ ft}^2 = 41,250 \text{ gpd}$

Total retail and recreational water use: 212,520 gpd

2. Residential (multi-family units):

$0.75 \times 68.7 \text{ gpd/dwelling unit} \times 800 \text{ dwelling units} = 41,220 \text{ gpd}$

3. Office and Related Uses:

$0.75 \times 0.05 \text{ gpd/ft}^2 \times 2,345,000 \text{ ft}^2 = 87,938 \text{ gpd}$

4. Civic:

$0.75 \times 0.110 \text{ gpd/ft}^2 \times 40,000 \text{ ft}^2 = 3,300 \text{ gpd}$

5. Other Supportive Uses:

$0.75 \times 0.110 \text{ gpd/ft}^2 \times 75,000 \text{ ft}^2 = 6,188 \text{ gpd}$

6. Central Plant (Cooling Tower):

Based on an analysis of the proposed cooling and heating systems and their associated water requirements, Luk and Associates in its November 4, 2015 report to the Sand Hill Property Company estimates potable Central Plant water demand for a typical development to be 125 AFY or 111,500 gpd for the Proposed Project. With a 50/50 blend of potable and recycled water, potable demand is estimated to be 78 AFY. For 100% of supply coming from recycled water, demand is estimated to be 219 AFY.

7. Green Roof and Ground Landscaping:

Based on a detailed breakdown of specific plantings, areas and irrigation rates, Luk and Associates in its November 4, 2015 report to the Sand Hill Property Company estimates the total annual irrigation demand for potable water for the Proposed Project to be 90.1 AFY or 80,369 gpd using the Water Use Classifications of Landscape Species (WUCOLS) Landscape Coefficient Method.

8. Public School:

Average daily water use in another Cal Water district for an elementary school for a 3 year period (2011 – 2013), was 11,924 gallons/day for an average enrollment of 510 students or 23.38 gallons/day/student. In 2014, in the 4th year of state wide drought, the water use decreased 17.7%. A new school is expected to incorporate water savings fixtures and irrigation practices; therefore, an average of these two rates, or 0.91×23.38 gallons/day/student = 21.28 gallons/day/student is used here.

$$21.28 \text{ gpd/student} \times 700 \text{ students} = 14,896 \text{ gpd}$$

9. Hotel (191 rooms) & Commercial Retail:

Water use for hotels with a restaurant is estimated to be 0.50 gallons/day/sq ft. Estimated total hotel space per room is estimated to be 390 sq ft.

Therefore, estimated hotel water demand is: $191 \text{ rooms} \times 390 \text{ sq ft/room} \times 0.50 \text{ gallons/day/sq ft} = 37,245 \text{ gpd}$

Hotel Retail:

$$0.75 \times 0.308 \text{ gpd/ft}^2 \times 10,000 \text{ ft}^2 = 2,310 \text{ gpd}$$

10. Total Proposed Project estimated average daily potable water use: 597,486 gpd

Estimated net increase in average daily potable water use for the Proposed Project is:

$$597,486 \text{ gpd} - 266,676 \text{ gpd} = 330,810 \text{ gpd} \text{ or } \mathbf{370.9 \text{ AFY}}$$

In the Proposed Project Description and Luk and Associates' water demand calculations, an assumption is made that recycled water may be available for meeting 50% of the green roof and ground landscape irrigation requirements or 45 AFY and 50% of the cooling tower water requirements or 78 AFY with the other 78 AFY coming from potable water. If so, that would reduce the net increase in daily potable water use by 92 AFY (45 + 47) resulting in a revised total estimate of average daily potable water use for the Proposed Project of 278.9 AFY.

An agreement involving Cal Water, the City of Sunnyvale, Santa Clara Valley Water District (SCVWD), City of Cupertino and the Sand Hill Property Company will need to be prepared and negotiated. It will have to address roles and responsibilities, costs, financing, design and construction, recycled water delivery quantities and quality and a schedule for implementation of the recycled water delivery system. Since that process has not started and it could take several years for all of the above to occur, the WSA assumes that at commencement of use of project facilities, all water needs will be met by potable supplies. However, it is noted that an agreement involving the City of Sunnyvale (source of the recycled water), SCVWD (responsible for the transmission system to the City of Cupertino) Cal Water (responsible for retail delivery of recycled water to the Apple Campus 2 site) and Apple (end user and contributor for paying part of the conveyance system capital costs) have a signed agreement. It is anticipated that the parties will proceed with design and construction of the facilities required to connect the Sunnyvale recycled water system to a new recycled pipe system in Cupertino to convey recycled water to the Apple Campus 2 site. Sand Hill Property Company and the City of Cupertino's intention is to extend the recycled water transmission line to serve the Hamptons housing project and the Vallco Specific Plan and Project.

Cal Water supports the use of recycled water for the Hamptons and Vallco projects, but is not yet engaged in developing an agreement to accomplish that objective.

Estimated Water Use for More Retail and Civic Space Alternative

1) Retail increased to 850,000 sq ft – an increase of 200,000 sq ft or $0.75 \times 0.308 \text{ gpd/ft}^2 \times 200,000 \text{ ft}^2 = 46,200 \text{ gpd}$

2) Civic increased to 140,000 sq ft – an increase of 100,000 sq ft or $0.75 \times 0.110 \text{ gpd/ft}^2 \times 100,000 \text{ ft}^2 = 8,250 \text{ gpd}$

Total Estimated Water Use for the More Retail and Civic Space Alternative:
 $597,486 \text{ gpd} + 46,200 \text{ gpd} + 8,250 \text{ gpd} = 651,936 \text{ gpd}$

Estimated net increase in average daily potable water use for the More Retail and Civic Space Alternative:

$651,935 \text{ gpd} - 266,676 \text{ gpd} = 385,259 \text{ gpd}$ or **431.9 AFY**

Estimated Water Use for More Housing and Less Office Space Alternative

1) Residential increased to 1,200 dwelling units – an increase of 400 units or $0.75 \times 68.7 \text{ gpd} = 20,600 \text{ gpd}$

2) Office reduced to 1,000,000 sq ft or $0.75 \times 0.05 \text{ gpd/ft}^2 \times 1,000,000 \text{ ft}^2 = -37,500 \text{ gpd}$

Total Estimated Water Use for the More Housing and Less Office Space Alternative:
 $597,486 \text{ gpd} + 20,600 \text{ gpd} - 37,500 \text{ gpd} = 580,586 \text{ gpd}$

Estimated net increase in average daily water use for the More Housing and Less Office Space Alternative:

$580,586 \text{ gpd} - 266,676 \text{ gpd} = 313,910 \text{ gpd}$ or **351.9 AFY**

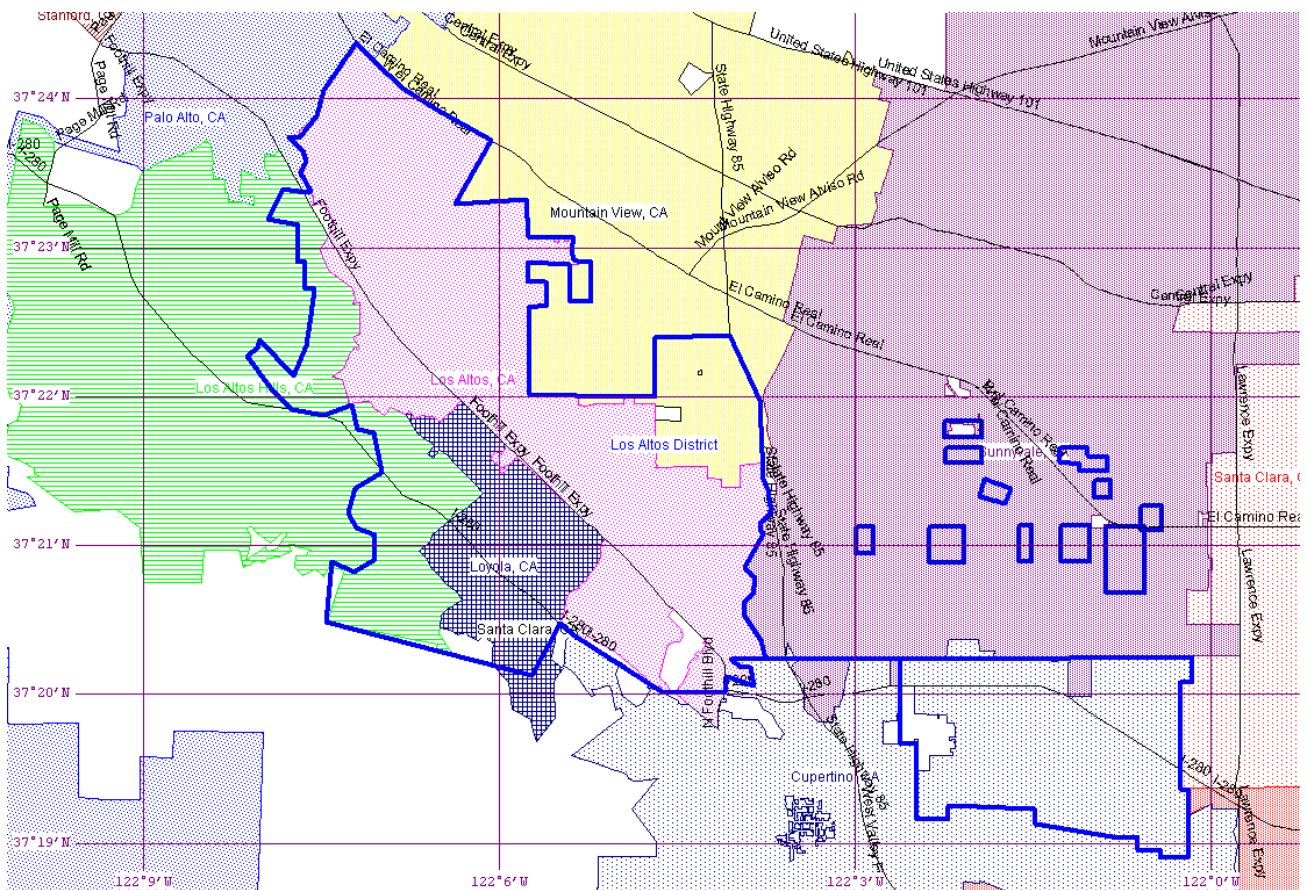
Summary of Estimated Net Increase in Potable Water Use:

1. Proposed Project: 330,810 gpd or **370.9 AFY**
2. More Retail and Civic Space Alternative: 385,259 gpd or **431.9 AFY**
3. More Housing and Less Office Space Alternative: 313,910 gpd or **351.9 AFY**

LAS District Background Information

The Los Altos District is located in Santa Clara County approximately 45 miles south of San Francisco and 11 miles north of San Jose. The system serves the majority of the incorporated city of Los Altos, fringe sections of the cities of Cupertino, Los Altos Hills, Mountain View, Sunnyvale and adjacent unincorporated areas of Santa Clara County. The service area boundaries are shown in Figure 4. The cities of Mountain View, Sunnyvale Cupertino and Santa Clara own and operate water systems northeast and southeast of the District. Purissima Hills Water District is north of the City of Los Altos Hills.

Figure 4: LAS District Service Area (Areas bounded by blue line)



Cal Water uses U.S. Census data in estimating population in all of its districts in California. Its

methodology for estimating existing and future population has been reviewed and accepted by the California Public Utilities Commission (CPUC), which provides regulatory oversight of privately owned water and wastewater utilities. Estimates of the population serviced by Cal Water in the LAS district are based on overlaying the 2010 U.S. Census Tract Block data with the service area boundary as shown in Figure 4. LandView 5 and MARPLOT[®] software are used to generate data.

When compared to year 2000 Census data, the 10 year population growth rate in Cal Water’s LAS district service was 18.8% based on a 2000 population census based estimate of 55,177 and a 2010 population census based estimate of 65,550. This was increase of 10,373 persons in 10 years or average annual increase of 1,037 persons. Total housing units (single family and multi-family) increased from 21,258 to 25,301 or 4,043 units in 10 years for an average annual increase of 404 units.

Based on 2010 U.S. Census data, occupant density is 2.59 persons per residential unit (single family and multifamily units).

This data was used as a baseline for estimating population starting in 2010. To calculate estimated population after 2010, the Census 2010 population was divided by the total number of dwelling units served by Cal Water in 2010 to produce a population density value. This value was then multiplied by the number of projected dwelling units in each future year.

The twenty-year growth rate for customer service types was used by Cal Water to estimate the future number services to 2040 and population in the LAS District. Use of the twenty-year growth rate correlated most closely with past growth and current growth trends. In the 2010 UWMP, Cal Water estimated the LAS district service area population to be 56,940. As noted, using 2010 US Census data, Cal Water revised its 2010 estimate to 65,550, which is a difference of 8,610 or 15.1 % greater. The 2010 UWMP estimate of the population in 2040 was 62,650.

In 2015, Cal Water updated its population forecast which is shown in Table 1. This forecast shows significantly greater increases in population growth than projected in the 2010 UWMP. The updated Cal Water forecast is used in the WSA.

Table 1: 2015 LAS District Updated Population Projections

| Year | 2005 | 2010 | 2015 | 2020 | 2025 | 2030 | 2035 | 2040 |
|--------------------------------|--------|--------|--------|--------|--------|--------|--------|--------|
| Service Area Population | 60,450 | 65,550 | 68,234 | 71,291 | 74,504 | 77,986 | 81,764 | 85,864 |

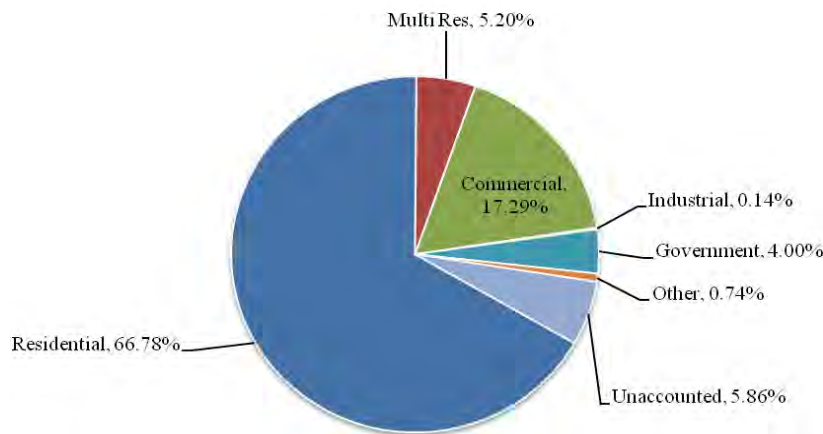
LAS District Water Demand

Before the passage of Senate Bill 7 (SBx7-7), Cal Water projected water demand by multiplying the projected number of services for each of its user classes by one of three (high, average and low) historic water use rates for each user class. The three water use rates were derived from metered customer water records. Projected increases in the number of customers in each user class were based on historic growth rates for that user class unless a particular growth rate was determined to be non-

representative in which case the overall customer growth rate was used. The sum of projected demands for each user class equaled the total projected demand for the LAS District. Three separate demand projections for the LAS District were calculated in this manner: high, average and low. After the passage of SBx7-7, the above method was no longer used for projecting LAS District water demand. However, this method is still used for projecting growth in services by user class, population, and distribution of demand among user classes. Figure 5 shows total demand by user class for all applicable user classes in 2010. The largest user class is single family residential where water use is 66.8% of total demand. The two categories that will comprise the water uses for the proposed Vallco Project are commercial (17.3% of total demand) and multi-family residential (5.2% of total demand) for a combined total of 22.5%. Other water uses (industrial, government and other) total 4.9% of demand.

Figure 5: LAS District Demand by User Class (2014 Data)

**Percent of Total Demand by Type of Use
(2014)**



California Senate Bill x7- 7 Baseline and Targets

Senate Bill No. 7 (SBx7-7) adopted in November 2009 mandates a statewide 20% reduction in per capita urban water use by December 31, 2020. The CPUC directed Class A and B water utilities to adopt conservation programs and rate structures designed to achieve reductions in per capita water use. To increase water conservation, Cal Water in 2010 developed five-year conservation program

plans for all of its service districts. The LAS District Conservation Master Plan is in Appendix G of the 2010 UWMP.

SBx7-7 requires reducing per capita water use by at least 10 percent on or before December 31, 2015. SBx7-7 requires urban retail water suppliers to develop 2015 and 2020 water use targets in accordance with specific requirements and provides several ways to calculate them. Retail water suppliers can also form regional alliances within the same hydrologic region to achieve compliance.

Demand projections in the 2010 UWMP were developed to meet SBx7-7 requirements. Two demand projections were made: 1) an unadjusted baseline demand and 2) a target demand. The unadjusted baseline water demand projection is the total demand expected without any water conservation. It is equal to forecasted population multiplied by the base per capita water use, which is the average for the period from 2005 to 2009.

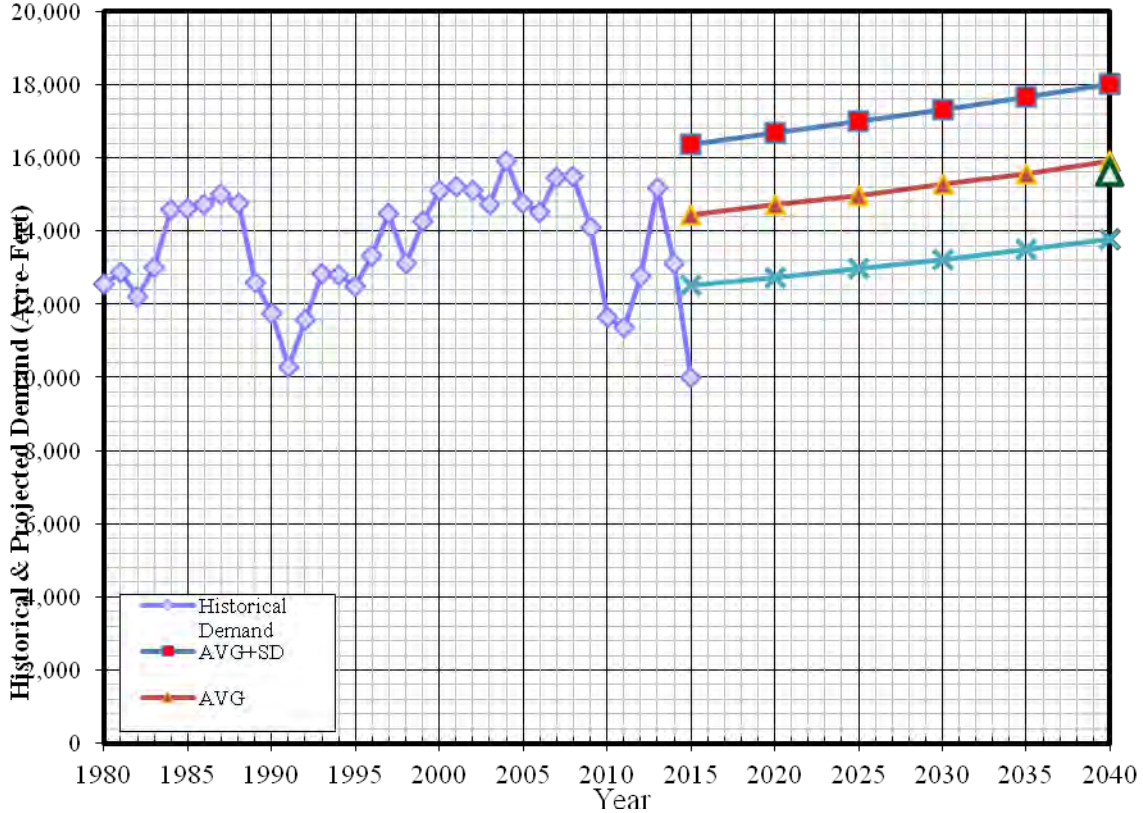
The 2010 LAS UWMP provides a detailed description of the four methods permitted by the state to calculate water use targets for 2015 and 2020 and explains why Cal Water elected to use the first method. Under Method 1, the 2015 and 2020 targets are set to 90 percent and 80 percent of baseline water use, respectively. Baseline water use is the average water use for any continuous 10-year period ending between 2004 and 2010. For the LAS District, the 10 year base period 1999-2008 yielded the maximum target under this method. The 2015 target was 217 gpcd and a 2020 target is 193 gpcd. In preparing its 2015 LAS District UWMP, Cal Water has updated the 10 year base period resulting in lower water use per capita targets. For 2015, it is 209 gpcd and for 2020, it is 185 gpcd.

Annual LAS District per capita demand for the 20 year period between 1995 and 2014 ranged from a high of 244 gpcd in 2000 to a low of 152 gpcd in 2011. Cal Water estimates the 2015 annual per capita demand to be 130 gpcd – a significant decrease, which is viewed as the result of LAS District customers responding to intensified efforts by Cal Water, SCVWD and the state to achieve the 25% reduction in water use requested by the Governor of California in early 2015. In its updated projections, Cal Water increases per capita daily water demand to 184 gpcd in 2020 and beyond assuming that after the current drought ends, normal or above normal annual rainfall and runoff will occur. An increase in per capita water consumption has been observed in previous years following droughts. The 184 gpcd is still less than the adjusted 2015 and 2020 SBx7-7 targets.

Since LAS District demand data for the period from 2010 to 2015 indicate that water use on a per capita per day basis is less than water use based on SBx7-7 target rates, the WSA uses the lower average rates for projecting future LAS District demand as shown in Figure 6.

Figure 6: LAS District Projected Demand Comparison (2015 Update)

Historical & Projected Demand



Actual and projected water demand through 2040 is also shown in Table 2. Demand estimates for 2015 are based on actual water use data through September 2015 and estimates for October - December. For the period from 2020 to 2040, projected water demand is based on multiplying updated population projections in Table 1 by varying per capita water use rates.

| Table 2: LAS District Actual and Projected Water Demand (AF) | | | | | | | | |
|--|--------|--------|--------|--------|--------|--------|--------|--------|
| | 2005 | 2010 | 2015 | 2020 | 2025 | 2030 | 2035 | 2040 |
| Water Use | 14,758 | 11,648 | 14,440 | 14,706 | 14,983 | 15,273 | 15,577 | 15,894 |

Valco SP&P Proposed Project and Alternatives and LAS District Demand Assessment

The estimated initial use date of some Proposed Project facilities is January 2018 and completion and full use in 2 more years or the January 2020.

The projected LAS district water demand increase between 2015 and 2020 is 266 AFY. Taken as a percentage of this increase, the estimated net new water demand of the Proposed Project and Alternatives is as follows:

1. Proposed Project: 139% (370.9/266)
2. More Retail and Civic Space Alternative: 162% (431.9/266)
3. More Housing and Less Office Space Alternative: 132% (351.9/266)

Water demands of the Apple Campus 2 project are estimated in a SB 610 WSA, February 1, 2012. Total potable and non-potable estimated water use for Apple Campus 2 Phases 1 and 2 is 520 AFY for the water conserving scenario, which based on current information from the City of Cupertino, was selected and is being implemented. As presented in the Apple Campus 2 WSA, potable water use at build out was estimated to be 242 AFY and recycled water for landscape irrigation, interior fixtures and process water requirements was estimated to be 278 AFY.

As noted under the recycled water section, Cal Water, Sunnyvale, South Bay Recycling, Apple, and SCVWD will be signing a contract to provide an inter-tie to the Sunnyvale recycled water system. The current plan includes constructing a recycled water transmission line to the Apple Campus 2 site to deliver 175 AFY or 103 AFY less than the 278 AFY estimated in the Apple Campus 2 WSA. Accordingly, 103 AFY of water demand is added to the estimated potable demand of 242 AFY to yield a revised total potable water demand of 345 AFY for Apple Campus 2 at build out. Total demand is still estimated to be 520 AFY.

Total estimated existing potable water use site area prior to the Apple Campus 2 project was estimated to be 398.4 AFY.

Therefore, the net increase in water demand by the Apple Campus 2 project is 121.6 AFY. Since 175 AFY of demand will be met by non-potable water, the net effect on potable supply of the Apple Campus 2 project is to decrease demand on the potable supply by 53.4 AFY.

Concurrent with preparation of the Vallco Specific Plan and Project WSA, a WSA has been prepared by Cal Water for the Hamptons Project. That WSA estimates the increased demand for the proposed development plan is 28.1 AFY.

In a February 29, 2012, letter, the City of Cupertino requested that Cal Water review its SB 610 Water Supply Assessment (WSA) dated August 12, 2008 for the Main Street Development Project with respect to two proposed additional alternative development options that differ from the two options assessed in the WSA. The City requested that changes to the base scheme option be assessed for their impact on project water demand. In a March 21, 2012 response to the City Cal Water compared the estimated water demand for Option 1D (base scheme) to Plan A, the higher water use option in the 2008 WSA. In Cal Water's Addendum No. 1 to the WSA, dated March 21, 2012, the estimated water demand for Option 1D (Base Scheme) is 268,580 gpd compared to the August 12, 2008, WSA estimated demand for Plan A of 265,400 gallons/day. The demand for Option 1D, used here, is: 30.1 AFY.

The estimated water demands for the 1) proposed Vallco project, 2) proposed Hamptons Project, 2) Apple Campus 2 using recycled water and the typical development scenario and 4) Main Street Development Project are added to Cal Water’s updated 2015 LAS District demand projection for 20 years shown in Table 2 resulting in a revised LAS District demand projection, which is shown in Table 3.

| Table 3: LAS District Plus Four Development Projects | | | | | | | | |
|---|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Actual and Projected Water Demand (AF) | | | | | | | | |
| | 2005 | 2010 | 2015 | 2020 | 2025 | 2030 | 2035 | 2040 |
| Cal Water Projection | 14,758 | 11,648 | 14,440 | 14,706 | 14,983 | 15,273 | 15,577 | 15,894 |
| Hamptons Project | 0 | 0 | 0 | 28.1 | 28.1 | 28.1 | 28.1 | 28.1 |
| Vallco SP&P | 0 | 0 | 0 | 370.9 | 370.9 | 370.9 | 370.9 | 370.9 |
| Apple Campus 2 | 0 | 0 | 0 | 121.6 | 121.6 | 121.6 | 121.6 | 121.6 |
| Main Street Project | 0 | 0 | 0 | 30.1 | 30.1 | 30.1 | 30.1 | 30.1 |
| Total | 14,758 | 11,648 | 14,440 | 15,257 | 15,534 | 15,824 | 16,128 | 16,445 |

LAS District Water Demand Management

Cal Water is significantly expanding its water conservation programs. State law, CPUC directives and a state water conservation organization are focused on reducing urban water use and have provided much of the impetus for this emphasis. This includes:

1. Recent decisions by the CPUC directing regulated water utilities to reduce per capita urban water demand.
2. State legislation mandating urban water suppliers reduce per capita demand 20 percent by 2020.
3. Memorandum of Understanding Regarding Urban Water Conservation in California (MOU).

Following is a brief summary of each.

The CPUC’s Decision 07-05-062 directed Class A and B water utilities to submit a plan to achieve a 5 percent reduction in average customer water use over each three-year rate cycle. This policy was refined under Decision 08-02-036, which established a water use reduction goal of 3 to 6 percent in per customer or service connection consumption every three years once a full conservation program, with price and non-price components, is in place. These decisions anticipated enactment of policies by the State legislature to reduce urban water use in California 20 percent by 2020.

SBx7-7 requires the state to achieve a 20 percent reduction in urban per capita water use by December 31, 2020. The state is required to make incremental progress toward this goal by reducing per capita water use by at least 10 percent on or before December 31, 2015. SBx7-7 requires each urban retail water supplier to develop interim and 2020 urban water use targets. Urban retail water suppliers will not be eligible for state water grants or loans unless they comply with SBx7-7’s requirements.

There are three ways in which a water supplier can comply with the MOU. The first way is to implement a set of water conservation best management practices (BMPs) according to the requirements and schedules set forth in Exhibit 1 of the MOU. The second way, called Flex Track compliance, is to implement conservation programs expected to save an equivalent or greater volume of water than the BMPs. The third way, similar to SBx7-7, is to reduce per capita water use. Each of these compliance options is briefly described below.

Originally, the MOU established a set of BMPs that signatories agreed to implement in good faith. For each BMP, the MOU established the actions required by the water supplier (e.g. site surveys, fixture and appliance rebates, water use budgets, volumetric pricing and conservation rate designs), the implementation schedule, and the required level of effort (in the MOU this is referred to as the coverage requirement). Additionally, the MOU established the terms by which a water supplier could opt out of implementing a BMP.

BMPs are grouped into five categories. Two categories, Utility Operations and Education, are “Foundational BMPs” because they are considered essential water conservation activities by any utility and are adopted for implementation by all signatories to the MOU as ongoing practices with no time limits. The remaining BMPs are “Programmatic BMPs” and are organized into Residential, Commercial, Industrial, and Institutional (CII), and Landscape categories. Table 4 lists the BMPs by category. The requirements and coverage levels of each BMP are set forth in Exhibit 1 of the MOU. Cal Water’s CUWCC annual reports, which detail BMP implementation, are included in the 2010 UWMP as Appendix G.

Under Flex Track, a water supplier can estimate the expected water savings over the 10-year period 2009-2018 if it were to implement the programmatic BMPs in accordance with the MOU’s schedule, coverage, and exemption requirements, and then achieve these water savings through any combination of programs it desires. Thus, through the Flex Track compliance option, a water supplier agrees to save a certain volume of water using whatever it determines to be the best combination of programs. Because the savings target depends on the programmatic BMP coverage requirements, which in turn are functions of service area size and composition of demand, the volume of water to be saved under this compliance option must be calculated separately for each supplier.

| Table 4: MOU Best Management Practices | |
|---|---|
| BMP Group | BMP Name |
| 1. Utility Operations Programs (F) | Conservation Coordinator |
| | Water Waste Prevention |
| | Wholesale Agency Assistance Programs |
| | Water Loss Control |
| | Metering & Volumetric Rates |
| | Retail Conservation Pricing |
| 2. Education Programs (F) | Public Information Programs |
| | School Education Programs |
| 3. Residential (P) | Residential Assistance Program |
| | Landscape Water Surveys |
| | High Efficiency Clothes Washer Program |
| | Watersense Toilet Program |
| | Watersense Specifications for Residential Development |
| 4. Commercial, Industrial, Institutional (P) | Reduce baseline CII water use by 10% in 10 years |
| 5. Landscape (P) | Large Landscape Water Budget Programs |
| | Large Landscape Water Surveys |
| F = Foundational BMP, P = Programmatic BMP | |

Under the gpcd option, a water supplier can comply with the MOU by reducing its baseline gpcd by 18 percent by 2018. The baseline is the ten-year period 1997-2006. The MOU establishes interim gpcd targets and the highest acceptable levels of water use deemed to be in compliance with this option. The MOU's gpcd option is similar to the method to set the SBx7-7 target, except that it uses a fixed baseline period and only runs through 2018.

Cal Water is using Flex Track to comply with the MOU because it provides the most flexibility in selecting conservation programs and allows for more streamlined reporting.

Water Conservation Master Plans

To comply with requirements for urban water use reduction, Cal Water developed Water Conservation Master Plans (WCMP) for each of its service districts or areas. WCMPs set forth a framework for compliance and describe Cal Water's specific conservation actions to be implemented. Major tasks in the WCMPs include:

1. A complete review of State policies and development of a compliance strategy
2. Calculating all appropriate per capita targets
3. Determining water savings required from new programs
4. Performing an analysis of conservation programs
5. Developing a portfolio of conservation program actions
6. Creating a plan for monitoring and updating the WCMP

The Water Conservation Master Plan for the LAS District is in Appendix G of the 2010 UWMP. A discussion of baseline and target water use is provided in Section 3 of the UWMP. Details on water savings requirements and the programs to be implemented are also provided. Table 5 is a summary of water conservation programs selected.

Table 5: Cal Water LAS District Conservation Programs

| Program Name | Description | Target Market |
|--|---|--|
| CORE PROGRAMS | | |
| Rebate/Vouchers for toilets, urinals, and clothes washers | Provide customer rebates for high-efficiency toilets, urinals, and clothes washers | All customer segments |
| Residential Surveys | Provide residential surveys to low-income customers, high-bill customers, and upon customer request or as pre-screen for participation in direct install programs | All residential market segments |
| Residential Showerhead/Water Conservation Kit Distribution | Provide residential showerhead/water conservation kits to customers upon request, as part of residential surveys, and as part of school education curriculum | All residential market segments |
| Pop-Up Nozzle Irrigation System Distribution | Offer high-efficiency pop-up irrigation nozzles through customer vouchers or direct install. | All customer segments |
| Public Information/Education | Provide conservation messaging via radio, bill inserts, direct mail, and other appropriate methods. Provide schools with age appropriate educational materials and activities. Continue sponsorship of Disney Planet Challenge program. | All customer segments |
| NON-CORE PROGRAMS | | |
| Toilet/Urinal Direct Install Program | Offer direct installation programs for replacement of non-HE toilets and urinals | All customer segments |
| Smart Irrigation Controller Contractor Incentives | Offer contractor incentives for installation of smart irrigation controllers | All customer segments |
| Large Landscape Water Use Reports | Expand existing Cal Water Large Landscape Water Use Report Program providing large landscape customers with monthly water use reports and budgets | Non-residential customers with significant landscape water use and potential savings |
| Large Landscape Surveys & Irrigation System Incentives | Provide surveys and irrigation system upgrade financial incentives to large landscape customers participating in the Large Landscape Water Use Reports programs and other targeted customers | Non-residential customers with significant landscape water use and potential savings |
| Food Industry Rebates/Vouchers | Offer customer/dealer/distributor rebates/vouchers for high-efficiency dishwashers, food steamers, ice machines, and pre-rinse spray valves | Food and drink establishments, institutional food service providers |
| Cooling Tower Retrofits | Offer customer/dealer/distributor rebates/vouchers of cooling tower retrofits | Non-residential market segments with significant HVAC water use |
| Industrial Process Audits and Retrofit Incentives | Offer engineering audits/surveys and financial incentives for process water efficiency improvement | Non-residential market segments with significant industrial process water uses |

LAS District Conservation Program Activity Levels

The water savings requirement analysis showed that water savings from existing water efficiency codes and ordinances, scheduled adjustments to water rates, and past investment in conservation programs meet LAS district’s 2015 SBx7-7 per capita water use target. For the LAS District, the programs selected and planned activity levels for each are shown in Table 6.

Table 6: LAS District Water Conservation Program (2010 UWMP)

| Program | Planned Annual Activity Levels | | | | |
|---|--------------------------------|-------|-------|-------|-------|
| | 2011 | 2012 | 2013 | 2014 | 2015 |
| CORE PROGRAMS | | | | | |
| Rebates/Vouchers | | | | | |
| Toilets | 340 | 340 | 340 | 520 | 520 |
| Clothes Washers | 750 | 750 | 750 | 790 | 790 |
| Urinals | 0 | 0 | 0 | 0 | 0 |
| Customer Surveys/Audits | 290 | 290 | 290 | 450 | 450 |
| Conservation Kit Distribution | 580 | 580 | 580 | 600 | 600 |
| Pop-Up Nozzle Distribution | 6,900 | 6,900 | 6,900 | 7,190 | 7,190 |
| NON-CORE PROGRAMS | | | | | |
| Direct Install Toilets/Urinals | 1,630 | 1,630 | 1,630 | 1,830 | 1,830 |
| Smart Irr. Controller Vendor Incentives | 180 | 180 | 180 | 410 | 410 |
| Large Landscape Water Use Reports | 0 | 0 | 0 | 0 | 0 |
| Large Landscape Surveys/Incentives | 40 | 40 | 40 | 40 | 40 |
| Commercial Kitchen Rebates/Vouchers | 0 | 0 | 0 | 50 | 40 |
| Cooling Tower/Process Water Retrofit Incentives | 0 | 0 | 0 | 0 | 0 |

The 2010 UWMP estimates that total annual water savings for the Core and Non-Core Programs listed in Table 6 will be 812.6 AFY in 2015. These projected water savings will meet the LAS district’s 2015 SBx7-7 target. In the 2015 UWMP, Cal Water will be proposing additional water conservation actions for the period from 2016 to 2020.

The water savings requirement analysis shows that after accounting for water savings from existing water efficiency codes and ordinances, scheduled adjustments to water rates, and investments in conservation programs, projected 2015 baseline demand in the LAS district results in a per capital water use rate less than the 2015 target rate. Moreover, 24 of the 32 programs evaluated had benefit to cost ratios greater than or equal to one, indicating that implementation of these programs is more cost-effective for rate payers.

The 2010 UWMP assumes that there will be a linear reduction in gpcd from 2015 to 2020 to achieve the district-specific 2020 SBx7-7 compliance target. Programs required to achieve 2020 SBx7-7 compliance will be outlined in the next Conservation Master Plan for the district, which will be presented in the 2015 UWMP. Activity levels of future programs depend in part on Cal Water’s obtaining California Public Utility Commission (CPUC) funding approval in its rate setting process.

As part of the Conservation Master Plan, one page program summaries or fact sheets were developed for each recommended program. The fact sheets provide a brief summary of program design and marketing, expected level of customer participation, projected water savings, and proposed program expenditure for the period 2011 – 2015. The fact sheets for the LAS District are included in Appendix G of the 2010 UWMP.

Water Shortage Allocation Plans

Cal Water has also developed Water Shortage Allocation Plans (WSAP), which are plans of action to reduce water demand should significant water supply shortages occur. These actions may be implemented for several months or several years depending on circumstances. The WSAP differs from the Water Conservation Master Plan, which is focused on achieving permanent reductions in per capita water use by Cal Water's customers and is not driven by significant short or long reductions in supply. In the short-term, the WSAP assists Cal Water in further reducing demand so that it matches significant reductions in supply.

Implementation of Cal Water's WSAP for the LAS District will depend on treated water supply deliveries from the Santa Clara Valley Water District (SCVWD) the availability of supply from Cal Water's wells within the district and possible emergency supply made available by SCVWD. Cal Water has a four-stage approach that corresponds to specific levels of projected water supply shortage. Depending on the supply reduction target, this approach becomes increasingly more aggressive in requiring customer water use reductions. The stage selected depends on such factors as wholesale supply reductions, availability of alternative supplies, time of year and coordinated regional actions among all affected water utilities and agencies.

The percentage of supply shortage will be a significant factor in Cal Water's decision on which stage of supply reduction it will implement. Supply reductions percentages are shown for each of the 4 stages in Table 7.

| Table 7: Cal Water Supply Shortage Reduction Stages | |
|--|-------------------------------------|
| Stage | Projected Supply Reduction % |
| Stage 1 | 5 to 10% |
| Stage 2 | 10 to 20% |
| Stage 3 | 20 to 35% |
| Stage 4 | 35 to >50% |

LAS District Water Supply

Information is from Cal Water's 2010 UWMP and updated data to be used in the 2015 UWMP.

Water supply for the LAS District is from Cal Water wells and purchased treated water from SCVWD. Approximately, 32% of total supply is from Cal Water wells and 68% is purchased water.

The amount of groundwater pumped from Cal Water wells depends upon the supply available from SCVWD. SCVWD imports surface water to the region through the South Bay Aqueduct of the State Water Project (SWP), the San Felipe Division of the federal Central Valley Project (CVP), and through the San Francisco Public Utilities Commission's (SFPUC) Regional Water System. However, Cal Water only receives water from the SWP and CVP.

The amount of groundwater pumped from Cal Water wells versus purchased treated water varies depending on the supply available from SCVWD varies annually. SCVWD imports surface water to its service area from the South Bay Aqueduct of the State Water Project (SWP), the San Felipe Division of the federal Central Valley Project (CVP) and the San Francisco Public

Utilities Commission’s (SFPUC) Regional Water System. However, Cal Water only receives SCVWD water from SWP and CVP sources.

Purchased SCVWD water projections are based on historical trends being extended to 2040 and include “Non-Contract” water. The SCVWD approved treated water delivery schedule is expected to increase by about 80 AF per year. In SCVWD’s 2012 Water Supply and Infrastructure Master Plan baseline supplies are projected to increase from 398,000 AFY in 2012 to 421,000 AFY in 2035 or an average annual increase of 1,000 AFY per year. In addition, water conservation savings are projected to increase from 53,000 AFY in 2012 to 99,000 AFY in 2030 or an average annual increase in savings of 2,555 AFY per year. So the effective SCVWD increase in supply including water conservation savings is 3,555 AFY. The LAS District’s share of SCVWD’s average annual effective supply increase is only 2.2%

Groundwater supply projections are based on groundwater production being set to meet the difference between LAS District demand and supply deliveries from SCVWD in a given year. Cal Water has more than adequate well capacity to meet projected demands through 2040. As wells reach the end of their useful life are taken out of service, they are replaced with new wells.

Table 8 presents the supply plan to match the projected LAS District demand projection in Table 3. Based the amount of water delivered by SCVWD to the LAS District and assuming a constant annual use of recycled water supply conveyed by SCVWD from the City of Sunnyvale’s recycled water treatment facilities for non-potable use on the Apple Campus 2 site, Cal Water will pump groundwater from its wells to meet anticipated demand. In short, the amount of groundwater pumped is the difference between projected total demand and the projected potable and recycled water supplies from SCVWD.

| Table 8: LAS District Projected Water Supplies | | | | | | | |
|---|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| (AFY) | | | | | | | |
| Water Supply Sources | 2010 | 2015 | 2020 | 2025 | 2030 | 2035 | 2040 |
| SCVWD Purchased Water | 8,887 | 10,500 | 10,900 | 11,300 | 11,700 | 12,100 | 12,500 |
| Groundwater Wells | 3,892 | 3,940 | 4,182 | 4,059 | 3,949 | 3,853 | 3,770 |
| Recycled Water | 0 | 0 | 175 | 175 | 175 | 175 | 175 |
| Total | 11,648 | 14,440 | 15,257 | 15,534 | 15,824 | 16,128 | 16,445 |

SCVWD Purchased Water

SCVWD owns and operates three separate surface water treatment plants (the Penitencia, Rinconada, and Santa Teresa water treatment plants) that are supplied by surface water supplies from local runoff and imported water from the CVP, SWP and SFPUC. Treated water is delivered to the LAS District from the Rinconada treatment plant through a large-diameter high pressure transmission pipeline that runs through Cupertino and along Foothill Expressway. This

transmission pipeline, commonly referred to as the West Pipeline, has branch lines that distribute water to the cities of Santa Clara and Mountain View ("distributaries").

Cal Water has a contract to 2035 with SCVWD to purchase treated surface water and convey it to the LAS District. SCVWD "Contract" water is delivered through four connections with its transmission system. These connections are called the "Vallco", "Granger", "Farndon", and "Covington" turnouts. The Farndon and Granger turnouts are located directly on the West Pipeline, while the Tantau-Vallco turnout is located on the Santa Clara Distributary, and the Covington connection is located on the Mountain View Distributary. Each of these turnouts is equipped with pressure and flow control devices that provide a hydraulic transition between their respective delivery main and the LAS district distribution system.

When surface water supplies are abundant (above normal hydrologic years generally), SCVWD makes available for sale "Non-Contract" water in order to promote increased storage in groundwater aquifers in the region. Because there is usually a lower cost for purchasing "Non-Contract" water, the LAS District reduces production of groundwater and increases its purchase of treated surface water from SCVWD during these periods. This has the effect of "banking" groundwater. When surface water supplies are more limited due to drought, SCVWD can and has imposed both voluntary and mandatory reductions in amount of its treated water it delivers to its customers including the LAS District. During periods of SCVWD supply reduction and because of increased groundwater storage, the LAS District increases groundwater pumping to make up the difference.

Because SCVWD recharges groundwater aquifers within its boundaries, it levies an assessment on the production of groundwater to the utilities it supplies to cover the costs associated with this program. During normal hydrologic periods, the groundwater pumping assessment is set so that the cost of pumping groundwater approximately equals the cost of purchased treated surface water from SCVWD. Because it is unknown whether "Non-Contract" water will be available when the purchase water schedules are prepared, and because "Non-Contract" water is only available in the months between October and April of the upcoming year, scheduling of deliveries is set to maximize the delivery of purchased water in the summer and utilize groundwater production capacity to its fullest during all other periods. This scheduling pattern enables the LAS District to take advantage of the economic incentive provided by the sale of "Non-Contract" water and in turn assist SCVWD in accomplishing the goal of groundwater storage of surplus supplies. SCVWD has scheduling restrictions regarding the purchase of direct deliveries. These restrictions currently limit the "Peak Day" deliveries to 180 percent of the average day delivery, and the maximum monthly delivery cannot exceed fifteen percent of the annual scheduled delivery.

SCVWD prepared a 2012 Water Supply and Infrastructure Master Plan (WSIP) which indicates that the basis for its sustainable water supply strategy is to: 1) secure existing supplies and infrastructure, 2) optimize use of existing supplies and infrastructure, and 3) increase recycling and conservation. The WSIP states it will "secure existing supplies and facilities for future generations". In addition, SCVWD will make more effective use of its existing assets. It is committed to working with its retail utilities to meet Silicon Valley's future increases in water demand through conservation and recycling. The 2012 WSIP takes into account climate changes and reduced imported supplies and is based on the 2010 UWMPs

prepared by its member utilities. It is intended to be responsive to stakeholder needs and provide adequate supplies and delivery infrastructure through 2035. Baseline water supplies are expected to increase from the current average of about 398,000 AFY to an average of 421,000 AFY in 2035. The increase in baseline supplies is due to removal of operating restrictions on existing reservoirs and increased non-potable water recycling. Baseline conservation savings are projected to increase from about 53,000 AFY in 2011 to about 99,000 AFY by 2030. These savings are expected to reduce demands on the water supply system and the need for more capital-intensive improvements. SCVWD indicates that adequate investment in its infrastructure system is critical to supply reliability. Some key elements of SCVWD's plan are:

- 1) **Groundwater Recharge:** new ponds will add about 3,300 AFY on average.
- 2) **Reservoir Pipeline:** A connection between Lexington Reservoir and the raw water system will provide greater flexibility in using existing local water supplies and will allow surface water from Lexington Reservoir to be put to beneficial use elsewhere in the county, especially when combined with the indirect potable reuse project. In addition, the pipeline will enable SCVWD to capture some wet-weather flows that would otherwise flow to the Bay. The pipeline will provide an average annual yield of 1,500 AFY.
- 3) **Imported Water Reoperations:** SCVWD will re-operate its Semitropic Groundwater Bank when it is nearly full and SCVWD water supply needs are otherwise met to sell or exchange up to 50,000 AFY of stored water. This would create additional space in the Semitropic Groundwater Bank for carryover of supplies during wetter years, maximize the value of SCVWD's existing assets (imported water contracts and investment in the Semitropic Groundwater Bank), and potentially help fund investments in infrastructure and additional local supplies.
- 4) **Increase Recycling and Conservation:** SCVWD's supply sustainability strategy relies upon development of indirect potable reuse to provide most of the new water supply to meet future water needs. The WSIP assumes that at least 20,000 AFY of advanced treated recycled water will be used for groundwater recharge by 2030. Currently, SCVWD is in the process of accelerating the expansion of its existing Silicon Valley Advanced Water Purification Center (SVAWPC) which has an existing production capacity of 8 mgd (8,970 AFY) to probably 32 mgd (35,870 AFY) by mid-2020 and using the product water for recharging groundwater aquifers for potable use.

SCVWD's retail utilities are preparing updated UWMPs in 2015. In turn, SCVWD will update its WSIP in 2016 using retail utility updated projected demands for determining SCVWD supply requirements. Denser redevelopment with increased water supply demand will occur within many of the communities supplied by SCVWD. Increase in demands due to redevelopment will likely result in additional supply requirements. How these will be met will be assessed in SCVWD's 2016 plan update. At this time, SCVWD believes it has adequate supplies and delivery infrastructure to meet retail utility demands as projected in all of its retail utilities 2010 UWMPs for normal, dry and drought conditions through 2035.

LAS District Groundwater

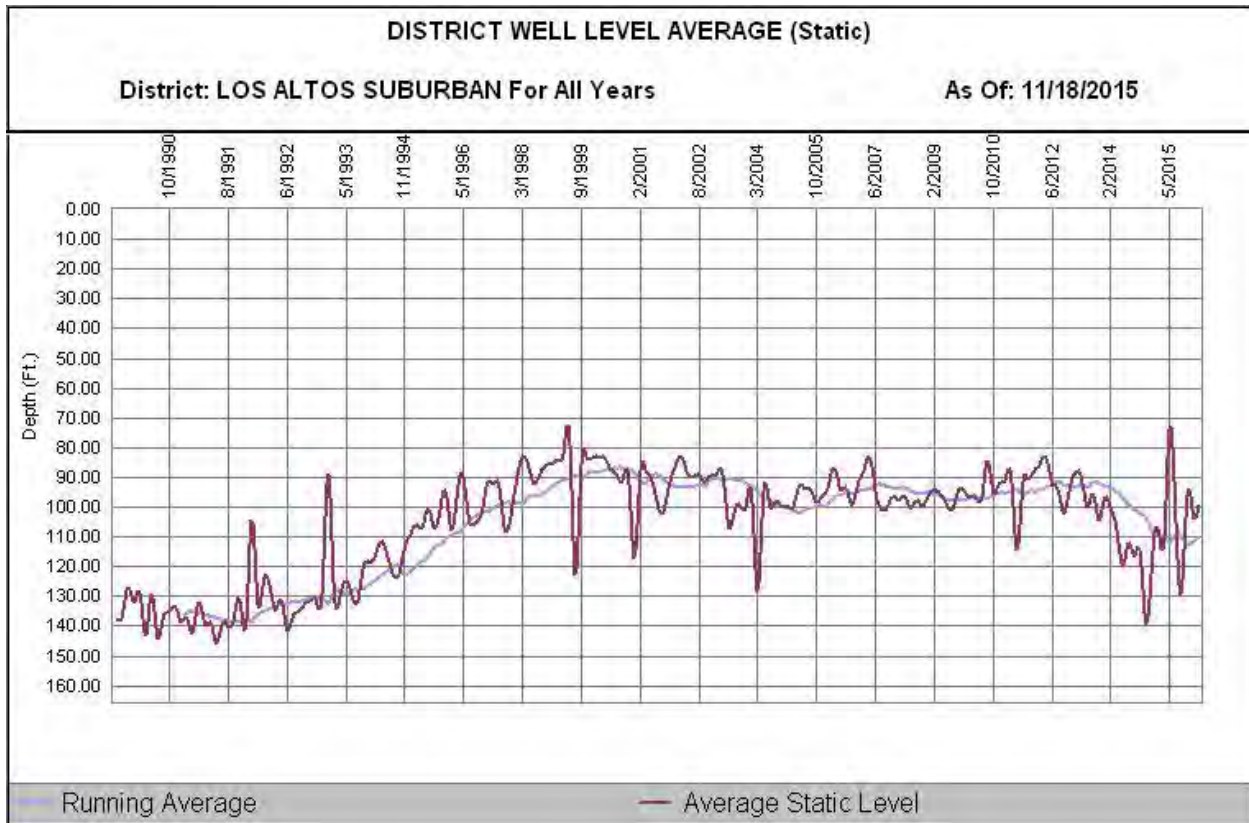
The LAS District has 20 wells, which are currently active and operational. The wells have a combined design capacity of 14,440 gpm, which is 20.79 million gallons per day (mgd).

Operated continuously at 90% of design capacity, the wells could produce 20,980 AFY. While the LAS District has not had the need to operate its wells continuously, it has produced 650 to 750 AF in a given month or 9,000 AFY, which is only 43% of 20,980 AFY.

Maximum day demands, both current and projected, are supplied by deliveries of treated water from SCVWD. Production records show that average day demand reached a high of 13.83 mgd (15,504 AFY) in 2008 and has a ten-year average of 13.36 mgd, while maximum day demand reached 28.72 mgd with a ten-year average of 24.91 mgd. These values result in an average day to maximum day ratio of 1.86:1. The LAS District distribution system is designed to deliver anticipated maximum day demands.

Average static groundwater elevations in the District were relatively constant after the SCVWD began its recharge program. However, during the past 4 year drought period (from 2012 to 2015), the running average has declined about 18 feet as shown in Figure 7, which is still significantly better than before SCVWD's recharge program. Average static water levels in 1991 were 140 feet below ground surface versus 110 feet for 2015 – a difference of 30 feet. Over the period of record, average static levels have fluctuated due to hydrologic conditions. The extended multi-year drought in the early 1990's reduced groundwater surplus water and caused a 40-foot decline in static groundwater elevation. Drought recovery began in 1992, with an increase in the average static groundwater elevation to pre-drought levels, as shown in Figure 7.

Figure 7: LAS District Well Level Average (Static)



The historical quantity of LAS district groundwater pumped is shown in Table 9.

| Table 9: LAS District Groundwater Pumped – AF | | | | | |
|--|-------------|-------------|-------------|-------------|-------------|
| Basin | 2006 | 2007 | 2008 | 2009 | 2010 |
| Santa Clara Subbasin | 4,434 | 4,325 | 4,161 | 5,200 | 3,396 |
| % of Total Water Supply | 31% | 28% | 27% | 37% | 29% |

Basin Boundaries and Hydrology

As described in DWR Bulletin 118 California's Groundwater, the Los Altos District is located in the Santa Clara sub-basin of the Santa Clara Valley Groundwater Basin. The Santa Clara sub-basin occupies a structural trough parallel to the northwest trending Coast Ranges. The Diablo Range bounds it on the East and the Santa Cruz Mountains form the Western border of Santa Clara County to the groundwater divide near Morgan Hill. The dominant geo-hydrologic feature is a large inland valley. The valley is drained to the north by tributaries to the San Francisco Bay including Coyote Creek, the Guadalupe River, and Los Gatos Creek. Additional details of the basin are given in DWR's Groundwater Bulletin 118; see Appendix D in the 2010 LAS UWMP.

Groundwater Management Plan

Groundwater quality and quantity in the Los Altos District are actively managed by SCVWD. SCVWD updates its Groundwater Management Plan (GMP) periodically.

Recycled Water

Use of recycled water reduces use of SCVWD water and pumping from Cal Water wells. This helps to increase groundwater storage and the sustainability of both supply sources. Currently, no recycled is used in the LAS District.

Cal Water, the City of Sunnyvale, SCVWD and Apple have signed an agreement to connect the Sunnyvale recycled water system to a new recycled pipe system to Cupertino to convey recycled water to the Apple Campus 2 site. The plan is to construct a recycled water transmission line to the LAS District to serve not only the Apple Campus 2 site, but also possible other sites such as the Hamptons housing project and the Vallico Specific Plan and Project.

The SCVWD Wolfe Road Feasibility Planning Study Report (December 2014), projected that transmission facilities will be completed and delivering recycled water by the end of 2016; however, that schedule may not be realistic. City of Sunnyvale recycled water would be conveyed through SCVWD transmission facilities to the LAS District's service area in Cupertino. The proposed project may have the capacity to convey up to 1,095 AFY. Apple Campus 2 will initially receive 176 AFY. The remaining conveyance capacity would be reserved for future increased recycled water uses at other sites in the area.

The City of Sunnyvale operates and maintains its sewer system for residential, commercial, and some industrial customers. Collected wastewater is discharged to trunk sewers owned and operated by the City and conveyed to the Sunnyvale Water Pollution Control Plant for primary, secondary, and tertiary treatment followed by chlorination and dechlorination prior to disposal to the San Francisco Bay. The Sunnyvale treatment plant has a treatment capacity of 29.5 mgd but currently receives an average flow of 16.9 mgd. Under Phase 1, the plant supplies recycled water to meet a peak demand of 2 mgd for landscaping and some industrial uses. Recycled water is provided to City of Sunnyvale areas that are not in the LAS District service area. As part of Phase II of the Sunnyvale's plan, facilities to supply recycled water to parks and industrial areas located in the north part of the city near the treatment plant will be constructed.

In 2012, SCVWD constructed and currently operates an 8 mgd advanced water purification plant

(uses micro-filtration, reverse osmosis and ultra-violet disinfection processes) adjacent to the San Jose/Santa Clara Water Pollution Control plant, which provides secondary effluent as source water. Currently, treated water is blended with treated water from the wastewater plant and is used for non-potable irrigation. SCVWD is currently planning to expand the recycled water treatment plant to 32 mgd and construct transmission facilities to convey treated water to recharge basins for replenishing groundwater supply for drinking water purposes.

Capital Improvements Program

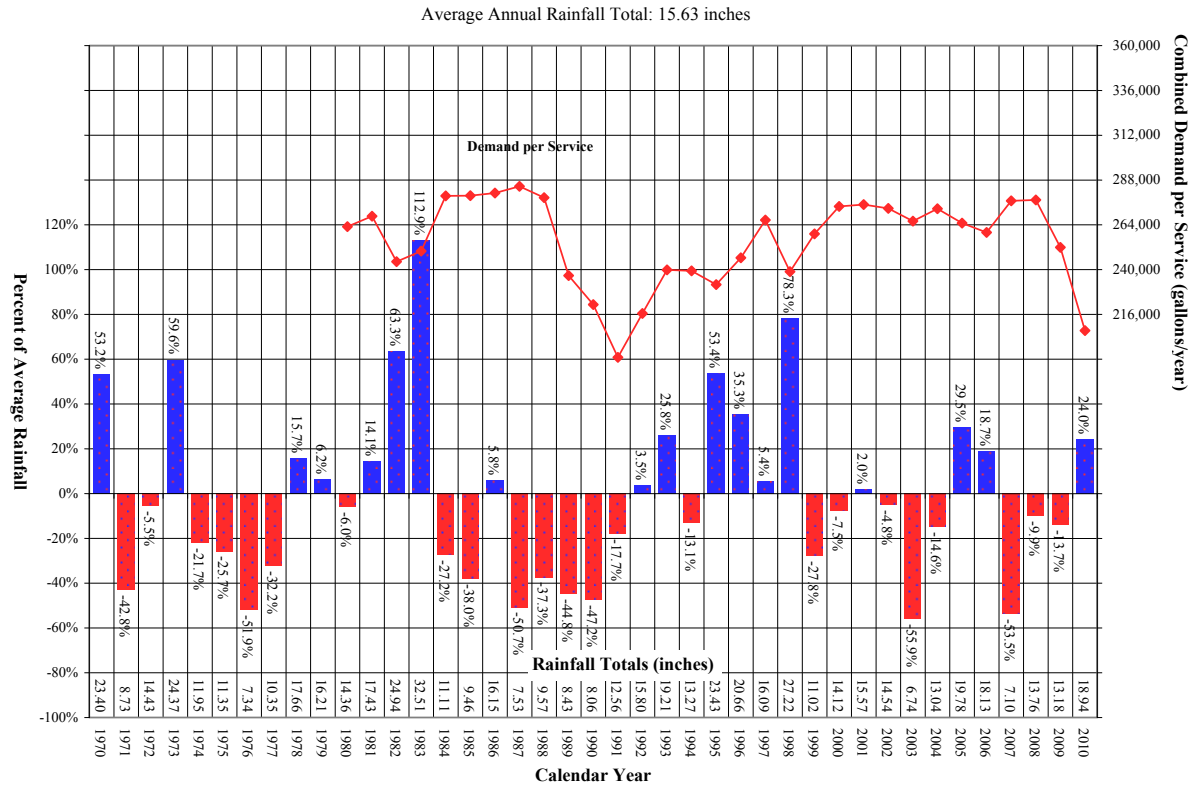
Cal Water has an ongoing capital improvements program for the LAS District. It assesses the operational condition and useful life of all of its wells, their production output and water quality to ensure compliance with state drinking water standards. The program includes repair, rehabilitation, replacement and development of new wells in order to ensure a reliable production capacity to meet 100% of average annual daily demand with sufficient reserve production capacity in the event several large production wells are non-operational for maintenance or other reasons. Capital improvements projects for a three year period are submitted to the CPUC for review and approval. In its general office in San Jose, Cal Water has a large multi-disciplinary engineering department and water quality department that works with the LAS District staff in implementing projects and ensuring their operational readiness on a timely basis.

Supply Adequacy and Reliability Assessment

This section combines and compares previously presented information on projected demand and supplies for the LAS District to address the question of whether its supplies are adequate and reliable for the next 20 years for normal hydrologic conditions, one dry year and a multiple dry year period. Note that supply always equals demand due to the fact that Cal Water can vary its groundwater production in response to the availability of SCVWD purchased water.

Figure 8 compares annual rainfall from 1970 to 2010 (40 years) to the historic average and shows the demand per service for each year. Water use generally increases in the first years of a dry period, but after increased conservation efforts are implemented, demand per service decreases.

Los Altos Suburban District
Figure 8: LAS Area Annual Rainfall and LAS District Water Demand Per Service
 Comparison of Annual Rainfall to Historic Average



The statewide drought of 1984 -1992 shows in the LAS District an increase in demand per service at the beginning of the drought period followed by decreasing demand as the drought persisted. Water use generally increases back to pre-drought levels after the drought. The drought from 2007-2009 shows the same pattern.

A normal hydrologic year occurred in 2001 when precipitation was approximately 2 percent above the historic average. In 2003, rainfall was approximately 56 percent below average (6.7 inches). This is taken as the single dry year shown in Table 10. Before the recent multiple dry-water years are based on the statewide drought between 2006 and 2009.

| Table 10: LAS District: Basis for Water Year Type | |
|---|--------------|
| Water Year Type | Base Year(s) |
| Normal Water Year | 2001 |
| Single-Dry Water Year | 2003 |
| Multiple-Dry Water Years | 2006-2009 |

Annual customer demand in normal, single dry and multiple dry years is shown as overall average demand per service for the LAS District in Table 11. Water use follows a typical pattern where demand may decrease then slightly increase but then decreases more significantly as dry

years continue. Reduction in water use is the result of increased conservation efforts by water providers and general public awareness of drought conditions and their effect on water supplies.

Table 11: LAS District Customer Demand Variability – gal/service/yr

| Average / Normal Water Year | Single Dry Water Year | Multiple Dry Water Years | | | |
|-----------------------------|-----------------------|--------------------------|---------|---------|---------|
| | | Year 1 | Year 2 | Year 3 | Year 4 |
| 274,797 | 265,969 | 259,893 | 276,800 | 277,271 | 251,879 |
| % of Normal | 97% | 95% | 101% | 101% | 92% |

Historically, Non-Contract water has supplied a large portion of Cal Water’s total supply requirements. However, this source is not considered a normally available supply. Non-Contract water deliveries have a five year average of 3,368 AF, which was 22 percent of the total supply to the Los Altos District for this period. Non-contract water will be the first source of supply to be eliminated and acts as a buffer for a single dry year or multi-year drought.

During multiple dry years, decreased purchase water is made up by pumping stored groundwater. Currently, active wells in the LAS District produce approximately 32 percent of their design capacity. Any reduction in non-contract water is replaced by groundwater pumping.

According to SCVWD’s UWMP, if reductions in SWP and CVP deliveries occur due to drought events, the diversion of water to percolation ponds will be curtailed first, followed by agricultural deliveries, and finally urban water deliveries. When this happens an increased reliance will be put on production from stored groundwater, which increases during years of surplus surface water deliveries. Because of this policy, SCVWD anticipates that it will be able to meet all of its retail urban water demands by shifting supply sources even during multiple dry year periods.

Cal Water’s well capacity is sufficient to accommodate reductions in treated water from SCVWD. The LAS distribution system has the ability to meet demands under reduced deliveries from SCVWD and increased use of Cal Water wells. LAS district groundwater supplies are not limited during multiple dry year periods. An adequate supply to meet projected demands is expected to be available during multiple-dry year events. During future dry periods customer water use patterns are expected to be similar to past events.

Normal Hydrologic Year

In normal hydrologic years, Non-Contract water is expected to be available. Cal Water also expects increases in approved SCVWD deliveries will eventually reduce availability of Non-Contract water. According to the SCVWD 2012 WIP, LAS District projected water scheduled delivery amounts will be available through at least 2035.

As previously indicated, the LAS district has historically pumped only a fraction of its total annualized well capacity, leaving the balance in groundwater storage. Because of this banking

practice, there is an adequate supply of stored groundwater in the aquifers supplying LAS district wells.

Total Cal Water pumped groundwater is the quantity necessary to make up the difference between LAS District demand and SCVWD supplies – both scheduled and Non-Contract deliveries. Hence, total supply always equals projected demand for any given year. Table 12 shows that groundwater will be reliable throughout the planning horizon of the upcoming 2015 UWMP and that no supply deficiencies are expected.

In 2040, for a normal hydrologic water year and no preceding sustained drought, the projected SCVWD water supply is estimated to be 12,500 AF, which is 2,000 AF more than what is estimated will be supplied 25 years earlier in 2015. If SCVWD has more surface water available for treatment, it could provide a higher amount of Cal Water’s supply as Contract Water. However, Contract Water is not assumed here. Table 12 is a comparison of supply and demand for a normal water year.

| Table 12: Normal Hydrologic Year: Supply and Demand Comparison - AF | | | | | | | |
|--|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Water Supply Sources | 2010 | 2015 | 2020 | 2025 | 2030 | 2035 | 2040 |
| SCVWD Purchased Water | 8,887 | 10,500 | 10,900 | 11,300 | 11,700 | 12,100 | 12,500 |
| Groundwater Wells | 3,892 | 3,940 | 4,182 | 4,059 | 3,949 | 3,855 | 3,770 |
| Recycled Water | 0 | 0 | 175 | 175 | 175 | 175 | 175 |
| Total Supply = Demand | 11,648 | 14,440 | 15,257 | 15,534 | 15,824 | 16,128 | 16,445 |

Single Dry Year

For a single dry year, Cal Water expects a reduction in Non-Contract water but not in firm scheduled deliveries. Pumping restrictions in the Delta could have a greater impact on imported supplies during a single dry year. But if any reduction in scheduled deliveries occurs, the needed supply would come from pumping stored groundwater.

SCVWD maintains carryover storage in its reservoirs, locally stored groundwater reserves, and has access of up to 50,000 AFY of drought supplies stored as groundwater in the Semitropic Groundwater Bank. Although SCVWD’s 2010 UWMP indicates a 5 percent shortfall in treated water contract deliveries in 2020 and 2025, SCVWD in 2015 is accelerating its schedule for increasing production capacity of its SVAWPC plant to 32 mgd by 2020. Therefore, with implementation of this plant and other supply projects described SCVWD’s Water Master Plan, it is assumed that there will be sufficient additional supplies so that all urban contract deliveries can be met during single dry years. Recycled water deliveries are not expected to be affected by a single dry year. If purchased water deliveries are reduced, groundwater pumped from Cal Water wells will provide the necessary supply to meet single dry year demand.

Based on the data in Table 11, LAS District demand for a single-dry year would be 97% of a normal hydrologic year demand. Cal Water has also observed in other one-year dry periods that demand has increased above normal hydrologic year demand. In light of this uncertainty, demand during one dry year is treated here as the same as for normal hydrologic conditions.

Therefore, demand and supply for a single dry year are the same as for a normal hydrologic year as shown in Table 13.

| Table 13: One Dry Year: Supply and Demand Comparison - AF | | | | | | | |
|--|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Water Supply Sources | 2010 | 2015 | 2020 | 2025 | 2030 | 2035 | 2040 |
| SCVWD Purchased Water | 8,887 | 10,500 | 10,900 | 11,300 | 11,700 | 12,100 | 12,500 |
| Groundwater Wells | 3,892 | 3,940 | 4,182 | 4,059 | 3,949 | 3,855 | 3,770 |
| Recycled Water | 0 | 0 | 175 | 175 | 175 | 175 | 175 |
| Total Supply = Demand | 11,648 | 14,440 | 15,257 | 15,534 | 15,824 | 16,128 | 16,445 |

Multiple Dry Year Period

SCVWD gives highest priority to delivery of Contract water to urban water retailers and indicates it will deliver 100% of its contracted supply obligations even during multiple dry year periods after additional supply projects are implemented in 2025. During drought periods, SCVWD will eliminate deliveries of Non-Contract water. If drought conditions are severe enough, SCVWD will reduce or eliminate surface water recharging to aquifers within its service area. If further reductions are necessary, deliveries to agricultural customers will be reduced or eliminated. Deliveries to SCVWD urban water retailers are the last to be affected by drought conditions. Based on SCVWD supplies and policies, Cal Water expects that 100% of Contract water will be delivered to the LAS District during a multiple dry year period in 2030, 2035 and 2040. Cal Water will continue pump its LAS District wells so that there will be no reduction in total supply available to meet water demands.

Modeling results reported in SCVWD’s 2010 UWMP uses the 6 year period from 1987-1992 as the baseline for future multiple dry year periods. Results indicate that supplies would be 100% reliable through the first three years of a similar dry year period. In the fourth year there is a maximum shortfall of 10% in 2035. For years 5 and 6, the projected shortfall in supply ranges between 10% and 20%. As recommended in DWR’s UWMP guidance document, Cal Water’s multiple dry year supply and demand comparison is based on the first three years of a multiple dry year period. For the fourth year, reduction of 10% in Contract water delivery is assumed and the difference will either be made up by inducing more customer demand reduction through intensified water conservation measures and/or pumping more groundwater from LAS district wells. Recycled water deliveries are expected to remain unchanged since the quantity of wastewater generated significantly exceeds the quantity of recycled water produced. Therefore, Cal Water believes its supplies are 100% reliable during multiple dry year periods through at least 2035.

In Table 14, 100% of normal supply of Contract Water is expected from 2020 through 2035 for the first three years of a multiple dry year period. This assumes that reservoir carryover storage in SWP, CVP, and local systems is average prior to the drought. At the beginning of a prolonged drought period, it is also assumed that there are adequate quantities of groundwater stored in the aquifers that are pumped.

Cal Water also assumes that in future multiple dry year periods, SCVWD might ask for voluntary reductions in requested supply from 10% to 20%. The magnitude of reductions requested could increase depending on the degree and duration of the drought. SCVWD considers its groundwater and imported supplies as one source and does not distinguish between water sources when asking for demand reductions from its retail utilities. As a result, retail utilities would be asked to reduce total demand, not just imported water use. Cal Water expects that its LAS District customers will be able to achieve requested reductions in water use. In the LAS District, total annual water use per customer is expected to be lower than in previous dry year periods due to the greater investment in water conservation programs that are being implemented. As seen in 2015, the most recent drought year, the response by Cal Water customers in reducing water use has been significantly greater than anticipated based on past droughts due to improved water conservation plans, more effective communications on the need to reduce water use and a statewide directive for urban water use reduction from the Governor.

Table 14 compares demand to supply for a 4 year multiple dry year period. For the first three years, it is conservatively assumed that demand remains unchanged from a normal hydrologic year and that in the fourth year, demand decreases by 20% and the delivery of SCVWD Contract water is reduced by 20%. For all four years, total supply is projected to meet 100% of resultant demand. It is noted that even if demand did not decrease by 20% in year 4 and SCVWD supply was reduced by 20%, the increased groundwater supplied in 2040 would be 6,270 AF, which can be pumped by the LAS District by operating its wells for longer periods.

| Table 14: Multiple Dry Year Period (4 Years): Supply and Demand Comparison - AF | | | | | | |
|--|-------------|-------------|-------------|-------------|-------------|-------------|
| | 2015 | 2020 | 2025 | 2030 | 2035 | 2040 |
| Total Demand: Years 1 - 3 | 14,440 | 15,257 | 15,534 | 15,824 | 16,128 | 16,445 |
| SCVWD Purchased | 10,500 | 10,900 | 11,300 | 11,700 | 12,100 | 12,500 |
| Recycled Water | 0 | 175 | 175 | 175 | 175 | 175 |
| Cal Water Wells | 3,940 | 4,182 | 4,059 | 3,949 | 3,853 | 3,770 |
| Total Supply | 14,440 | 15,257 | 15,534 | 15,824 | 16,128 | 16,445 |
| Difference | 0 | 0 | 0 | 0 | 0 | 0 |
| Total Demand: Year 4 | | 12,206 | 12,427 | 12,659 | 12,902 | 13,156 |
| SCVWD Purchased | | 8,720 | 9,040 | 9,360 | 9,680 | 10,000 |
| Recycled Water | | 175 | 175 | 175 | 175 | 175 |
| Cal Water Wells | | 3,311 | 3,212 | 3,124 | 3,047 | 2,981 |
| Difference | 0 | 0 | 0 | 0 | 0 | 0 |

CLIMATE CHANGE

Cal Water prepared a Climate Assessment Report in 2013 that evaluates potential effects of climate change on the water supplies of its 24 service areas in California. The report identifies adaptation measures that Cal Water may take to address potential decreases in supply quantities or negative changes in source water quality. DWR's *Guidebook to Assist Water Suppliers to Prepare a 2010 Urban Water Management Plan*, lists topics examined in Cal Water's Climate Assessment Report.

Adaptation measures are essentially designed to ensure that projected future supplies are reliable despite adverse changes in existing supply quantity and quality due to climate change. For example, snow in the Sierra Nevada provides 65 percent of California's water supply. Some predictions are that by 2050 the annual Sierra Nevada snow pack will be significantly reduced. Much of the lost snow will be in the form of rain, which will run off during winter and early spring and not be available to be stored as supplies for use during summer. Change in water runoff may significantly reduce groundwater recharge in the Central Valley increasing demands on surface water.

DWR continues to work on identifying potential climate change effects on water supplies, water demand, sea level, and occurrence and severity of weather events. Some potential changes are summarized below:

- Water demand: more hot days and nights and a longer irrigation season will increase agricultural and urban irrigation needs; power plants and industrial processes will have increased cooling water needs.
- Water supply and quality: increased potential for algal bloom and surface and groundwater chemistry changes; increased potential for seawater intrusion into surface and groundwaters due to elevated seawater levels and more powerful storm surges.
- Extreme weather events are expected to become more frequent as climate variability increases, resulting in a higher frequency of more extreme droughts and floods.

WSA SUMMARY AND CONCLUSION

Based on:

- Adequacy of existing and planned supplies from SCVWD and LAS District groundwater,
- Cal Water's ongoing capital improvements program to maintain existing groundwater production capacity and construct new wells to increase well production capacity,
- Existing Agreements and plans to continue to purchase SCVWD Non-Contract water whenever it is made available and increase basin groundwater storage for use during drought periods,
- In-place, ongoing and planned expanded water conservation programs and best management practices for reducing demand during normal hydrologic years, single dry year and multiple dry years in compliance with SBx7-7, CPUC and MOU requirements,
- Cal Water's historic proven success in obtaining increased reductions in water use during multiple dry years by implementing its demand reduction program, and
- Over 88 years of experience in continuously providing an adequate supply to meet demands during normal, single and multiple dry years in the LAS District,

Cal Water concludes that for the next 20 years (2015 – 2035), the LAS District will have adequate

water supplies to meet projected demands of the proposed Vallco Project and those of all existing customers and other anticipated future customers for normal, single dry year and multiple dry year conditions.

References

1. California Water Service Company “Urban Water Management Plan LAS District”
Adopted June 2011, 949 B Street, Los Altos, CA 94024
<https://www.calwater.com/conservation/uwmp/rd/>
2. Santa Clara Valley Water District “2012 Water Supply and Infrastructure Master Plan”
October 2012
3. Santa Clara Valley Water District “Wolfe Road Facilities Planning Study Report”
December 2014

The recycled water isn't cheap -- about \$1,100 an acre-foot to produce, or roughly triple what it costs to buy water from the Delta,

LOW ESTIMATE!!

http://www.mercurynews.com/science/ci_26160300/california-drought-san-joses-new-high-tech-water

<http://sunnyvale.ca.gov/Portals/0/Sunnyvale/ESD/Water/Recycled%20Water%20Expansion%20Report/AppI-ExistingRecycledWaterCustomers.pdf>

City of Sunnyvale - Feasibility Study for Recycled Water Expansion **Existing Recycled Water Customers**
Near-Term Demand Estimates

| APN | Zoning | Owners | Site No | St Dir | St Name | St Type | Area (Acres) | Existing RW Demand (AFY) | Average Day Demand (gpd) |
|----------|--------|---|---------|--------|-----------------|---------|--------------|--------------------------|--------------------------|
| 16539015 | PF | Sunnyvale Golf Course | 605 | | Macara | Av | 3.5 | 183.9 | 164,100 |
| | | Moffet Field Golf Course | | | | | 0.0 | 118.5 | 105,800 |
| 11005014 | PF | Santa Clara County - Baylands Park | 999 | | Caribbean | Dr | 47.0 | 95.5 | 85,200 |
| 11039001 | PF | Santa Clara County - Twin Creeks Sports Complex | 0 | | | | 18.3 | 54.5 | 48,600 |
| 11001025 | MPI | Lockheed Missiles And Space Co Inc | 1111 | | Lockheed Martin | Wy | 204.3 | 29.5 | 26,300 |
| 11045002 | MPT | Moffett Park Dr Llc | 807 | | 11th A | Av | 1.0 | 25.5 | 22,800 |
| | | Moffet Field Site | | | | | | 25.4 | 22,700 |
| 11034025 | MPT | Arden Realty Lp | 1221 | | Crossman | Av | 15.5 | 25.3 | 22,600 |
| 11035008 | MPI | Amb Property Lp | 155 | | E Moffett Park | Dr | 21.0 | 22.6 | 20,200 |
| 11002068 | MPT | Menlo & Juniper Ntwrks Llc | 1111 | | Lockheed Martin | Wy | 77.0 | 21.3 | 19,000 |
| 11032027 | MPT | Network Appliance Inc | 1375 | | Crossman | Av | 1.1 | 17.6 | 15,700 |
| 20519002 | PF | Sunnyvale City Of - Fair Oaks Park | 0 | | Britton | Av | 1.3 | 17.4 | 15,600 |
| 11044008 | MPI | Yahoo Inc | 701 | | First | Av | 24.3 | 17.2 | 15,300 |

Green roof prediction:

80,369 gallons/day = 0.24664307759536294 acre feet/day x 365 days/yr = 90.02 acre feet per year

This means the green roof would be the 4th largest recycled water user behind the Sunnyvale Golf Course, Moffet Field Golf Course, and Baylands Park (47 acres).

“All agencies surveyed offer recycled water at discounted rates compared to potable water charges. Recycled water rates generally ranged from roughly 45% to 95% of potable rates. • The City of Sunnyvale’s current recycled water rates are set at 90% of potable rates for both irrigation and industrial accounts. Compared to other agencies, Sunnyvale offers one of the smallest recycled water discounts on a percentage basis.

Duration of Pricing Incentives To preserve future pricing flexibility, the City should not obligate itself to providing recycled water pricing discounts for perpetuity. For example, Redwood City’s recycled water rate resolution only obligated the City to provide pricing discounts for a minimum of five years. Also,

the City could opt to implement a higher discount for some time followed by a reduced discount (e.g. 40% discount for 5 years, then 25% discount thereafter). To date, the City has maintained the discounts for all recycled customers, regardless of when they originally connected.

The City may need to charge different wholesale rates to different potential customers depending on various factors such as each customer's alternative cost of water, infrastructure funding requirements, and other considerations of both the City and the potential wholesale customer. For example, an agency with a severe water supply shortage facing costly supplemental supply alternatives would have a substantially higher "willingness to pay" than an agency with less-expensive potable water sources. "

Sunnyvale charges \$3.95/hcf convert to acre feet

435 hcf = 1 acre foot

$\$3.95/\text{hcf} \times 435 \text{ hcf}/\text{acre foot} = \$1,718.25/\text{acre foot}$

Vallco roof uses 90.02 acre-feet /year x \$1,718.25/acre foot charged for recycled water = \$154,677/year for recycled water for the roof.

Recycled rate as % of potable rate is 90%

I think you are very correct, #3. But I'm having trouble finding what Somers plant produces.

so Apple is 235-500AFY

Vallco 90 AFY then add the rest planned with dual plumbing (is that required)

595 AVY coming from Donald Somers (there are some other recycled water companies in the works and some will want to do groundwater recharge and repump it from wells)

Hamptons 35 AFY

"When available, recycled water would be used for non-potable needs such as toilet flushing, cooling demands, and a portion of irrigation requirements. These demands constitute

approximately 33 percent of the demand, equivalent to approximately 99 AFY. On-site rainwater reuse and greywater treatment systems are being investigated to limit the amount of water used as well. It is currently assumed that at least 50 percent of the landscape irrigation needs can be met with recycled water.¹¹ As shown in Table 18-4, the irrigation demand for the Town Center/Community Park portion of the Specific Plan, including the Community Park and Nature Area would be 76 acre feet per year under a typical development scenario. However, the Specific Plan Landscape and Public Realm Element that landscaping within this area will consist of a variety of trees, shrubs and ground covers been selected to thrive with little or no irrigation. Small areas of planting with specific programmatic uses or historical references such as lawns and orchards, will be maintained using primarily non-potable water sources such as municipal recycled water or on-site greywater and stormwater capture and reuse. As such, irrigation demand is reduced by using plants that consume less water and by increasing the efficiency of the irrigation systems. Therefore, irrigation demand is reduced by approximately 31 AFY (40 percent) compared to Typical Development shown in Table 18-4. The proposed demand is also less than the 284 AFY per year water demand from the existing development within the Mall.

The Specific Plan proposes the construction a dual plumbing system to accommodate recycled water when it becomes available within the Plan Area. This commitment would reduce the amount of potable water for domestic uses. Toilet flushing, cooling, and limited landscape irrigation demands can potentially be met using recycled water, assuming acceptable level of quality."

They leave out impacts of pumping water to the roof with enough pressure to irrigate 30 acres.

It makes little sense to me their use of "typical development" here because they are only required to have maybe 9 Acres of landscaped area? That would be a typical development. And I suppose that would be the better comparison. $90.02 \text{ AFY} \times 9/30 = 27 \text{ AFY}$ for a 9 acre park using their water usage, the higher typical development use yields: 45.6 AFY total ($76 \times 2 \times 9/30$). They could build a 1-2 acre synthetic turf soccer field, a dog park, and still have 5 acres or so left.

I question their cooling tower demand after seeing it so much higher, regardless 54 AFY everything but roof and 45 AFY roof, but I'm saying it's 90 AFY roof because they say they are using recycled water...so $90 + 54 = 144$ AFY recycled water demand.

The ventilation for this monster with the roof must be insane, really I thought toilets etc have to vent to fresh air = the roof.

I kept the water company's 80,369 because these guys have no idea how much water that roof needs, orchard, vineyard, high up, baking in the sun, who knows how thin the soil will be, and it's all sloped. Better to be saying it is more than be sad later. Actually, their table 18-4 potable plus recycled is matching my 90 AFY. Despite their confusing comments in the upper paragraph. Since they say they are using recycled water, it seems fair to say it will all be recycled water for demand comparison: "that will be watered as necessary with recycled water delivered through a new recycled water line extended to the area (from initiative text).

<http://sunnyvale.ca.gov/Departments/EnvironmentalServices/Water/WaterConservation/RecycledWater.aspx>

They total 1062 AFY at the bottom of their existing customer list.

So now it is:

1. Apple Campus 2 250-500 AFY - Sunnyvale estimates 345 AFY, 125 AFY Irrigation+ 220 AFY Industrial
2. Sunnyvale Golf Course 183.9 AFY
3. Moffett Field Golf Course 118.5 AFY
4. Vallco Green Roof 90 AFY + Vallco inside plumbing etc. 54 AFY = 144 AFY

However Sunnyvale states they are trying to bring more of their own users on board.

<http://sunnyvale.ca.gov/Portals/0/Sunnyvale/ESD/Water/Recycled%20Water%20Expansion%20Report/AppJ-NearTermDemandEstimates.pdf>

Vallco not on the list.

How much does Somers Produce?

" [EC 9212 Report, Appedix 5](#), page 28-29:

As part of the agreement for the Wolfe Road Recycled Water Facilities project, the WPCP will supply a minimum of 1,095 acre feet of recycled water to the Santa Clara Valley Water District (SCVWD) per fiscal year.⁴² SCVWD has contracted with the City of Sunnyvale to guarantee 595 acre feet per year (AFY) to cover projects within Sunnyvale and retailers outside of the City of Sunnyvale, including Apple Campus 2, will be allotted at least 500 AFY.⁴³ Apple Campus 2 demand is estimated to be 235-500 AFY.⁴⁴ **It is estimated that the recycled water demand for The Hamptons project is 35 AFY and 99 AFY for VTCSP.**⁴⁵ There are existing constraints that may affect the availability of the recycled water to reach the VTCSP site including the amount of recycled water able to be produced from the Donald M. Somers Water Pollution Control Plant⁴⁶, the supply available to Cupertino users, and the demand of upstream recycled water users from the VTCSP site."LC

http://sunnyvale.ca.gov/Portals/0/Sunnyvale/ESD/Water/Recycled%20Water%20Expansion%20Report/AppL-Treatment-TM_2.pdf page 5:

There isn't enough recycled water currently being produced. Can't nail down the numbers. It looks like it is the 1,060 AFY.

Footnote p 26 (p29/99) [9212 EC 9212 Appendix E](#) :

⁴⁶ The City of Sunnyvale has prepared and is circulating an Environmental Impact Report for the Sunnyvale Water Pollution Control Plant Master Plan Program. *The proposed Master Plan includes improvements to the plant's infrastructure that would increase the amount of recycled water produced*

Meeting capacity is several years out. Apparently they are blending with potable water to meet demand.

Here's a map of their plans:

| Recycled Water Rate Survey - December 2012 | | | |
|---|------------------------|-------------------------|---------------------------------|
| | Potable Charge per hcf | Recycled Charge per hcf | Recycled Rate % of Potable Rate |
| City of Sunnyvale | | | |
| Agriculture & Institutional | \$2.09 | \$1.88 | 90% |
| Landscape Irrigation | \$4.38 | \$3.95 | 90% |
| City of Redwood City | | | |
| Existing Irrigation Accounts | | | |
| Tier 1: Up to 100% of water budget (most water sold in this tier) | \$4.78 | \$3.59 | 75% |
| Tier 2: From 101% - 200% of water budget | \$9.58 | \$3.59 | 37% (75% of Tier 1) |

source: http://sunnyvale.ca.gov/Portals/0/Sunnyvale/ESD/Water/Recycled%20Water%20Expansion%20Report/AppF-TM_5RecycledWaterPricing.pdf

Water Measurement Conversion Chart

1 million gallons equals 1,336 hundred cubic feet (HCF), or 3.06 acre feet (AF)

1 cubic foot (CF) equals 7.48 gallons

1 hundred cubic feet (HCF) equals 748.05 gallons

1 acre foot (AF) equals 325,851 gallons, or 43,560 cubic feet (CF), or 435 hundred cubic feet (HCF)

1 100 cubic feet = 0.002295684113866 acre-foot

Posted on ND:

I hadn't thought much about the recycled water part for the Vallco 'green roof'. The Donald M Somers wastewater treatment plant up in Sunnyvale is where the recycled water would come from if the line was extended past Apple. Apple kicked in over \$4 million, and the other agencies put up \$25 million to get the recycled line to their Apple Campus 2. We might think this recycled water comes free somehow, far from it, it is expensive to produce and it is subsidized, so while it costs more than 3 TIMES as much as potable water to produce, Sunnyvale charges 90% of their drinking water rate.

Sunnyvale charges \$3.95/hcf for their recycled water. This is some fancy reverse osmosis tertiary treated water, like I said, not cheap to make. Yes, we are glad it's not running into the bay, but do we need to subsidize Apple??? And Vallco??? And they won't be digging up our streets so we can share.

On to the green roof: at 80,369 gallons/day, that's 90.02 acre feet per year.

This puts the not so green roof in 4th place for Sunnyvale's largest user water customers of their fancy state of the art recycled water. Behind Sunnyvale Golf Course (183.9 Acre feet/year), Moffet Field Golf Course (118.5 afy), and Baylands Park (95.5 afy) comes Vallco Green Roof at 90 afy.

(An acre foot is an acre filled with water one foot deep. So 90 acres of water one foot deep.) And if you think you like it, great, you will be subsidizing their discounted water bill, which incidentally will be a whopping \$154,677 per year.

sources: <http://sunnyvale.ca.gov/Portals/0/Sunnyv...>

**City of Sunnyvale - Feasibility Study for Recycled Water Expansion
Near-Term Demand Estimates**

Existing Recycled Water Customers

| APN | Zoning | Owners | Site No | St Dir | St Name | St Type | Area (Acre) | Existing RW Demand (AFY) | Average Day Demand (gpd) |
|----------|--------|---|---------|-----------------|---------|---------|-------------|--------------------------|--------------------------|
| 16539015 | PF | Sunnyvale Golf Course | 605 | Macara | Av | 3.5 | 183.9 | 164,100 | |
| | | Moffet Field Golf Course | | | | 0.0 | 118.5 | 105,800 | |
| 11005014 | PF | Santa Clara County - Baylands Park | 999 | Caribbean | Dr | 47.0 | 95.5 | 85,200 | |
| 11039001 | PF | Santa Clara County - Twin Creeks Sports Complex | 0 | | | 18.3 | 54.5 | 48,600 | |
| 11001025 | MPI | Lockheed Missiles And Space Co Inc | 1111 | Lockheed Martin | Wy | 204.3 | 29.5 | 26,300 | |
| 11045002 | MPT | Moffett Park Dr Llc | 807 | 11th A | Av | 1.0 | 25.5 | 22,800 | |
| | | Moffet Field Site | | | | | 25.4 | 22,700 | |
| 11034025 | MPT | Arden Realty Lp | 1221 | Crossman | Av | 15.5 | 25.3 | 22,600 | |
| 11035008 | MPI | Amb Property Lp | 155 | E Moffett Park | Dr | 21.0 | 22.6 | 20,200 | |
| 11002068 | MPT | Menlo & Juniper Ntwrks Llc | 1111 | Lockheed Martin | Wy | 77.0 | 21.3 | 19,000 | |
| 11032027 | MPT | Network Appliance Inc | 1375 | Crossman | Av | 1.1 | 17.6 | 15,700 | |
| 20519002 | PF | Sunnyvale City Of - Fair Oaks Park | 0 | Britton | Av | 1.3 | 17.4 | 15,600 | |
| 11044008 | MPI | Yahoo Inc | 701 | First | Av | 24.3 | 17.2 | 15,300 | |

<http://sunnyvale.ca.gov/Portals/0/Sunnyv...>

| Recycled Water Rate Survey - December 2012 | | | |
|---|-----------------------------------|------------------------------------|--|
| | Potable Charge per hcf | Recycled Charge per hcf | Recycled Rate % of Potable Rate |
| City of Sunnyvale | | | |
| Agriculture & Institutional | \$2.09 | \$1.88 | 90% |
| Landscape Irrigation | \$4.38 | \$3.95 | 90% |
| City of Redwood City | | | |
| Existing Irrigation Accounts | | | |
| Tier 1: Up to 100% of water budget (most water sold in this tier) | \$4.78 | \$3.59 | 75% |
| Tier 2: From 101% - 200% of water budget | \$9.58 | \$3.59 | 37% (75% of Tier 1) |

and environmental study provided by revitalizevalco.com water use as estimated by the water co.

Trip Generation Planner (ITE 9th Edition) - Summary Report

Weekday Trip Generation Trips Based on Average Rates/Equations

Project Name Vallco Town Center Specific Plan
Project Number 097283001.1.340

| ITE Code | Notes | Land Use Description | Independent Variable | No. of Units | Avg Rate or Eq | Rates | | | Total Trips | | | | | | |
|----------|-------|--|-----------------------|--------------|----------------|------------|---------|---------|---------------|--------------|--------------|--------------|--------------|--------------|--------------|
| | | | | | | Daily Rate | AM Rate | PM Rate | Daily Trips | AM Trips | PM Trips | AM Trips In | AM Trips Out | PM Trips In | PM Trips Out |
| SV-A | 1 | The Town Center/Community Park - Office | 1,000 Sq Ft | 2000 | Avg | 12.35 | 1.29 | 1.20 | 24,700 | 2,580 | 2,400 | 2,270 | 310 | 408 | 1,992 |
| 820-A | 2 | The Town Center/Community Park - Retail | 1,000 Sq Ft GLA | 640 | Eq | N/A | N/A | N/A | 22,698 | 484 | 2,078 | 300 | 184 | 997 | 1,081 |
| 220 | 3 | The Town Center/Community Park - Apartment | Dwelling Unit(s) | 760 | Eq | N/A | N/A | N/A | 4,730 | 376 | 436 | 75 | 301 | 283 | 153 |
| 252 | | The Town Center/Community Park - Senior Adult Housing (Attached) | Occ. Dwelling Unit(s) | 40 | Avg | 3.44 | 0.19 | 0.23 | 138 | 8 | 9 | 3 | 5 | 5 | 4 |
| SV-B | 4 | The Town Center/Community Park - Pavilion 4 - Banquet Hall | 1,000 Sq Ft | 15 | Avg | | | | | | | | | | |
| 530 | 5 | The Town Center/Community Park - High School Innovation Center (1) | Student(s) | 100 | Avg | 1.71 | 0.43 | 0.13 | 171 | 31 | 29 | 29 | 2 | 10 | 19 |
| SV-C | 1 | The Town Center/Community Park - Pavilion 6 - Civic Meeting Space | 1,000 Sq Ft | 4 | Avg | 12.35 | 1.29 | 1.20 | 50 | 5 | 5 | 4 | 1 | 1 | 4 |
| SV-D | 6 | The Town Center/Community Park - Transit Center | 1,000 Sq Ft | | Avg | | | | | | | | | | |
| SV-E | 1 | The Town Center/Community Park - Pavillion 5 - Office Event Center | 1,000 Sq Ft | 20 | Avg | 12.35 | 1.29 | 1.20 | 248 | 26 | 24 | 23 | 3 | 4 | 20 |
| SV-F | 1 | The Town Center/Community Park - Pavillion 7 - Office Caf / Fitness | 1,000 Sq Ft | 20 | Avg | 12.35 | 1.29 | 1.20 | 248 | 26 | 24 | 23 | 3 | 4 | 20 |
| SV-G | 1 | The Town Center/Community Park - Additional Office Amenities | 1,000 Sq Ft | 135 | Avg | 12.35 | 1.29 | 1.20 | 1,668 | 174 | 162 | 153 | 21 | 28 | 134 |
| SV-H | 1 | The Town Center/Community Park - Loading Facilities & Security Areas | 1,000 Sq Ft | 75 | Avg | 12.35 | 1.29 | 1.20 | 928 | 97 | 90 | 85 | 12 | 15 | 75 |
| 110 | | The Town Center/Community Park - Industrial Testing & Workshop | 1,000 Sq Ft | 175 | Eq | N/A | N/A | N/A | 1,206 | 117 | 93 | 103 | 14 | 11 | 82 |
| SV-I | 7 | The Town Center/Community Park - Central Plant | 1,000 Sq Ft | 45 | Avg | | | | | | | | | | |
| 411-A | 8 | The Town Center/Community Park - Rooftop Garden Park | Acre(s) | 10 | Avg | 20.00 | 4.50 | 3.50 | 200 | 45 | 35 | 25 | 20 | 20 | 15 |
| | | The Town Center/Community Park Total Project Trips | | | | | | | 56,985 | 3,969 | 5,385 | 3,093 | 876 | 1,786 | 3,599 |
| 310 | | Vallco Town Center Specific Plan – Block 14 | Room(s) | 191 | Avg | 8.17 | 0.53 | 0.60 | 1,562 | 101 | 115 | 60 | 41 | 59 | 56 |
| | | Total Gross Vallco Town Center Specific Plan Project Trips | | | | | | | 58,547 | 4,070 | 5,500 | 3,153 | 917 | 1,845 | 3,655 |
| | 9 | MXD Trip Reduction - Internal and Non-Motorized Trips | | | | -21% | -16% | -21% | -12,169 | -632 | -1,125 | -492 | -139 | -373 | -752 |
| | | Net External Project Trips | | | | | | | 46,378 | 3,438 | 4,374 | 2,661 | 778 | 1,472 | 2,903 |
| 820-C | 10 | Existing Mall - 82.83% Occupancy | 1,000 Sq Ft GLA | 994 | Eq | N/A | N/A | N/A | -30,216 | -633 | -2,791 | -392 | -241 | -1,340 | -1,451 |
| | | Totals | | | | | | | 16,162 | 2,805 | 1,583 | 2,269 | 537 | 132 | 1,452 |

Notes:

(1) AM and/or PM rates correspond to peak hour of generator.

1 Silicon Valley (SV) Trip Rates applied to office land uses based on local surveys and empirical data from Fehr & Peers Study

2 Includes entertainment uses, health club uses, and roof pavilions.

3 Includes clubhouse and fitness pool.

4 Land Use only expected to generate trips on special events and excluded from weekday Trip Generation.

5 High School trips based on Fehr & Peers Study and agreed with the City of Cupertino.

6 Facility on Stevens Creek Blvd. Trip Generation accounted in Office Land Use from SV Trip Rates.

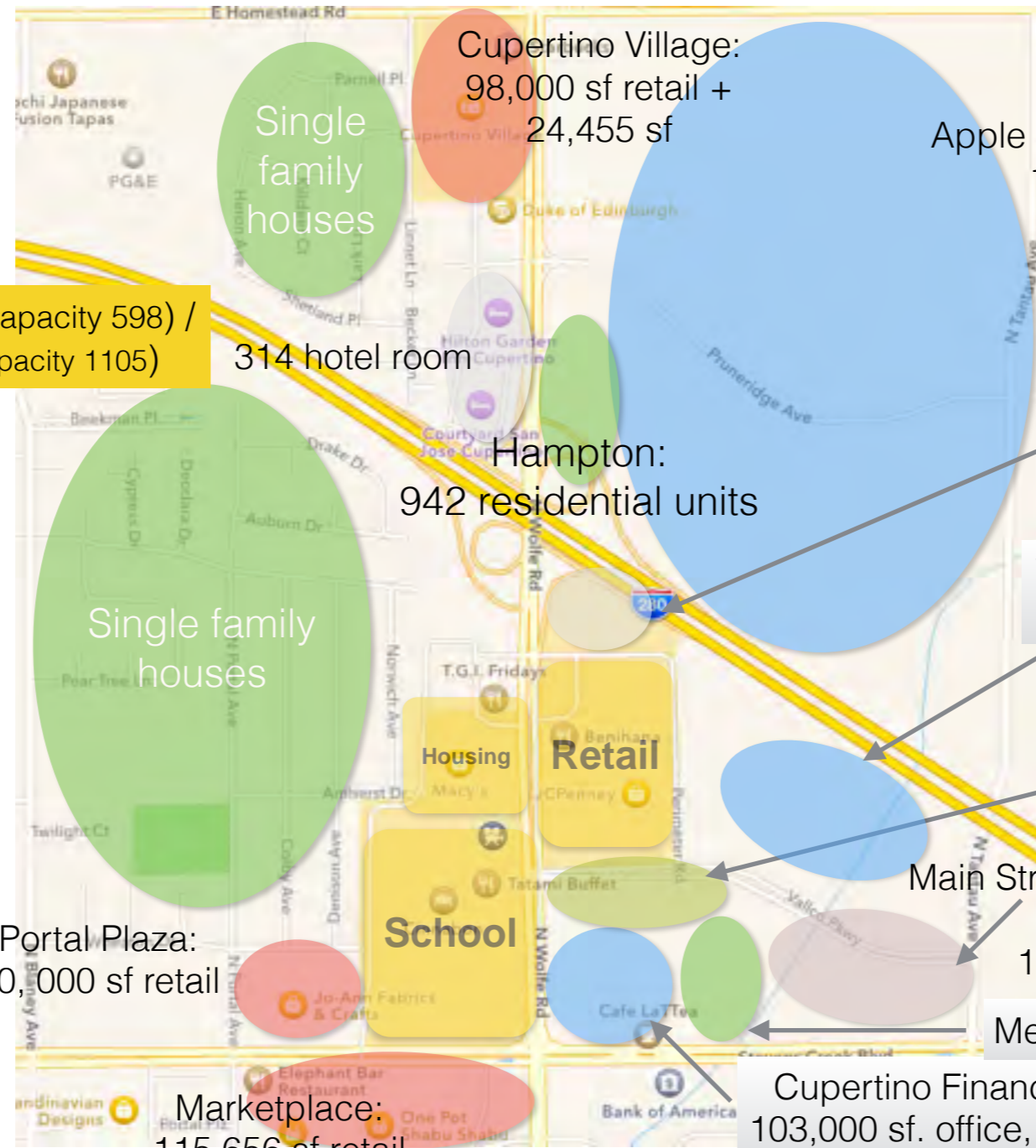
7 Not a typical ITE Land Use. Facility does not generate additional trips.

8 Trip Generation conservatively estimated by assuming City Park (ITE Land Use 411) rates to 1/3 of 30 total acres. AM and PM rates from ITE weekday peak hour generator studies.

9 MXD reductions account for internalization, transit, and bike/ped access. Rates determined from EPA MXD model for the Proposed The Town Center/Community Park Project.

10 Daily, AM, and PM Trips for existing land use at the Existing Mall are conservatively based on 1.2 million Sq Ft Shopping Center (ITE Land Use 820) reduced to reflect 82.83% mall occupancy.

Vallco Overview



Stockmeir Elementary

Collins Elementary (764 by 2023 vs. capacity 598) /
Lawson Middle (1160 by 2023 vs. capacity 1105)

Without counting Vallco
Total high density housing: 1423
Total office: 4.177 million sf
Total retail: 0.433 million sf
Total hotel: 462

For a successful urbanization, the area has enough employments, needs housing, retail and services, however, school system cannot support more housing

- Cupertino Village: 98,000 sf retail + 24,455 sf
- Apple II: 3.4 million sf. office 14,200 workers
- 314 hotel room
- Hampton: 942 residential units
- Hyatt House Hotel: 148 hotel rooms
- Vallco I&II: 400,000 sf. office 1,670 workers
- Nineteen 800: 204 residential units 120,000 sf retail
- Main Street: 274,000 sf. office, 1,100 workers 120 residential units 135,500 retail, 180 hotel rooms
- Metropolitan: 157 residential units
- Cupertino Financial Center: 103,000 sf. office, 430 workers
- Marketplace: 115,656 sf retail
- Portal Plaza: 60,000 sf retail
- Single family houses
- Single family houses
- School
- Retail
- Housing

Cupertino High (2790 in 2020 vs. capacity 1794) / Sedgwick Elementary (871 by 2023 vs. capacity 495)

The Vallco project would allegedly use recycled water. This would come from the Donald M Somers wastewater treatment plant up in Sunnyvale if the line was extended past Apple Campus 2's connection at the intersection of Homestead and Wolfe Rd. Apple kicked in over \$4 million, and the other agencies put up \$25 million to get the recycled line to their Apple Campus 2. We might think this recycled water comes free somehow, far from it, it is expensive to produce and it is subsidized, so while it costs more than 3 TIMES as much as potable water to produce, Sunnyvale however only charges 90% of their drinking water rate.

Sunnyvale charges \$3.95/hcf for their recycled water. This is advanced reverse osmosis tertiary treated water, and not cheap to make. Yes, we are glad it's not running into the bay, but do we need to subsidize Apple? And would it be better to use it for groundwater recharge which has also been proposed.

The Vallco green roof would consume 80,369 gallons/day, that's 90.02 acre feet per year.

This puts the not so green roof in 4th place for Sunnyvale's largest user water customers of their fancy state of the art recycled water. Behind Sunnyvale Golf Course (183.9 Acre feet/year), Moffet Field Golf Course (118.5 afy), and Baylands Park (95.5 afy) comes Vallco Green Roof at 90 afy.

(An acre foot is an acre filled with water one foot deep. So 90 acres of water one foot deep.)

Their water bill will be a whopping \$154,677 per year. And we would be first subsidizing it, and then likely paying for it outright because, looking into the City of Cupertino's "Recreation, Parks, and Services Element, Chapter 9" of their Community Vision 2040 they state **"If public parkland is not dedicated, require park fees based on a formula that considers the extent to which the publicly-accessible facilities meet community need."**

The plan even states **"Design parks to utilize natural features and the topography of the site in order to protect natural features and keep maintenance costs low"** and that parkland acquisition would be based on: **"Retaining and restoring creeks and other natural open space areas."**

Further, the roof violates the city's own policies :

Policy RPC-7.1: Sustainable Design Ensure that City facilities are sustainably designed to minimize impacts on the environment.

Policy RPC-7.2: Flexibility Design facilities to be flexible to address changing community needs.

Policy RPC-7.3: Maintenance Design facilities to reduce maintenance, and ensure that facilities are maintained and upgraded adequately

Sustainable design/minimize impacts: The Vallco project scours the entire site and encases it in concrete, EDF 43 shows 400' of mature trees to be removed for lane widening on Wolfe Road to mitigate traffic. It is highly likely a bus pull out lane would require more mature trees be removed on Stevens Creek Blvd. for the 'mobility hub' or fancy bus stop located there. And because the northbound Wolfe Road lanes were reconfigured in the Vallco plan to be only 3 lanes, and the Apple buses use northbound Wolfe Rd. to access the I-280 southbound, it is likely the trees on the east side of Wolfe Rd. would need to be cut down to add a land for the on ramp. A sustainable design would reduce the

amount of paved area and return it to a natural state. This was one of the arguments Apple Campus 2 made for removing of their sprawling buildings and parking lots.

Flexibility Design: the project cannot be converted to sports fields etc.

Maintenance: the project is as high maintenance as possible.

<http://www.cupertino.org/index.aspx?page=1275>

The recycled water isn't cheap -- about \$1,100 an acre-foot to produce, or roughly triple what it costs to buy water from the Delta, and this is a LOW ESTIMATE!!

http://www.mercurynews.com/science/ci_26160300/california-drought-san-joses-new-high-tech-water

<http://sunnyvale.ca.gov/Portals/0/Sunnyvale/ESD/Water/Recycled%20Water%20Expansion%20Report/AppI-ExistingRecycledWaterCustomers.pdf>

City of Sunnyvale - Feasibility Study for Recycled Water Expansion **Existing Recycled Water Customers**
Near-Term Demand Estimates

| APN | Zoning | Owners | Site No | St Dir | St Name | St Type | Area (Acre) | Existing RW Demand (AFY) | Average Day Demand (gpd) |
|----------|--------|---|---------|-----------------|---------|---------|-------------|--------------------------|--------------------------|
| 16539015 | PF | Sunnyvale Golf Course | 605 | Macara | | Av | 3.5 | 183.9 | 164,100 |
| | | Moffet Field Golf Course | | | | | 0.0 | 118.5 | 105,800 |
| 11005014 | PF | Santa Clara County - Baylands Park | 999 | Caribbean | | Dr | 47.0 | 95.5 | 85,200 |
| 11039001 | PF | Santa Clara County - Twin Creeks Sports Complex | 0 | | | | 18.3 | 54.5 | 48,600 |
| 11001025 | MPI | Lockheed Missiles And Space Co Inc | 1111 | Lockheed Martin | | Wy | 204.3 | 29.5 | 26,300 |
| 11045002 | MPT | Moffett Park Dr Llc | 807 | 11th A | | Av | 1.0 | 25.5 | 22,800 |
| | | Moffet Field Site | | | | | | 25.4 | 22,700 |
| 11034025 | MPT | Arden Realty Lp | 1221 | Crossman | | Av | 15.5 | 25.3 | 22,600 |
| 11035008 | MPI | Amb Property Lp | 155 | E Moffett Park | | Dr | 21.0 | 22.6 | 20,200 |
| 11002068 | MPT | Menlo & Juniper Ntwrks Llc | 1111 | Lockheed Martin | | Wy | 77.0 | 21.3 | 19,000 |
| 11032027 | MPT | Network Appliance Inc | 1375 | Crossman | | Av | 1.1 | 17.6 | 15,700 |
| 20519002 | PF | Sunnyvale City Of - Fair Oaks Park | 0 | Britton | | Av | 1.3 | 17.4 | 15,600 |
| 11044008 | MPI | Yahoo Inc | 701 | First | | Av | 24.3 | 17.2 | 15,300 |

Green roof prediction calcs:

80,369 gallons/day = 0.24664307759536294 acre feet/day x 365 days/yr = 90.02 acre feet per year

This means the green roof would be the 4th largest recycled water user behind the Sunnyvale Golf Course, Moffet Field Golf Courxe, and Baylands Park (47 acres).

Sunnyvale’s discounted recycled water rates explained:

“All agencies surveyed offer recycled water at discounted rates compared to potable water charges. Recycled water rates generally ranged from roughly 45% to 95% of potable rates. • The City of Sunnyvale’s current recycled water rates are set at 90% of potable rates for both irrigation and industrial accounts. Compared to other agencies, Sunnyvale offers one of the smallest recycled water discounts on a percentage basis.

Duration of Pricing Incentives To preserve future pricing flexibility, the City should not obligate itself to providing recycled water pricing discounts for perpetuity. For example, Redwood City’s recycled water rate resolution only obligated the City to provide pricing discounts for a minimum of five years. Also, the City could opt to implement a higher discount for some time followed by a reduced discount (e.g. 40% discount for 5 years, then 25% discount thereafter). To date, the City has maintained the discounts for all recycled customers, regardless of when they originally connected.

The City may need to charge different wholesale rates to different potential customers depending on various factors such as each customer’s alternative cost of water, infrastructure funding requirements, and other considerations of both the City and the potential wholesale customer. For example, an agency with a severe water supply shortage facing costly supplemental supply alternatives would have a substantially higher “willingness to pay” than an agency with less-expensive potable water sources. “

Sunnyvale charges \$3.95/hcf convert to acre feet

435 hcf = 1 acre foot

$\$3.95/\text{hcf} \times 435 \text{ hcf}/\text{acre foot} = \$1,718.25/\text{acre foot}$

Vallco roof uses 90.02 acre-feet /year $\times \$1,718.25/\text{acre foot}$ charged for recycled water = \$154,677/year for recycled water for the roof.

Recycled rate as % of potable rate is 90%

| Recycled Water Rate Survey - December 2012 | | | |
|---|------------------------|-------------------------|---------------------------------|
| | Potable Charge per hcf | Recycled Charge per hcf | Recycled Rate % of Potable Rate |
| City of Sunnyvale | | | |
| Agriculture & Institutional | \$2.09 | \$1.88 | 90% |
| Landscape Irrigation | \$4.38 | \$3.95 | 90% |
| City of Redwood City | | | |
| Existing Irrigation Accounts | | | |
| Tier 1: Up to 100% of water budget (most water sold in this tier) | \$4.78 | \$3.59 | 75% |
| Tier 2: From 101% - 200% of water budget | \$9.58 | \$3.59 | 37% (75% of Tier 1) |

source: http://sunnyvale.ca.gov/Portals/0/Sunnyvale/ESD/Water/Recycled%20Water%20Expansion%20Report/AppF-TM_5RecycledWaterPricing.pdf

We are in a drought, the San Jose Water Company last year imposed rate increases on anyone going over their 2013 water use and requested a 30% reduction in water use. All of this expense and effort just to get out of making a park? Next imagine the earthquake calculations for this elevated structure with trees on it. The costs to secure the structure go up.

Sources: <http://sunnyvale.ca.gov/Portals/0/Sunnyvale...>

<http://sunnyvale.ca.gov/Portals/0/Sunnyvale...>

Environmental Study provided by revitalizevallco.com water use as estimated by the water co.

The following is from the Arborist report, of the Sand Hill/Vallco provided Environmental Study:

3.5 Ion Content in Recycled Water / Standards

Many municipalities such as San Jose and Palo Alto are using recycled water as a regular component of their City parks irrigation regime. However, this does come with known drawbacks. Coast redwoods are known to be sensitive to ion concentrations in soil water per the text referenced below³. The text notes that coast redwood has low tolerance of boron ion in recycled water. Ion sensitivity of coast redwood as related to other ions such as sodium, chloride, or ammonium was not specifically noted in the text. However, per the author's conversations with numerous city arborists and consulting arborists in the Bay Area, coast redwood appears to have low tolerance of specific ionic content in water in addition to boron ion. The following table derived from information in the below-referenced text provides some guidelines for total ion content of various ions in recycled water at levels that could be deemed "safe" for trees with low tolerance (high ion sensitivity), although this is only a guideline, and was published more than 10 years ago:

³ Costello, Perry, Matheny, Henry, and Geisel (2003). *Abiotic Disorders of Landscape Plants: A Diagnostic Guide*. UC ANR Publication 3420. ANR Communications Services. Oakland, California.

13 of 42

Site Address: North Wolfe Road, Cupertino, CA Version: 2/11/2016

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ASCA Registered Consulting Arborist #401 Qualified Tree Risk Assessor ISA Certified Arborist #WC-3172

| Irrigation Water Ion | Type of Measurement | Content Range Considered "Safe" | Unsafe for Tree Species with Low Tolerance to Stated Ions |
|---------------------------------------|---------------------|---------------------------------|---|
| TDS Total Dissolved Solids | Mg/l | <450 | 450 to 2,000 |
| Salinity | Mmhos/cm | <0.7 | 0.7 to 3.0 |
| Boron | Mg/l | <0.5 | 0.5 to 1.0 |
| Chloride (surface bubbler irrigation) | Mg/l | <140 | 140 to 300 |
| Chloride (sprinkler irrigation) | Mg/l | <100 | >100 |
| Sodium (surface bubbler irrigation) | SAR | <3 | 3 to 9 |
| Sodium (sprinkler irrigation) | Mg/l | <70 | >70 |

Salinity tolerance of various tree species proposed in project tree palette by the landscape architect is noted in the reference shown in this report as citation #3. WLCA is in communication with the landscape architect staff to discuss salinity tolerance issues.

EXISTING REDWOODS

The new project does not propose to use recycled water for irrigation of the existing redwoods being retained as perimeter screening (personal communication 10/23/2015, property owner). Therefore, the ionic content of irrigation water appears (at the time of writing) to be an issue with new proposed tree plantings only.

USE OF RECYCLED WATER BLEND AND FLUSHING SEQUENCES

To reduce ion content in irrigation water to acceptable levels per the above matrix guidelines, recycled water with high ion content can be blended with standard municipal drinking water prior to running it through irrigation systems for surface application to trees. Per the property owner, this blending will be performed seasonally during non water-restriction periods in order to comply with local regulations regarding potable water use for landscapes during drought periods.

Another "trick" that can be performed to reduce ionic content remaining in the root zones of trees is to use recycled water for a number of irrigation cycles (e.g. 4 to 9 cycles), then "flush" the root

zones by using a 5th or 10th irrigation cycle of 100% municipal drinking water (anecdotal reference). **This would require that a very detailed record of irrigation be maintained by a groundsperson on site, to record exactly when recycled water and drinking water was applied to very specific landscape zones. Both recycled water and drinking water would need to be available side by side as irrigation system inputs with manual levers that would be operated by the groundsperson.**

OAK TREES BEING INSTALLED

Per discussions with arborist Dave Muffly who is an expert in oak tree selection and cultivation, oak species being installed at the project should be provided with municipal drinking water as the irrigation water source, without any blending with recycled water. This is recommended to avoid potential problems with ion sensitivity by the oaks. Mr. Muffly notes that an adjacent project will not use recycled water for irrigation of the oaks (this project is also within the jurisdiction of City of Cupertino, and has recycled water piping that will be used for irrigation of non-oak landscape zones).

As regards the project roof planting area where many oak species will be installed, we may need to develop a special dual piping system which will allow for recycled water and standard drinking water sources to be piped up separately. This would allow the two water sources to be applied in an alternating manner and/or blended in a tank prior to being applied to sensitive species such as the oaks and fruit bearing orchard trees, to reduce the overall ionic content being applied to the landscape over time.

WEeping WILLOW AND FREMONT COTTONWOOD AT ROOF DRAINAGE SWALES

The Abiotic Disorders text (citation #3) noted above in this report contains a list of various tree species along with referenced scientific studies during which salinity and boron tolerance was determined for certain species. Per this list, Fremont cottonwood, proposed to be installed at The Hills in swales where runoff collection will occur, exhibit “moderate” to “high” tolerance of salinity (i.e. ionic concentrations) in recycled water, which would suggest that they can tolerate soil moisture derived from runoff water that may contain higher than normal ionic concentration.

Weeping willow, also proposed by the project team for inclusion in drainage runoff swales at our site, also appears to exhibit “moderate” to “high” tolerance of ionic concentration in irrigation water, which also suggests tolerance to runoff water as the main source of their root zone soil moisture. Even so, WLCA suggests considering removal of these two species from the proposed plant palette list, given that they require heavy irrigation year round to maintain vigor.

RECYCLED WATER EFFECTS ON FRUIT-BEARING ORCHARD TREES

Per the text referenced in citation #3 in this report, **fruit-bearing tree species proposed by the team for the rooftop orchard which will be for human consumption are noted in the text as**

exhibiting “low” relative tolerance to ionic content in recycled water used for irrigation. Given that fruit bearing orchard trees generally require heavy irrigation, this is of concern if recycled water is going to be used on the project’s greenroof where the orchard areas will be located. As noted above in this section of the report, blending recycled water with municipal drinking water can bring down ionic concentration to levels below the safe thresholds noted above in the matrix.

Flushing the tree root zones by use of 100% drinking water on a periodic basis may also be a viable method of reducing ionic concentration buildup in the root zones of the trees, such as the example WLCA noted of 4 to 9 irrigation cycles using recycled water, followed by a 5th or a 10th irrigation cycle using 100% municipal drinking water (anecdotal reference).

15 of 42

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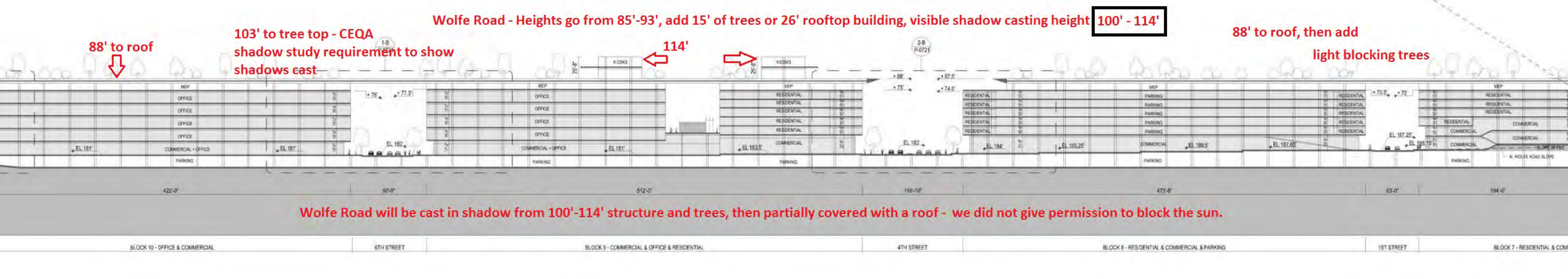
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Per the author’s recent conversation with a Northern California soil scientist who specializes in orchard soils, the inability for fruit trees such as cherry, apricot and apple to tolerate ion content in recycled water used for irrigation appears to be verified. Blending and/or other dilution is warranted.

Again, use of a **dual piping system to bring up both standard drinking water and recycled water sources to the greenroof** may be able to solve the problem of ionic content in recycled water being applied to the orchard areas, as it will allow us to blend the two sources of water and/or apply them to the landscape in an alternating manner to flush salts through the soil.

WLCA suspects that over time, municipal recycled water may become of increasingly higher quality in terms of ionic content being reduced to below the low-tolerance sensitivity threshold of 0.7 Mmhos/cm salinity. Refer to the ionic content table on page 14 above for more information.

(P 757-758 Environmental Study)



STEVENS CREEK URBAN VILLAGE OVERVIEW

- As stated in the Stevens Creek Urban Village Plan, the Urban Village boundary is a long commercial corridor currently characterized by large car dealerships and medium sized commercial buildings interspersed with smaller one- and two-story retail and service shops.
- Existing Conditions
 - 1,624 dwelling units
 - 1,584,519 SF commercial space
 - 5,281 jobs (calculated using 1 employee per 300 SF)
- Proposed increases
 - 3,860 dwelling units
 - 1,350,000 SF commercial space (calculated by using proposed jobs x 300 SF/employee)
 - 4,500 jobs
- Traffic EIR basis: 2010 Traffic Study for San Jose's Envision 2040 with counts from 2009
- Current SCUV Signature Projects in review:
 - Garden City (460,000 SF office, up to 15,000 SF retail, 871 residential units)
 - (APNs 303-25-012, 303-25-013, 303-25-016, 303-25-022, 303-25-023, 303-25-044, and 303-25-052).
<http://www.sanjoseca.gov/index.aspx?NID=5074>
 - Fortbay (AKA Stevens Creek Promenade) (233,000 SF office, 10,000 SF retail, up to 500 residential units)
 - 4300 Stevens Creek Blvd. Mixed Use Project: <http://www.sanjoseca.gov/index.aspx?NID=5380>

CEQA ISSUES STEVENS CREEK URBAN VILLAGE

1. Cupertino has not reviewed pending lawsuits RE City Place Santa Clara, Santana Row Expansion, and the San Jose Envision 2040 EIR which have traffic, noise, and air quality impacts reaching Cupertino.
 - a. **CITY OF SAN JOSE, Petitioner, v. CITY OF SANTA CLARA, and DOES 1-25, inclusive, Respondents RELATED COMPANIES, dba RELATED SANTA CLARA, LLC, and DOES 26-50, inclusive, Real Parties in Interest:**
<http://media.bizj.us/view/img/10102877/city-place-complaint-filed-7-29-16.pdf>
 - b. **CITY OF SANTA CLARA, Petitioner and Plaintiff, CITY OF SAN JOSE, CITY OF SAN JOSE CITY COUNCIL; and DOES 1 through X inclusive, Respondents and Defendants, FEDERAL REALTY AND INVESTMENT TRUST, and DOES 1 through 20 inclusive, Real Parties in Interest.** <http://www.mercurynews.com/wp-content/uploads/2016/11/santana-west-lawsuit.pdf>
 - c. **CALIFORNIA CLEAN ENERGY COMMITTEE, v. CITY OF SAN JOSE, a municipal corporation, and DOES 1-50, inclusive,**
https://d3n8a8pro7vhmx.cloudfront.net/cleanenergy/pages/22/attachments/original/1426349313/Order_Re_Petition_for_Writ_of_Mandate.pdf?1426349313
 - i. Air Quality GHG Writ of Mandate must be adhered to and found fault in the Envision 2040 EIR:
https://d3n8a8pro7vhmx.cloudfront.net/cleanenergy/pages/22/attachments/original/1426349313/Order_Re_Petition_for_Writ_of_Mandate.pdf?1426349313
 - ii. "CCEC has argued (and the City did not dispute the calculations) that if present emissions data is compared to that allowed by the proposed General Plan update as required by Guidelines § 15064.4, GHG emissions will increase by 2.7 MNT or 36 percent by 2020 (from the approximate 2008 figure of 7.6 to the estimated 10.3). This is "substantially different information" that was not provided to the public. This failure to provide relevant information was prejudicial as the failure "**deprived the public and decision makers of substantial relevant information about the project's likely adverse impacts.**" Smart Rail, supra, at 463." "That said, given that the failure to state the "present" GHG emissions affects the Project baseline and all comparisons and determinations made using the baseline, and the City's stated intention to tier other projects off this defective EIR, a limited order may not be possible."
 - iii. San Jose did not present Cupertino with the myriad lower growth alternatives presented to comply with the above Writ of Mandate and evaluated here showing multiple alternatives with fewer jobs and housing along the Stevens Creek Boulevard corridor: <http://www.sanjoseca.gov/DocumentCenter/View/46547>

*Envision San Jose 2040 General Plan Supplemental Program EIR - Greenhouse Gas Emission Analysis
File Nos. PP15-060 and GPT15-002*

The City has prepared a Draft Supplemental Program Environmental Impact Report (Draft Supplemental PEIR) to the Envision San Jose 2040 General Plan to provide additional analysis and information on greenhouse gas emissions to supplement the Envision San Jose 2040 General Plan Program EIR (State Clearinghouse No. 2009072096) certified by the City of San Jose on November 1, 2011. The Draft Supplemental PEIR is intended to inform the decision makers and the general public of the environmental effects of greenhouse gas emissions and global climate change associated with continued implementation of the Envision San Jose 2040 General Plan. Discretionary approvals to implement the project consist of text revisions to the Envision San Jose 2040 General Plan, including, but not limited to, the update and re-adoption of the City's Greenhouse Gas Reduction Strategy. <http://www.sanjoseca.gov/index.aspx?NID=4940>

2. Stevens Creek Urban Village area consists of multiple auto dealerships, dry cleaners, and auto maintenance facilities which have an unknown potential for soil and groundwater contamination along with impacts during demolition. Future residents may have unknown soil contamination. Potential for exposure to current residents during construction. Area is in a groundwater aquifer supplying the east side of Cupertino. The dry wells indicated in the below studies may have been filled due to the 2016-2017 significant rainfall moving the contamination plumes.
 - a. Garden City Signature Project contamination:
http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=SL1823R923
 - i. PCE is reasonably anticipated carcinogen:
<https://www.environmentalpollutioncenters.org/perchloroethylene/>
 - ii. TPH-g 2,200 ppb benzene 59 ppb MTBE 27 ppb found:
http://geotracker.waterboards.ca.gov/profile_report?global_id=T0608500255&cmd=closurereview
 - iii. Contamination plume monitoring has been incomplete:
http://geotracker.waterboards.ca.gov/regulators/deliverable_documents/8483994007/07S1W16J03f.pdf
 - iv. 5 impediments to path to closure:
http://geotracker.waterboards.ca.gov/profile_report?global_id=T0608500255&cmd=ptcpreport<cp_id=106172
 - b. 3960 Stevens Creek Blvd. Texaco contamination:
http://geotracker.waterboards.ca.gov/profile_report?global_id=T0608501423
 - i. Potential contaminants of concern: GASOLINE
 - ii. 5 impediments to path to closure:
http://geotracker.waterboards.ca.gov/profile_report?global_id=T0608501423&cmd=ptcpreport<cp_id=100707
 - c. 1704 Saratoga Avenue contamination:
http://geotracker.waterboards.ca.gov/profile_report?global_id=T0608509697
 - i. Potential contaminants of concern: GASOLINE, MTBE / TBA / OTHER FUEL OXYGENATES
 - ii. **AQUIFER USED FOR DRINKING WATER SUPPLY**
 - d. 404 Saratoga Avenue contamination:
http://geotracker.waterboards.ca.gov/profile_report?global_id=T0608500255
 - i. Potential Contaminants of concern: BENZENE, GASOLINE, MTBE / TBA / OTHER FUEL OXYGENATES, TOLUENE, XYLENE
 - ii. 5 impediments to path to closure:
http://geotracker.waterboards.ca.gov/profile_report?global_id=T0608500255&cmd=ptcpreport<cp_id=106172
 - iii. **AQUIFER USED FOR DRINKING WATER SUPPLY**
3. Fortbay Signature Project letters to San Jose: <https://www.sanjoseca.gov/DocumentCenter/View/69230>
4. Garden City Signature Project letters to San Jose: <http://www.sanjoseca.gov/DocumentCenter/View/59361>

5. Projects in the Santana Row area including Volar, Santana Row West (under litigation from Santa Clara), and Santana Row Expansion (AKA lots 9 and 17) were not included in the Traffic EIR from 2010 for Envision 2040. Pending projects at Vallco, Cupertino and City Place Santa Clara, were not included.
6. "Santa Clara has grave concerns about the impact this increased intensity of use will have on the already congested transportation system the two cities share" – excerpt from Santa Clara City Manager Letter to San Jose <https://files.acrobat.com/a/preview/d56fddac-5752-453e-a62b-a5d76ed08f98>
7. VTA Transportation Impact Analysis Guidelines 12.2, 12.3, and 12.4 have not been adequately adhered to: <http://www.vta.org/sfc/servlet.shepherd/document/download/069A0000001frgSIAQ>
 - a. 12.2 Projects on a Jurisdiction Border: "...coordinate with the adjacent jurisdiction(s) to discuss transportation related issues such as assessment of existing conditions, trip assignment, trip distribution, and mitigation measures and improvements as appropriate."
 - b. 12.3 Multi-Agency Projects: "For projects that extend in multiple jurisdictions such as shopping centers or large developments, the Lead Agency should facilitate early coordination with the participating agencies." Minimal coordination and explanation of project took place.
 - c. 12.4: "If the new transit ridership generated by the project causes the load factor of one or more transit routes to exceed the standard established by the applicable transit agency, the project should contribute to transit improvements to enhance the capacity of the affected route or provide alternative facilities."
"If the additional bicycle or pedestrian volumes generated by the project would unreasonably degrade conditions on bicycle and pedestrian facilities, the project should contribute to improvements to the conditions of the affected facility or provide alternative facilities."
 - d. 12.5 Transit Delay: "If increased transit vehicle delay is found in this analysis, the Lead Agency should work with VTA to identify feasible transit priority measures near the affected facility and include contributions to any applicable projects that improve transit speed and reliability in the TIA. Refer to Section 10.2 for more information on improvements to address congestion effects on transit travel times."
 - i. The Volar, San Jose TIA indicates transit delay issues are anticipated on Stevens Creek Blvd. Excerpt: "*Both the Stevens Creek/Winchester and Stevens Creek/Monroe intersections are currently Protected Intersections, per City policy, meaning that the City would accept offsetting transportation system improvements to enhance pedestrian, bicycle, and transit facilities as required by the development in order for the City to approve the project. VTA supports the idea of designating Protected Intersections to encourage development in locations conducive to walking, bicycling and transit in order to reduce vehicle miles traveled and greenhouse gas emissions. However, increased congestion at this intersection could result in delay to transit vehicles on Stevens Creek Boulevard, including the Local 23, Limited 323 and future Bus Rapid Transit (BRT) service, which could degrade schedule reliability and increase operating costs.*" See P. 7, no actual mitigation measures to be implemented, "The Improvements provided by VTA in the comment letter will also be incorporated into the project's list for future off-setting improvements."

First Amendment to the Draft Environmental Impact Report 350 Winchester Mixed Use Project (Volar) May, 2017: <http://sanjoseca.gov/DocumentCenter/View/68773>

8. Land Use has no percentage requirements in the mixed used urban villages. Density ranges are given with multiple options. Urban Residential land use may ultimately be commercial space over a parking garage for example, further impacting traffic. Land Use definitions and density, Chapter 3 - Land Use: <http://www.sanjoseca.gov/DocumentCenter/View/68867>
9. No parkland will be purchased for the total 5,484 housing units, placing the crowding impact and maintenance cost on surrounding parks from Santa Clara and Cupertino.
 - a. San Jose has a "Service Level Objective" for parkland. San Jose's objective is to provide 3.5 acres of parkland for every 1,000 residents.
 - b. <https://www.sanjoseca.gov/DocumentCenter/Home/View/32>
10. Housing unit and job increases appear to have no logical basis. 300 SF/ Employee results in a total existing plus proposed of 9,781 jobs in the SCUUV area vs. 11,738 employees when 250 SF/employee is used. San Jose did not research the actual number of employees in the area to determine trips they may currently be generating, but instead calculated the number

of employees based on square footage (300 SF/employee) which is likely too high considering the number of car dealerships with large parking lots and show rooms along the Stevens Creek Corridor.

11. San Tomas Expressway and Stevens Creek Boulevard is an intersection in multiple area traffic studies and is symptomatic of the traffic degradation which will occur. Traffic studies reviewed for impacts to this intersection show excessive impacts from various developments:
 - a. Santana Row Lots 9 and 17 (Expansion) resulted in LOS E AM/E PM contributing to 22% of the AM delay and 24% of the PM delay at this intersection.
 - b. Volar project resulted in LOS F AM/E PM contributing 7% to the AM delay.
 - c. Santana Row West resulted in LOS F AM/E PM contributing 34% to the AM delay.
 - d. City Place Santa Clara (AKA Related Urban, under CEQA litigation) resulted in LOS F AM/F PM contributing 1.6% and 2.0% to the AM/PM delays respectively.
 - e. Apple Campus 2 resulted in LOS E+ AM/LOS F PM contributing 1.0% and 2.4% to the AM/PM critical delays respectively. (Santana Row initial Expansion <http://www.sanjoseca.gov/DocumentCenter/View/45185> was included in AC2's study, the 4 other projects listed above were not).
 - f. No comprehensive study has been done for the Stevens Creek Urban Village. Litigation between the cities cannot be relied on to remove projects from cumulative.
12. Traffic Mitigation in multi-jurisdiction areas must be coordinated. Funding mechanisms require environmental review per Santa Clara Manager's office letter to San Jose, dated May 24, 2017.
13. No comprehensive study has addressed traffic, water treatment, wastewater treatment, emergency access, and noise impacts related to the combined developments at Santana Row with Stevens Creek Urban Village and due to these development areas being adjacent to one another, the arbitrary exclusion of Santana Row area when the traffic studies in that area show impacts on the Stevens Creek corridor into Cupertino, prevents a proper study. Santana Row must be included in a comprehensive traffic study.
14. No mitigation of the proposed Rapid Transit Bus line will result in significant delays to vehicular traffic and vice versa.
15. Proposed traffic mitigation to improve alternative mobilities will cause significant impacts to alternative residential areas. Proposed Tisch Road I-280 NB ramp has been deemed non-viable by Caltrans.
16. San Jose is in discussion to create 20,000 jobs in the Diridon vicinity which was not evaluated in Envision 2040 EIR. San Jose's lawsuit filed against Santa Clara's City Place highlights the proposed 24,760 jobs the City Place project anticipates, yet proposes 20,000 near Diridon and a minimum of 9,781 in the SCUV area, exceeding Santa Clara's proposal.
17. The San Jose lawsuit against Santa Clara's City Place acknowledges that City Place was not included in their GP EIR:

"21. On November 16, 2010, the Santa Clara City Council adopted the 2010-2035 General Plan after completing a comprehensive environmental review process that began in 2008 and culminated with an EIR, which the Council certified on November 16, 2010. The adopted General Plan did not anticipate, or accommodate, the project on the selected site."

"In fact, the project conflicts with the General Plan in numerous respects and violates consistency requirements imposed by the California Government Code. For example, the project creates an imbalance in Respondent's jobs/housing ratio by creating almost 25,000 jobs while adding a minimum of 200 housing units and no more than 1,360 housing units." - <http://media.bizj.us/view/img/10102877/city-place-complaint-filed-7-29-16.pdf>

18. No existing baseline counts were provided for the Santana Row Expansion (Lots 9 and 17) or Santana Row West TIA. See Sunnyvale West Neighborhood Association v. City of Sunnyvale, invalidating an environmental impact report (EIR) for a major roadway extension project. <http://www.jmbm.com/docs/changestoceqa.pdf>
 - a. The EIRs used faulty baselines for their traffic and transportation analysis, failed to identify and analyze intersections impacted by the project, failed to identify and analyze the project impacts on transit operations, and failed to identify and analyze enforceable measures to mitigate the traffic, transportation, noise, and transit impacts attributable to the projects.
19. TIA studies for Volar, Santana Row West, and Santana Row Expansion (lots 9 and 17) required Caltrans TIS (Traffic Impact Study) due to excessive trips impacting Caltrans' jurisdiction roadways. Caltrans does not allow the maximum trip

reductions used in all three of these studies. Studies maximized retail pass-by trips as well as a reduction of 25%. Santana Row West TIA used a 43% restaurant pass by trip reduction.

20. Counts for Santana Row West conducted on Valentines' Day 2/14/2013 must be discarded. Several counts for the same intersection for AM and PM are shown 5 months apart must be justified. (See Santana Row West Lots 9 and 17 TIA p. 17).
21. Air Quality GHG Writ of Mandate must be adhered to regarding San Jose's Envision 2040 EIR:
https://d3n8a8pro7vhmx.cloudfront.net/cleanenergy/pages/22/attachments/original/1426349313/Order_Re_Petition_for_Writ_of_Mandate.pdf?1426349313
 - a. "CCEC has argued (and the City did not dispute the calculations) that if present emissions data is compared to that allowed by the proposed General Plan update as required by Guidelines § 15064.4, GHG emissions will increase by 2.7 MNT or 36 percent by 2020 (from the approximate 2008 figure of 7.6 to the estimated 10.3). This is "substantially different information" that was not provided to the public. This failure to provide relevant information was prejudicial as the failure **"deprived the public and decision makers of substantial relevant information about the project's likely adverse impacts."** Smart Rail, supra, at 463."

"That said, given that the failure to state the "present" GHG emissions affects the Project baseline and all comparisons and determinations made using the baseline, and the City's stated intention to tier other projects off this defective EIR, a limited order may not be possible."
22. The Cupertino Vision 2040 GP EIR <http://www.cupertino.org/documents/view/211> using traffic data primarily from 2011 and 2012 indicates: that 11 of 16 intersections would operate at unacceptable level of service due to the proposed project. 9 out of 16 intersections are outside of Cupertino jurisdiction and will impact San Jose. Cupertino's GP EIR was certified December 4, 2014 making the traffic counts too old according to VTA TIA guidelines.
23. The San Jose Envision 2040 EIR <http://www.sanjoseca.gov/DocumentCenter/View/2198> is a broad-brush program-level traffic study using traffic counts from 2009 showing 73% of Cupertino's lane miles are impacted by San Jose's GP and 100% of Santa Clara's. Stevens Creek Blvd. will be deficient. San Jose indicates in their traffic study that they altered their policy to no longer consider driver comfort and convenience, yet this is not holding up to CEQA scrutiny due to other concerns such as greenhouse gas emissions (see CALIFORNIA CLEAN ENERGY COMMITTEE, v. CITY OF SAN JOSE, a municipal corporation, and DOES 1-50. Inclusive, above)
24. Schools and Education services impact: multiple daycare facilities, preschools, and elementary schools will be negatively impacted. During construction children may be exposed to excessive contaminants. Facilities will be forced to close due to construction at their own sites and newly constructed sites may be cost prohibitive for returning centers. The project area feeds Cupertino Union School District and Fremont Union School District schools. Hyde Middle School (Cupertino) and Cupertino High School are at capacity. Relocating students will increase vehicle trips.
25. Attorney correspondence dated May 24, 2017 RE Volar project, 350 S. Winchester San Jose:
<https://files.acrobat.com/a/preview/ea9d4530-bc9f-46de-b41c-73d1fc9b2641> Attorney states:
 - a. "The Project Conflicts with the General Plan."
 - b. There is no indication in the General Plan that Signature Projects can exist in a legal gray area where no land use designation fully applies. In fact, in order to qualify as a Signature Project, the City must find that the project conforms to the Land Use/ Transportation Diagram.¹¹
 - c. The DEIR Contains an Inadequate Analysis of Impacts from Greenhouse Gas Emissions
 - d. Because the General Plan, and thereby the GHG Reduction Plan, did not anticipate the density and timing of this development, additional mitigation is needed to reduce GHG impacts to a less than significant level. The City should enforce the voluntary criteria contained in the GHG Reduction Plan as binding mitigation.
 - e. As demonstrated above, approving this Project would violate CEQA and be inconsistent with the General Plan.
26. Air pollution has not been studied along Stevens Creek or for the proposed Freeway Cap park. Research indicates the Freeway Cap park would have no mitigations. Only limited mitigations exist for homes near Stevens Creek Blvd. from the air pollution. The proposed Freeway Cap Park is an unacceptable alternative to purchasing parkland. Source:
<https://www.arb.ca.gov/research/health/traff-eff/research%20status%20-reducing%20exposure%20to%20traffic%20pollution.pdf>

CEQA LAWSUITS ONGOING BETWEEN SAN JOSE – SANTA CLARA

San Jose sues Santa Clara over City Place (AKA Related Urban): <http://media.bizj.us/view/img/10102877/city-place-complaint-filed-7-29-16.pdf>

This lawsuit has moved to San Mateo County and will have a hearing in August.

Santa Clara sues San Jose over Santana Row Expansion (AKA Lots 9 and 17): <http://www.mercurynews.com/wp-content/uploads/2016/11/santana-west-lawsuit.pdf>

Progress article: <http://www.mercurynews.com/2017/06/09/internal-affairs-san-jose-v-santa-clara-round-one-goes-to-santa-clara/>

CITIES' CORRESPONDENCE RE STEVENS CREEK URBAN VILLAGES

Letter from Santa Clara to San Jose RE Stevens Creek Urban Village:

<https://files.acrobat.com/a/preview/d56fddac-5752-453e-a62b-a5d76ed08f98>

Letter from Cupertino Mayor to San Jose:

<https://files.acrobat.com/a/preview/f0935275-a2bc-4c80-9aea-d8b9c4b382c0>

VARIOUS TRAFFIC STUDIES IMPACTING STEVENS CREEK BLVD.

Santana Row Lots 9 and 17 AKA Santana Row Expansion Traffic EIR: <https://www.sanjoseca.gov/DocumentCenter/View/41531>

Volar Traffic EIR: <http://sanjoseca.gov/DocumentCenter/View/68773>

Santana Row West Traffic EIR: <http://www.sanjoseca.gov/DocumentCenter/View/57720>

Apple Campus 2 Traffic EIR: <https://s3.amazonaws.com/Apple-Campus2-DEIR/Appendix-B-Transportation-Impact-Analysis.pdf>

City Place Santa Clara (Under CEQA Litigation):

Chapter 03-03 - Transportation, Part 1 (PDF) <http://santaclaraca.gov/home/showdocument?id=15536>

Chapter 03-03 - Transportation, Part 2 (PDF) <http://santaclaraca.gov/home/showdocument?id=15538>

Cupertino General Plan 2040 Vision Traffic EIR: <http://www.cupertino.org/documents/view/211>

San Jose General Plan Envision 2040 Traffic EIR: <http://www.sanjoseca.gov/DocumentCenter/View/2198>

SUPPORTING DOCUMENTS FROM TRAFFIC STUDIES

SANTANA ROW LOTS 9 AND 17 AKA SANTANA ROW EXPANSION TRAFFIC EIR:

- <https://www.sanjoseca.gov/DocumentCenter/View/41531>
- Counts from 2012 and 2013
- See Lawsuit link above or here: <http://www.mercurynews.com/wp-content/uploads/2016/11/santana-west-lawsuit.pdf>

- Trip Generation Table 8 Issues:
 - Low movie theater Daily Trip Rate in Table 8 p. 41 does not match ITE Trip Generation Handbook rates for Movie Theaters, and employee count was omitted
 - No baseline counts made for existing Dudley Apartments, used ITE Trip Generation Rate instead
 - Approved 69,491 SF Office (approved) has generated trips subtracted from 510,000 SF total which appears to be an error if these are not existing. If existing, a traffic count should have been made.
- Project Meets the threshold requirements for a Caltrans Traffic Impact Study.

http://www.dot.ca.gov/hq/tpp/offices/ocp/igr_ceqa_files/tisguide.pdf

 - Used Maximum ITE Trip Reductions for Mixed Use BUT Caltrans TIS Guidelines p. 4 require that using the maximum reductions be justified:
 - 3. Captured Trips7 – Captured trip reductions greater than 5% requires consultation and acceptance by Caltrans. The justification for exceeding a 5% reduction should be discussed in the TIS.
- Traffic counts include intersections with up to five months separation in count dates and multiple counts were done on 2/14/2013 which is Valentine’s Day, near Valley Fair Mall. Traffic patterns may have been significantly altered.



Figure 2
Project Components

ITE Trip Generation Rates - 9th Edition
Pass-by rates from ITE Trip Generation Handbook - 2nd Edition
 (copyrights, Insitute of Transportation Engineers)

| Description/ITE Code | Units | ITE Vehicle Trip Generation Rates | | | | | | | |
|-------------------------------|------------------|--|------|-------|---------|-------|--------|-------|--------|
| | | (peak hours are for peak hour of adjacent street traffic unless highlighted) | | | | | | | |
| | | Weekday | AM | PM | Pass-By | AM In | AM Out | PM In | PM Out |
| Live Theater 441 | Seats | NA | NA | 0.02 | | NA | NA | 50% | 50% |
| Movie Theater w/o matinee 443 | KSF ² | 78.06 | 0.22 | 6.16 | | NA | NA | 94% | 6% |
| Movie Theater w/o matinee 443 | Movie Screens | 220.00 | NA | 24.00 | | NA | NA | 41% | 59% |
| Movie Theater w/o matinee 443 | Seats | 1.76 | 0.01 | 0.07 | | NA | NA | 75% | 25% |
| Movie Theater w/o matinee 443 | Employees | 53.12 | 0.15 | 4.20 | | NA | NA | NA | NA |
| Movie Theater w/ matinee 444 | KSF ² | 99.28 | NA | 3.80 | | NA | NA | 64% | 36% |
| Movie Theater w/ matinee 444 | Movie Screens | 546.86 | NA | 20.22 | | NA | NA | 40% | 60% |
| Movie Theater w/ matinee 444 | Seats | 2.24 | NA | 0.07 | | NA | NA | 39% | 61% |
| Multiplex Movie Theater 445 | KSF ² | NA | NA | 4.91 | | NA | NA | 62% | 38% |
| Multiplex Movie Theater 445 | Movie Screens | NA | NA | 13.64 | | NA | NA | 45% | 55% |
| Multiplex Movie Theater 445 | Seats | NA | NA | 0.08 | | NA | NA | 36% | 64% |

Table 8
Background Plus Project Trip Generation Estimates

| Land Use | Size | Daily Trip Rate | Daily Trips | AM Peak Hour | | | | | | PM Peak Hour | | | | | | | |
|--|--------------|-----------------|---------------|--------------|---------------|--------|-----|-------------|------------|--------------|---------------|--------|-----|------------|------------|-------------|------|
| | | | | Pk-Hr % | Internal Red. | Splits | | Trips | | Pk-Hr % | Internal Red. | Splits | | Trips | | | |
| | | | | | | In | Out | In | Out | | | In | Out | In | Out | Total | |
| Proposed Land Uses | | | | | | | | | | | | | | | | | |
| Parcel 9 & 17 Office /a/ | 510,000 s.f. | 11.00 | 5,610 | 14% | | 88% | 12% | 691 | 94 | 785 | 14% | | 17% | 83% | 133 | 652 | 785 |
| Mixed-Used Reductions /b/ | | | -168 | | 3% | | | -21 | -3 | -24 | | 13% | | | -17 | -85 | -102 |
| Sub-Total | | | 5,442 | | | | | 670 | 91 | 761 | | | | 116 | 567 | 683 | |
| Movie Theater /a/ | 7 screens | 154.00 | 1,078 | 0% | | 0% | 0% | 0 | 0 | 0 | 12.4% | | 60% | 40% | 80 | 54 | 134 |
| Mixed-Used Reductions /b/ | | | -129 | | 12% | | | 0 | 0 | 0 | | 12% | | | -10 | -6 | -16 |
| Sub-Total | | | 949 | | | | | 0 | 0 | 0 | | | | 70 | 48 | 118 | |
| Hotel Rooms /a/ | 6 rooms | 9.00 | 54 | 8% | | 60% | 40% | 2 | 2 | 4 | 9% | | 60% | 40% | 3 | 2 | 5 |
| Mixed-Used Reductions /b/ | | | -6 | | 12% | | | 0 | 0 | 0 | | 12% | | | 0 | 0 | 0 |
| Sub-Total | | | 48 | | | | | 2 | 2 | 4 | | | | 3 | 2 | 5 | |
| Total Proposed Project Trips | | | 6,438 | | | | | 672 | 93 | 765 | | | | 189 | 617 | 806 | |
| Existing/Approved Land Uses | | | | | | | | | | | | | | | | | |
| Dudley Apartments | 47 units | 6.00 | -282 | 10% | | 35% | 65% | -10 | -18 | -28 | 10% | | 65% | 35% | -18 | -10 | -28 |
| Mixed-Used Reductions /b/ | | | 28 | | 10% | | | 1 | 2 | 3 | | 38% | | | 7 | 4 | 11 |
| Sub-Total | | | -254 | | | | | -9 | -16 | -25 | | | | -11 | -6 | -17 | |
| Lot 17 Approved Office | 69,491 s.f. | 11.00 | -764 | 14% | | 88% | 12% | -94 | -13 | -107 | 14% | | 17% | 83% | -18 | -89 | -107 |
| Mixed-Used Reductions /b/ | | | 23 | | 3% | | | 3 | 0 | 3 | | 13% | | | 2 | 12 | 14 |
| Sub-Total | | | -741 | | | | | -91 | -13 | -104 | | | | -16 | -77 | -93 | |
| Total Existing/Approved Project Trips | | | -1,023 | | | | | -100 | -29 | -129 | | | | -27 | -83 | -110 | |
| Net Project Trips | | | 5,415 | | | | | 572 | 64 | 635 | | | | 162 | 534 | 696 | |

/a/ City of San Jose Traffic Impact Analysis Handbook: Volume 1 - Methodologies and Requirements, 2009.
/b/ Mixed-use reductions estimated based on ITE mixed-used reduction methodology, ITE Trip Generation Handbook.

**Table ES 2
Freeway Segment Level of Service Summary**

| Freeway | Segment | Direction | Peak Hour | Mixed-Flow Lane | | | | | | Existing Plus Project | | | | | | Project Trips | | | |
|---------|---------------------------------|-----------|-----------|--------------------------|------------|----------------|----------------------|---------|-----|--------------------------|------------|----------------|----------------------|---------|-----|-----------------|----------|---------------|---------------|
| | | | | Avg. Speed ^{a/} | # of Lanes | Capacity (vph) | Volume ^{a/} | Density | LOS | Avg. Speed ^{a/} | # of Lanes | Capacity (vph) | Volume ^{a/} | Density | LOS | Mixed-Flow Lane | HOV Lane | % of Capacity | % of Capacity |
| SR 17 | Hamilton to I-280 | NB | AM | 23.0 | 3.0 | 6,900 | 5,306 | 77 | F | -- | -- | -- | -- | -- | -- | 58 | 0.8% | -- | -- |
| | | | PM | 65.0 | 3.0 | 6,900 | 5,677 | 29 | D | -- | -- | -- | -- | -- | -- | 17 | 0.2% | -- | -- |
| I-880 | I-280 to Stevens Cr | NB | AM | 18.0 | 3.0 | 6,900 | 4,613 | 66 | F | -- | -- | -- | -- | -- | 143 | 2.1% | -- | -- | |
| | | | PM | 66.5 | 3.0 | 6,900 | 3,441 | 17 | B | -- | -- | -- | -- | -- | -- | 41 | 0.6% | -- | -- |
| I-880 | Stevens Cr to N. Bascom Ave | NB | AM | 26.0 | 3.0 | 6,900 | 5,466 | 70 | F | -- | -- | -- | -- | -- | 6 | 0.1% | -- | -- | |
| | | | PM | 65.0 | 3.0 | 6,900 | 5,929 | 30 | D | -- | -- | -- | -- | -- | -- | 79 | 1.1% | -- | -- |
| I-880 | N. Bascom Ave to The Alameda | NB | AM | 36.0 | 3.0 | 6,900 | 6,056 | 56 | E | -- | -- | -- | -- | -- | 6 | 0.1% | -- | -- | |
| | | | PM | 65.5 | 3.0 | 6,900 | 5,389 | 27 | D | -- | -- | -- | -- | -- | -- | 79 | 1.1% | -- | -- |
| I-280 | Lawrence Epwy to Saratoga Ave | EB | AM | 61.0 | 3.0 | 6,900 | 6,640 | 36 | D | 67.0 | 1.0 | 1,650 | 816 | 12 | B | 50 | 0.7% | 6 | 0.4% |
| | | | PM | 32.0 | 3.0 | 6,900 | 5,971 | 62 | F | 60.0 | 1.0 | 1,650 | 2,224 | 37 | D | 11 | 0.2% | 4 | 0.2% |
| I-280 | Saratoga Ave to Winchester Blvd | EB | AM | 59.0 | 3.0 | 6,900 | 6,800 | 37 | D | 67.0 | 1.0 | 1,650 | 746 | 11 | A | 50 | 0.7% | 6 | 0.3% |
| | | | PM | 45.0 | 3.0 | 6,900 | 6,491 | 48 | E | 70.0 | 1.0 | 1,650 | 2,034 | 29 | D | 11 | 0.2% | 4 | 0.2% |
| I-280 | Winchester Blvd to I-880 | EB | AM | 66.0 | 3.0 | 6,900 | 5,150 | 26 | C | 67.0 | 1.0 | 1,650 | 940 | 14 | B | 0 | 0.0% | 0 | 0.0% |
| | | | PM | 52.0 | 3.0 | 6,900 | 6,560 | 42 | D | 70.0 | 1.0 | 1,650 | 1,470 | 21 | C | 0 | 0.0% | 0 | 0.0% |
| I-280 | I-880 to Meridian Ave | EB | AM | 65.5 | 3.0 | 6,900 | 5,319 | 27 | D | 67.0 | 1.0 | 1,650 | 671 | 10 | A | 9 | 0.1% | 1 | 0.1% |
| | | | PM | 25.0 | 3.0 | 6,900 | 5,538 | 74 | F | 70.0 | 1.0 | 1,650 | 2,122 | 30 | D | 58 | 0.8% | 22 | 1.3% |
| I-280 | Meridian Ave to Bird Ave | EB | AM | 46.0 | 4.0 | 9,200 | 8,660 | 47 | E | -- | -- | -- | -- | -- | -- | 10 | 0.1% | -- | -- |
| | | | PM | 28.0 | 4.0 | 9,200 | 7,550 | 68 | F | -- | -- | -- | -- | -- | -- | 80 | 0.9% | -- | -- |
| I-280 | Bird Ave to Meridian Ave | WB | AM | 13.0 | 4.0 | 9,200 | 5,466 | 106 | F | -- | -- | -- | -- | -- | -- | 86 | 0.9% | -- | -- |
| | | | PM | 59.0 | 4.0 | 9,200 | 8,844 | 38 | D | -- | -- | -- | -- | -- | -- | 24 | 0.3% | -- | -- |
| I-280 | Meridian Ave to I-880 | WB | AM | 7.0 | 3.4 | 7,820 | 3,134 | 132 | F | 27.0 | 1.0 | 1,650 | 1,872 | 6 | E | 54 | 0.7% | 32 | 1.6% |
| | | | PM | 66.0 | 3.4 | 7,820 | 5,189 | 23 | C | 70.0 | 1.0 | 1,650 | 1,265 | 18 | B | 19 | 0.2% | 5 | 0.3% |
| I-280 | I-880 to Winchester Blvd | WB | AM | 18.0 | 3.0 | 6,900 | 4,520 | 94 | F | 42.0 | 1.0 | 1,650 | 2,100 | 50 | E | 0 | 0.0% | 0 | 0.0% |
| | | | PM | 65.5 | 3.0 | 6,900 | 5,310 | 27 | D | 70.0 | 1.0 | 1,650 | 1,470 | 21 | C | 0 | 0.0% | 0 | 0.0% |
| I-280 | Winchester Blvd to Saratoga Ave | WB | AM | 12.0 | 3.0 | 6,900 | 3,893 | 108 | F | 45.0 | 1.0 | 1,650 | 2,161 | 48 | E | 3 | 0.0% | 1 | 0.1% |
| | | | PM | 62.0 | 3.0 | 6,900 | 6,554 | 35 | D | 70.0 | 1.0 | 1,650 | 1,269 | 18 | B | 44 | 0.6% | 9 | 0.5% |
| I-280 | Saratoga Ave to Lawrence Epwy | WB | AM | 16.0 | 3.0 | 6,900 | 4,423 | 92 | F | 36.0 | 1.0 | 1,650 | 2,061 | 57 | E | 3 | 0.0% | 1 | 0.1% |
| | | | PM | 65.5 | 3.0 | 6,900 | 5,357 | 27 | D | 70.0 | 1.0 | 1,650 | 636 | 9 | A | 47 | 0.7% | 6 | 0.3% |
| I-880 | The Alameda to N. Bascom Ave | SB | AM | 66.0 | 3.0 | 6,900 | 5,234 | 26 | C | -- | -- | -- | -- | -- | -- | 84 | 1.2% | -- | -- |
| | | | PM | 25.0 | 3.0 | 6,900 | 5,502 | 73 | F | -- | -- | -- | -- | -- | -- | 22 | 0.3% | -- | -- |
| I-880 | N. Bascom Ave to Stevens Cr | SB | AM | 24.0 | 3.0 | 6,900 | 5,414 | 75 | F | -- | -- | -- | -- | -- | -- | 84 | 1.2% | -- | -- |
| | | | PM | 30.0 | 3.0 | 6,900 | 5,782 | 64 | F | -- | -- | -- | -- | -- | -- | 22 | 0.3% | -- | -- |
| I-880 | Stevens Cr to I-280 | SB | AM | 66.0 | 3.0 | 6,900 | 5,167 | 26 | C | -- | -- | -- | -- | -- | -- | 17 | 0.2% | -- | -- |
| | | | PM | 65.0 | 3.0 | 6,900 | 5,964 | 31 | D | -- | -- | -- | -- | -- | -- | 134 | 1.9% | -- | -- |
| SR 17 | I-280 to Hamilton | SB | AM | 66.0 | 3.0 | 6,900 | 4,367 | 22 | C | -- | -- | -- | -- | -- | -- | 7 | 0.1% | -- | -- |
| | | | PM | 61.0 | 3.0 | 6,900 | 6,644 | 36 | D | -- | -- | -- | -- | -- | -- | 54 | 0.8% | -- | -- |

^{a/} Source: Santa Clara Valley Transportation Authority Congestion Management Program Monitoring Study, 2012.
 - Denotes significant impact

Table 3
Existing Intersection Levels of Service

| Study Number | Intersection | Jurisdiction | Peak Hour | Count Date | Avg. Delay | LOS |
|--------------|--|--------------|-----------|------------|-------------|----------|
| 1 | Winchester Boulevard and Stevens Creek Boulevard * | San Jose | AM | 02/27/13 | 35.5 | D |
| | | | PM | 09/18/12 | 50.7 | D |
| 2 | Santana Row and Stevens Creek Boulevard | San Jose | AM | 02/13/13 | 15.1 | B |
| | | | PM | 02/13/13 | 29.7 | C |
| 3 | Redwood Avenue and Stevens Creek Boulevard | San Jose | AM | 02/13/13 | 8.2 | A |
| | | | PM | 02/13/13 | 22.0 | C |
| 4 | Monroe Street and Stevens Creek Boulevard | San Jose | AM | 02/13/13 | 28.8 | C |
| | | | PM | 02/13/13 | 38.6 | D |
| 5 | I-880 SB off-ramp and Stevens Creek Boulevard * | San Jose | AM | 02/13/13 | 23.8 | C |
| | | | PM | 09/18/12 | 21.8 | C |
| 6 | Bascom Avenue and San Carlos Street | San Jose | AM | 02/14/13 | 41.9 | D |
| | | | PM | 02/14/13 | 51.3 | D |
| 7 | Meridian Avenue and San Carlos Street | San Jose | AM | 02/14/13 | 39.4 | D |
| | | | PM | 02/14/13 | 46.4 | D |
| 8 | Lincoln Avenue and San Carlos Street | San Jose | AM | 02/14/13 | 35.3 | D |
| | | | PM | 02/14/13 | 39.0 | D |
| 9 | Bird Avenue and San Carlos Street * | San Jose | AM | 04/18/13 | 33.0 | C |
| | | | PM | 09/18/12 | 39.0 | D |
| 10 | Monroe Street and Forest Street | San Jose | AM | 02/14/13 | 17.4 | B |
| | | | PM | 02/14/13 | 20.2 | C |
| 11 | Monroe Street and Hedding Street | San Jose | AM | 02/14/13 | 35.7 | D |
| | | | PM | 05/07/13 | 37.3 | D |
| 12 | Monroe Street and Newhall Street | San Jose | AM | 02/14/13 | 26.6 | C |
| | | | PM | 02/14/13 | 27.0 | C |
| 13 | Winchester Boulevard and Hedding Street | San Jose | AM | 02/14/13 | 31.0 | C |
| | | | PM | 02/14/13 | 35.9 | D |
| 14 | Winchester Boulevard and Forest Street | San Jose | AM | 02/14/13 | 15.4 | B |
| | | | PM | 02/14/13 | 21.5 | C |
| 15 | San Tomas Expressway and Stevens Creek Boulevard * | San Jose | AM | 02/26/13 | 51.1 | D |
| | | | PM | 09/11/12 | 68.2 | E |
| 16 | Saratoga Avenue and Stevens Creek Boulevard * | San Jose | AM | 02/26/13 | 34.8 | C |
| | | | PM | 09/25/12 | 38.1 | D |
| 17 | Kiely Boulevard and Stevens Creek Boulevard * | San Jose | AM | 04/16/13 | 37.9 | D |
| | | | PM | 09/19/12 | 37.1 | D |
| 18 | Saratoga Avenue and Kiely Boulevard * | San Jose | AM | 04/17/13 | 45.2 | D |
| | | | PM | 09/19/12 | 41.0 | D |
| 19 | Saratoga Avenue and I-280 (North) * | San Jose | AM | 04/18/13 | 23.4 | C |
| | | | PM | 09/19/12 | 21.9 | C |
| 20 | Saratoga Avenue and I-280 (South) * | San Jose | AM | 04/18/13 | 40.7 | D |
| | | | PM | 09/19/12 | 34.5 | C |
| 21 | Saratoga Avenue and Moorpark Avenue * | San Jose | AM | 04/18/13 | 41.5 | D |
| | | | PM | 09/19/12 | 44.1 | D |
| 22 | San Tomas Expressway and Moorpark Avenue * | San Jose | AM | 03/07/13 | 51.8 | D |
| | | | PM | 09/06/12 | 52.8 | D |
| 23 | Winchester Boulevard and Olin Avenue | San Jose | AM | 02/13/13 | 17.6 | B |
| | | | PM | 02/13/13 | 21.5 | C |

Table 11
Cumulative Conditions Intersection Levels of Service

| Study Number | Intersection | Jurisdiction | Peak Hour | Background | | Cumulative | | | | % of Project Contribution |
|--------------|--|--------------|-----------|------------|-----|------------|-----|----------------------|--------------------|---------------------------|
| | | | | Delay | LOS | Delay | LOS | Incr. In Crit. Delay | Incr. In Crit. V/C | |
| 1 | Winchester Boulevard and Stevens Creek Boulevard * | San Jose | AM | 36.1 | D | 68.8 | E | 82.8 | 0.587 | 10% |
| | | | PM | 60.1 | E | 191.9 | F | 273.9 | 0.699 | |
| 2 | Santana Row and Stevens Creek Boulevard | San Jose | AM | 15.0 | B | 14.7 | B | 2.3 | 0.183 | |
| | | | PM | 31.0 | C | 28.5 | C | -2.3 | 0.137 | |
| 3 | Redwood Avenue and Stevens Creek Boulevard | San Jose | AM | 9.8 | A | 10.4 | B | 0.5 | 0.173 | |
| | | | PM | 29.7 | C | 29.4 | C | 1.9 | 0.169 | |
| 4 | Monroe Street and Stevens Creek Boulevard | San Jose | AM | 34.1 | C | 43.5 | D | 14.6 | 0.210 | 25% |
| | | | PM | 83.6 | F | 172.2 | F | 126.9 | 0.304 | |
| 5 | I-880 SB off-ramp and Stevens Creek Boulevard * | San Jose | AM | 23.0 | C | 26.5 | C | -6.4 | 0.225 | |
| | | | PM | 18.7 | B | 21.5 | C | 3.2 | 0.148 | |
| 6 | Bascom Avenue and San Carlos Street | San Jose | AM | 43.0 | D | 45.0 | D | 3.3 | 0.062 | |
| | | | PM | 52.6 | D | 54.5 | D | 2.0 | 0.061 | |
| 7 | Meridian Avenue and San Carlos Street | San Jose | AM | 40.3 | D | 40.9 | D | 0.9 | 0.047 | |
| | | | PM | 52.2 | D | 54.0 | D | 2.9 | 0.032 | |
| 8 | Lincoln Avenue and San Carlos Street | San Jose | AM | 37.2 | D | 37.4 | D | 0.6 | 0.041 | |
| | | | PM | 41.7 | D | 41.6 | D | 0.6 | 0.028 | |
| 9 | Bird Avenue and San Carlos Street * | San Jose | AM | 35.7 | D | 36.4 | D | 1.0 | 0.016 | |
| | | | PM | 42.4 | D | 43.1 | D | 1.1 | 0.016 | |
| 10 | Monroe Street and Forest Street | San Jose | AM | 17.8 | B | 17.8 | B | 0.1 | 0.016 | |
| | | | PM | 21.1 | C | 21.3 | C | 0.4 | 0.010 | |
| 11 | Monroe Street and Hedding Street | San Jose | AM | 36.0 | D | 36.4 | D | 0.2 | 0.007 | |
| | | | PM | 37.6 | D | 37.8 | D | -0.7 | 0.018 | |
| 12 | Monroe Street and Newhall Street | San Jose | AM | 26.9 | C | 27.1 | C | -0.1 | 0.018 | |
| | | | PM | 27.1 | C | 27.5 | C | 0.3 | 0.022 | |
| 13 | Winchester Boulevard and Hedding Street | San Jose | AM | 31.7 | C | 33.7 | C | 6.2 | 0.117 | |
| | | | PM | 38.3 | D | 39.6 | D | 3.5 | 0.054 | |
| 14 | Winchester Boulevard and Forest Street | San Jose | AM | 20.2 | C | 21.9 | C | 1.0 | 0.029 | |
| | | | PM | 20.5 | C | 24.6 | C | 4.2 | 0.080 | |
| 15 | San Tomas Expressway and Stevens Creek Boulevard * | San Jose | AM | 54.2 | D | 59.9 | E | 8.0 | 0.046 | 22% |
| | | | PM | 74.8 | E | 79.0 | E | 5.9 | 0.012 | |
| 16 | Saratoga Avenue and Stevens Creek Boulevard * | San Jose | AM | 38.8 | D | 39.8 | D | 3.8 | 0.067 | |
| | | | PM | 38.5 | D | 39.5 | D | 2.0 | 0.044 | |
| 17 | Kiely Boulevard and Stevens Creek Boulevard * | San Jose | AM | 37.8 | D | 37.7 | D | 0.0 | 0.004 | |
| | | | PM | 37.0 | D | 36.8 | D | -0.1 | 0.005 | |
| 18 | Saratoga Avenue and Kiely Boulevard * | San Jose | AM | 45.0 | D | 45.0 | D | 0.1 | 0.002 | |
| | | | PM | 41.1 | D | 41.3 | D | 0.5 | 0.012 | |
| 19 | Saratoga Avenue and I-280 (North) * | San Jose | AM | 23.3 | C | 23.1 | C | 0.0 | 0.004 | |
| | | | PM | 21.8 | C | 21.6 | C | -0.3 | 0.013 | |
| 20 | Saratoga Avenue and I-280 (South) * | San Jose | AM | 42.2 | D | 42.2 | D | 0.1 | 0.000 | |
| | | | PM | 34.6 | C | 34.8 | C | 0.6 | 0.004 | |
| 21 | Saratoga Avenue and Moorpark Avenue * | San Jose | AM | 41.8 | D | 42.9 | D | 1.1 | 0.024 | |
| | | | PM | 44.7 | D | 45.1 | D | 0.3 | 0.013 | |
| 22 | San Tomas Expressway and Moorpark Avenue * | San Jose | AM | 52.9 | D | 53.3 | D | 0.7 | 0.005 | |
| | | | PM | 54.9 | D | 61.7 | E | 11.6 | 0.049 | |
| 23 | Winchester Boulevard and Olin Avenue | San Jose | AM | 17.5 | B | 20.5 | C | 7.0 | 0.405 | 9% |
| | | | PM | 20.4 | C | 58.8 | E | 49.4 | 0.540 | |

VOLAR:

TIA, traffic study: <http://www.sanjoseca.gov/DocumentCenter/View/65247>

Comments from VTA RE Draft EIR: <http://sanjoseca.gov/DocumentCenter/View/68773>

Excerpt: *“Both the Stevens Creek/Winchester and Stevens Creek/Monroe intersections are currently Protected Intersections, per City policy, meaning that the City would accept offsetting transportation system improvements to enhance pedestrian, bicycle, and transit facilities as required by the development in order for the City to approve the project. VTA supports the idea of designating Protected Intersections to encourage development in locations conducive to walking, bicycling and transit in order to reduce vehicle miles traveled and greenhouse gas emissions. However, increased congestion at this intersection could result in delay to transit vehicles on Stevens Creek Boulevard, including the Local 23, Limited 323 and future Bus Rapid Transit (BRT) service, which could degrade schedule reliability and increase operating costs.”*

- Project Meets the threshold requirements for a Caltrans Traffic Impact Study.
http://www.dot.ca.gov/hq/tpp/offices/ocp/igr_cega_files/tisguide.pdf
 - Used Maximum ITE Trip Reductions for Mixed Use BUT Caltrans TIS Guidelines p. 4 require that using the maximum reductions be justified:
 - *3. Captured Trips7 – Captured trip reductions greater than 5% requires consultation and acceptance by Caltrans. The justification for exceeding a 5% reduction should be discussed in the TIS.*
- Counts from 2014 & 2015

**Table 3
Trip Generation Estimates**

| Land Use | ITE Land Use Code | % Trip Reduction | Size | Daily Rate ¹ | Daily Trips | AM Peak Hour | | | | | PM Peak Hour | | | | | | |
|--|---|------------------|-------------|-------------------------|--------------|-------------------------|-----------|------------|-----------|------------|--------------|-------------------------|-----------|------------|------------|------------|-------------|
| | | | | | | Pk-Hr Rate ¹ | Spills In | Spills Out | Trips In | Trips Out | Trips Total | Pk-Hr Rate ¹ | Spills In | Spills Out | Trips In | Trips Out | Trips Total |
| Proposed Land Uses | | | | | | | | | | | | | | | | | |
| Residential | 230 - Condo/Townhouse | | 307 units | 5.81 | 1,784 | 0.44 | 17% | 83% | 23 | 112 | 135 | 0.52 | 67% | 33% | 107 | 53 | 160 |
| | housing and retail mixed-use reduction ² | 15% | | | -173 | | | | -2 | -2 | -4 | | | | -8 | -7 | -15 |
| | housing and employment mixed-use reduction ⁴ | 3% | | | -5 | | | | 0 | -1 | -1 | | | | -1 | 0 | -1 |
| | housing near a major bus stop reduction ⁵ | 2% | | | -32 | | | | 0 | -2 | -2 | | | | -2 | -1 | -3 |
| Retail | 820 - Shopping Center | | 26,999 s.f. | 42.70 | 1,153 | 0.96 | 62% | 38% | 16 | 10 | 26 | 3.71 | 48% | 52% | 48 | 52 | 100 |
| | housing and retail mixed-use reduction ² | 15% | | | -173 | | | | -2 | -2 | -4 | | | | -7 | -8 | -15 |
| | employment and employee-serving retail mixed-use reduction ³ | 3% | | | -5 | | | | 0 | -1 | -1 | | | | -1 | 0 | -1 |
| | pass-by reduction ⁶ | 25% | | | -21 | | | | 0 | 0 | 0 | | | | -10 | -11 | -21 |
| Office | 710 - General Office Building | | 16,516 s.f. | 11.03 | 182 | 1.56 | 88% | 12% | 23 | 3 | 26 | 1.49 | 17% | 83% | 4 | 21 | 25 |
| | housing and employment mixed-use reduction ⁴ | 3% | | | -5 | | | | -1 | 0 | -1 | | | | 0 | -1 | -1 |
| | employment and employee-serving retail mixed-use reduction ³ | 3% | | | -5 | | | | -1 | 0 | -1 | | | | 0 | -1 | -1 |
| | employment near a major bus stop reduction ⁵ | 2% | | | -3 | | | | 0 | 0 | 0 | | | | 0 | 0 | 0 |
| Restaurant | 931 - Quality Restaurant | | 8,652 s.f. | 89.95 | 778 | 0.81 | 50% | 50% | 4 | 3 | 7 | 7.49 | 67% | 33% | 44 | 21 | 65 |
| Total project trips after reductions | | | | | 3,475 | | | | 60 | 120 | 180 | | | | 174 | 118 | 292 |
| Existing Land Use | | | | | | | | | | | | | | | | | |
| Driveway Counts (January 21, 2016) | | | 26,774 s.f. | 19.53 | 523 | 0.45 | 83% | 17% | 10 | 2 | 12 | 1.23 | 42% | 58% | 14 | 19 | 33 |
| | pass-by reduction ⁷ | 25% | | | -9 | | | | 0 | 0 | 0 | | | | -4 | -5 | -9 |
| Total project trips after reductions | | | | | 514 | | | | 10 | 2 | 12 | | | | 10 | 14 | 24 |
| Net Project Trips (Proposed - Existing Land Uses) | | | | | 2,961 | | | | 50 | 118 | 168 | | | | 164 | 104 | 268 |
| <p>Source: ITE Trip Generation, 9th Edition, 2012.</p> <p>¹The average trip generation rate from the ITE Trip Generation Manual was used.</p> <p>²As prescribed by the VTA Transportation Impact Analysis Guidelines (October 2014), the maximum trip reduction for a mixed-use development project with housing and retail components is equal to 15% off the smaller trip generator (retail component generates less trips than the housing component).</p> <p>³As prescribed by the VTA Transportation Impact Analysis Guidelines (October 2014), the maximum trip reduction for a mixed-use development project with employment and employee-serving retail components is equal to 3% off the employment component.</p> <p>⁴As prescribed by the VTA Transportation Impact Analysis Guidelines (October 2014), the maximum trip reduction for a mixed-use development project with housing and employment components is equal to 3% off the smaller trip generator (employment component generates less trips than the housing component).</p> <p>⁵As prescribed by the VTA Transportation Impact Analysis Guidelines (October 2014), the maximum trip reduction for employment and housing located near a major bus stop is equal to 2% of the employment and housing components.</p> <p>⁶A 25% PM pass-by reduction is typically applied for retail development within Santa Clara County.</p> | | | | | | | | | | | | | | | | | |

**Table 9
Cumulative Conditions Intersection Levels of Service**

| Study Number | Intersection | Peak Hour | Background | | Cumulative | | | | % of Project Contribution |
|--------------|---|-----------|------------|-----|------------|-----|----------------------|--------------------|---------------------------|
| | | | Avg. Delay | LOS | Avg. Delay | LOS | Incr. In Crit. Delay | Incr. In Crit. V/C | |
| 1 | Winchester Boulevard and Stevens Creek Boulevard * | AM | 39.7 | D | 40.6 | D | 1.0 | 0.021 | 67% |
| | | PM | 76.1 | E | 90.6 | F | 35.1 | 0.090 | |
| 2 | Santana Row and Stevens Creek Boulevard | AM | 12.9 | B | 12.9 | B | 0.2 | 0.020 | |
| | | PM | 29.3 | C | 28.8 | C | -0.3 | 0.023 | |
| 3 | Redwood Avenue and Stevens Creek Boulevard | AM | 18.8 | B | 19.2 | B | 0.0 | 0.019 | |
| | | PM | 49.4 | D | 52.2 | D | 6.7 | 0.038 | |
| 4 | Monroe Street and Stevens Creek Boulevard | AM | 40.2 | D | 42.3 | D | 2.0 | 0.024 | 52% |
| | | PM | 148.3 | F | 157.3 | F | 13.3 | 0.031 | |
| 5 | I-880 SB Ramps and Stevens Creek Boulevard * | AM | 27.1 | C | 28.2 | C | 1.5 | 0.032 | |
| | | PM | 25.4 | C | 27.2 | C | 1.9 | 0.044 | |
| 6 | I-880 NB Ramps and Stevens Creek Boulevard | AM | 23.9 | C | 24.1 | C | 0.2 | 0.011 | |
| | | PM | 25.5 | C | 26.0 | C | 0.4 | 0.015 | |
| 7 | Winchester Boulevard and Olin Avenue | AM | 19.2 | B | 19.2 | B | -0.1 | 0.006 | |
| | | PM | 33.0 | C | 34.3 | C | 3.2 | 0.052 | |
| 8 | Winchester Boulevard and Olsen Drive | AM | 26.8 | C | 26.6 | C | -0.1 | 0.006 | |
| | | PM | 46.9 | D | 47.0 | D | 0.2 | 0.009 | |
| 9 | Winchester Boulevard and I-280 WB on-ramp/Tisch Way | AM | 52.6 | D | 55.8 | E | 8.1 | 0.027 | 43% |
| | | PM | 69.1 | E | 75.3 | E | 10.0 | 0.029 | |
| 10 | Winchester Boulevard and Moorpark Avenue | AM | 48.2 | D | 49.5 | D | 2.1 | 0.013 | |
| | | PM | 43.6 | D | 43.9 | D | 0.3 | 0.007 | |
| 11 | I-280 EB off-ramp and Moorpark Avenue * | AM | 12.2 | B | 12.3 | B | 0.0 | 0.007 | |
| | | PM | 13.6 | B | 13.7 | B | 0.1 | 0.011 | |
| 12 | San Tomas Expressway and Stevens Creek Boulevard * | AM | 90.4 | F | 99.3 | F | 12.9 | 0.041 | 7% |
| | | PM | 68.5 | E | 71.5 | E | 2.3 | 0.018 | |

* Denotes CMP Intersection
 Bold indicates unacceptable level of service.
 Bold and boxed indicate significant impact.

proposed project's contribution to traffic growth at this intersection would be 25 percent or more during the PM peak hour.

Mitigation Measure. The intersection of Winchester Boulevard and Stevens Creek Boulevard has been identified as a City of San Jose Protected Intersection. Thus, in lieu of physical mitigations at the Winchester Boulevard and Stevens Creek Boulevard intersection, the project will construct offsetting improvements to other parts of the citywide transportation system to improve system-wide roadway capacity or to enhance non-auto travel modes in furtherance of the General Plan goals and policies.

(4) Monroe Street and Stevens Creek Boulevard

Impact: This intersection would operate at LOS F during the PM peak hour under background conditions, and the added trips as a result of the proposed and pending projects would cause the intersection's critical-movement delay to increase by two or more seconds and the demand-to-capacity ratio (V/C) to increase by 0.005 or more during the PM peak hour. Based on City of San Jose level of service impact criteria, this constitutes a significant impact. The proposed project's contribution to traffic growth at this intersection would be 25 percent or more during the PM peak hour.

Mitigation Measure. The intersection of Monroe Street and Stevens Creek Boulevard has been identified as a City of San Jose Protected Intersection. Thus, in lieu of physical mitigations at the Monroe Street and Stevens Creek Boulevard intersection, the project will construct offsetting improvements to other

Santana West:

- TIA, traffic study: <http://www.sanjoseca.gov/DocumentCenter/View/57720>
- Counts from 2014 & 2015
- Project Meets the threshold requirements for a Caltrans Traffic Impact Study. http://www.dot.ca.gov/hq/tpp/offices/ocp/igr_ceqa_files/tisguide.pdf
 - Used Maximum ITE Trip Reductions for Mixed Use BUT Caltrans TIS Guidelines p. 4 require that using the maximum reductions be justified:
 - 3. Captured Trips7 – Captured trip reductions greater than 5% requires consultation and acceptance by Caltrans. The justification for exceeding a 5% reduction should be discussed in the TIS.

**Table 7
Project Trip Generation Estimates**

| Land Use | ITE Land Use Code | % Trip Reduction | Size | Daily | | AM Peak Hour | | | | | PM Peak Hour | | | | | | |
|--|-------------------|------------------|--------------|-------------------|---------------|-------------------|--------|-------|--------------|------------|-------------------|--------|-------|-----|------------|--------------|--------------|
| | | | | Rate ¹ | Trips | Rate ¹ | Splits | Trips | | | Rate ¹ | Splits | Trips | | | | |
| | | | | | | In | Out | In | Out | Total | In | Out | In | Out | Total | | |
| Proposed Land Uses | | | | | | | | | | | | | | | | | |
| Office | 710 | | 969,051 s.f. | 11.03 | 10,689 | 1.56 | 88% | 12% | 1,331 | 181 | 1,512 | 1.49 | 17% | 83% | 245 | 1,199 | 1,444 |
| employment near a major bus stop reduction ⁴ | | 2% | | | -214 | | | | -27 | -4 | -31 | | | | -5 | -24 | -29 |
| project-funded dedicated shuttle reduction ⁵ | | 3% | | | -321 | | | | -40 | -5 | -45 | | | | -7 | -36 | -43 |
| Retail | 820 | | 29,000 s.f. | 42.70 | 1,238 | 0.96 | 62% | 38% | 17 | 11 | 28 | 3.71 | 48% | 52% | 52 | 56 | 108 |
| retail pass-by reduction ² | | 25% | | | -27 | | | | 0 | 0 | 0 | | | | -13 | -14 | -27 |
| Total project trips after reductions | | | | | 11,365 | | | | 1,281 | 183 | 1,464 | | | | 272 | 1,181 | 1,453 |
| Existing Land Uses | | | | | | | | | | | | | | | | | |
| Movie Theaters (Century 22 and 23) ⁶ | 444 | | 5 screens | 214.36 | 1,072 | 0.00 | 0% | 0% | 0 | 0 | 0 | 20.22 | 40% | 60% | 40 | 61 | 101 |
| Flame Coffee Shop & Bakery | 932 | | 6,800 s.f. | 127.15 | 865 | 10.81 | 55% | 45% | 41 | 33 | 74 | 9.85 | 60% | 40% | 40 | 27 | 67 |
| restaurant pass-by reduction ³ | | 43% | | | -29 | | | | 0 | 0 | 0 | | | | -17 | -12 | -29 |
| Total project trips after reductions | | | | | 1,908 | | | | 41 | 33 | 74 | | | | 63 | 76 | 139 |
| Net Project Trips (Proposed - Existing Land Uses) | | | | | 9,457 | | | | 1,240 | 150 | 1,390 | | | | 209 | 1,105 | 1,314 |

Source: ITE Trip Generation, 9th Edition, 2012.
 ITE Land Use 710 - General Office Building
 ITE Land Use 820 - Shopping Center
 ITE Land Use 444 - Movie Theater with Matinee
 ITE Land Use 932 - High-Turnover (Sit-Down) Restaurant
¹The average trip generation rate from the ITE Trip Generation Manual was used.
²A 25% PM pass-by reduction is typically applied for retail development within Santa Clara County.
³ITE data show that high-turnover (sit-down) restaurants have average pass-by trip reduction of 43% in the PM peak hour.
⁴As prescribed by the VTA Transportation Impact Analysis Guidelines (October 2014), the maximum trip reduction for employment and housing located within 2,000-foot walk of a major bus stop is equal to 2% of the employment components. (The project is located close to the Valley Fair Transit Center on Forest Avenue).
⁵As prescribed by the VTA Transportation Impact Analysis Guidelines (October 2014), the maximum trip reduction for employment with project-funded dedicated shuttle is equal to 3% of the employment component. (The project is proposing a project-funded dedicated shuttle to serve project traffic).
⁶Weekday daily rate was derived using Friday daily rate and multiplying by the ratio of daily traffic variation between Tuesday and Friday.

Table 3
Existing Intersection Levels of Service

| Study Number | Intersection | Location | Peak Hour | Count Date | Avg. Delay | LOS |
|--------------|---|----------|-----------|------------|-------------|----------|
| 1 | Winchester Boulevard and Stevens Creek Boulevard * | San Jose | AM | 10/21/15 | 35.2 | D |
| | | | PM | 10/21/15 | 46.6 | D |
| 2 | Santana Row and Stevens Creek Boulevard | San Jose | AM | 10/21/15 | 13.7 | B |
| | | | PM | 10/21/15 | 30.8 | C |
| 3 | Redwood Avenue and Stevens Creek Boulevard | San Jose | AM | 10/21/15 | 7.5 | A |
| | | | PM | 10/21/15 | 23.0 | C |
| 4 | Monroe Street and Stevens Creek Boulevard | San Jose | AM | 10/21/15 | 29.8 | C |
| | | | PM | 10/21/15 | 35.4 | D |
| 5 | I-880 SB Ramps and Stevens Creek Boulevard * | San Jose | AM | 10/21/15 | 24.7 | C |
| | | | PM | 10/20/15 | 23.7 | C |
| 6 | Bascom Avenue and San Carlos Street | San Jose | AM | 10/21/15 | 41.1 | D |
| | | | PM | 10/21/15 | 48.7 | D |
| 7 | Meridian Avenue and San Carlos Street | San Jose | AM | 03/12/15 | 37.8 | D |
| | | | PM | 03/12/15 | 48.2 | D |
| 8 | Lincoln Avenue and San Carlos Street | San Jose | AM | 05/12/15 | 34.2 | C |
| | | | PM | 05/12/15 | 34.1 | C |
| 9 | Bird Avenue and San Carlos Street * | San Jose | AM | 10/14/14 | 32.9 | C |
| | | | PM | 09/18/14 | 39.6 | D |
| 10 | Monroe Street and Forest Street | San Jose | AM | 10/21/15 | 16.4 | B |
| | | | PM | 10/20/15 | 20.0 | B |
| 11 | Monroe Street and Hedding Street | San Jose | AM | 10/20/15 | 32.0 | C |
| | | | PM | 10/20/15 | 32.8 | C |
| 12 | Monroe Street and Newhall Street | San Jose | AM | 10/20/15 | 27.2 | C |
| | | | PM | 10/20/15 | 29.1 | C |
| 13 | Winchester Boulevard and Hedding Street/Pruneridge Avenue | San Jose | AM | 10/20/15 | 29.6 | C |
| | | | PM | 10/20/15 | 35.6 | D |
| 14 | Winchester Boulevard and Forest Street/Worthington Circle | San Jose | AM | 10/20/15 | 24.2 | C |
| | | | PM | 10/20/15 | 24.9 | C |
| 15 | San Tomas Expressway and Stevens Creek Boulevard * | San Jose | AM | 05/27/15 | 81.8 | F |
| | | | PM | 09/24/14 | 64.1 | E |
| 16 | Saratoga Avenue and Stevens Creek Boulevard * | San Jose | AM | 10/21/14 | 35.5 | D |
| | | | PM | 09/17/14 | 38.8 | D |
| 17 | Kiely Boulevard and Stevens Creek Boulevard * | San Jose | AM | 10/21/14 | 37.5 | D |
| | | | PM | 09/17/14 | 37.7 | D |
| 18 | Saratoga Avenue and Kiely Boulevard * | San Jose | AM | 10/21/14 | 35.6 | D |
| | | | PM | 09/18/14 | 41.0 | D |
| 19 | Saratoga Avenue and I-280 (North) * | San Jose | AM | 10/21/15 | 29.7 | C |
| | | | PM | 09/24/14 | 23.9 | C |
| 20 | Saratoga Avenue and I-280 (South) * | San Jose | AM | 10/21/14 | 34.1 | C |
| | | | PM | 09/24/14 | 33.2 | C |
| 21 | Saratoga Avenue and Moorpark Avenue * | San Jose | AM | 10/21/14 | 45.9 | D |
| | | | PM | 09/18/14 | 45.3 | D |
| 22 | San Tomas Expressway and Moorpark Avenue * | San Jose | AM | 10/20/15 | 85.3 | F |
| | | | PM | 09/24/14 | 46.9 | D |
| 23 | Winchester Boulevard and Olin Avenue | San Jose | AM | 10/20/15 | 18.6 | B |
| | | | PM | 10/20/15 | 20.4 | C |
| 24 | Winchester Boulevard and Olsen Drive | San Jose | AM | 10/20/15 | 14.0 | B |
| | | | PM | 10/20/15 | 19.6 | B |
| 25 | Winchester Boulevard and I-280 WB on-ramp/Tisch Way | San Jose | AM | 10/20/15 | 25.6 | C |
| | | | PM | 10/20/15 | 34.6 | C |
| 26 | Winchester Boulevard and Moorpark Avenue | San Jose | AM | 10/20/15 | 38.6 | D |
| | | | PM | 10/20/15 | 42.1 | D |

**Table 11
Cumulative Conditions Intersection Levels of Service**

| Study Number | Intersection | Location | Peak Hour | Background | | Cumulative No Project | | Cumulative with Project | | | | |
|--------------|---|----------|-----------|------------|-----|-----------------------|-----|-------------------------|-----|----------------------|--------------|---------------------------|
| | | | | Avg. Delay | LOS | Avg. Delay | LOS | Avg. Delay | LOS | Incr. In Crit. Delay | Incr. In V/C | % of Project Contribution |
| 1 | Winchester Boulevard and Stevens Creek Boulevard * | San Jose | AM | 36.4 | D | 37.3 | D | 40.7 | D | 14.2 | 0.232 | |
| | | | PM | 52.7 | D | 59.1 | E | 90.0 | F | 99.3 | 0.334 | 68% |
| 2 | Santana Row and Stevens Creek Boulevard | San Jose | AM | 12.9 | B | 12.7 | B | 12.9 | B | 0.8 | 0.096 | |
| | | | PM | 30.8 | C | 30.0 | C | 28.8 | C | -1.9 | 0.089 | |
| 3 | Redwood Avenue and Stevens Creek Boulevard | San Jose | AM | 19.6 | B | 19.9 | B | 19.2 | B | -0.4 | 0.094 | |
| | | | PM | 48.0 | D | 49.1 | D | 52.2 | D | 11.9 | 0.104 | |
| 4 | Monroe Street and Stevens Creek Boulevard | San Jose | AM | 36.0 | D | 36.7 | D | 42.3 | D | 6.9 | 0.121 | |
| | | | PM | 88.3 | F | 95.1 | F | 157.0 | F | 99.6 | 0.240 | 70% |
| 5 | I-880 SB Ramps and Stevens Creek Boulevard * | San Jose | AM | 25.5 | C | 26.4 | C | 28.2 | C | 4.4 | 0.164 | |
| | | | PM | 25.4 | C | 27.3 | C | 27.4 | C | 2.0 | 0.111 | |
| 6 | Bascom Avenue and San Carlos Street | San Jose | AM | 42.6 | D | 72.2 | E | 79.3 | E | 60.4 | 0.348 | 8% |
| | | | PM | 50.7 | D | 104.6 | F | 112.6 | F | 101.6 | 0.483 | 8% |
| 7 | Meridian Avenue and San Carlos Street | San Jose | AM | 39.0 | D | 57.7 | E | 62.2 | E | 33.4 | 0.360 | 6% |
| | | | PM | 53.6 | D | 98.5 | F | 102.8 | F | 60.9 | 0.269 | 4% |
| 8 | Lincoln Avenue and San Carlos Street | San Jose | AM | 37.2 | D | 40.9 | D | 41.3 | D | 5.8 | 0.193 | |
| | | | PM | 36.9 | D | 96.5 | F | 99.3 | F | 100.7 | 0.515 | 3% |
| 9 | Bird Avenue and San Carlos Street * | San Jose | AM | 35.8 | D | 61.6 | E | 63.4 | E | 41.5 | 0.387 | 3% |
| | | | PM | 43.8 | D | 174.4 | F | 177.4 | F | 213.8 | 0.648 | 2% |
| 10 | Monroe Street and Forest Street | San Jose | AM | 17.6 | B | 17.7 | B | 17.7 | B | 0.1 | 0.010 | |
| | | | PM | 19.9 | B | 20.0 | B | 20.0 | B | 0.1 | 0.011 | |
| 11 | Monroe Street and Hedding Street | San Jose | AM | 32.3 | C | 32.5 | C | 32.6 | C | 0.2 | 0.014 | |
| | | | PM | 33.2 | C | 33.3 | C | 33.3 | C | 0.5 | 0.020 | |
| 12 | Monroe Street and Newhall Street | San Jose | AM | 27.4 | C | 27.5 | C | 27.6 | C | 0.2 | 0.019 | |
| | | | PM | 29.5 | C | 29.7 | C | 29.9 | C | 0.4 | 0.024 | |
| 13 | Winchester Boulevard and Hedding Street/Pruneridge Avenue | San Jose | AM | 30.6 | C | 32.2 | C | 32.7 | C | 7.2 | 0.081 | |
| | | | PM | 38.6 | D | 39.0 | D | 39.8 | D | 2.6 | 0.037 | |
| 14 | Winchester Boulevard and Forest Street/Worthington Circle | San Jose | AM | 26.6 | C | 26.4 | C | 25.8 | C | -0.2 | 0.014 | |
| | | | PM | 51.1 | C | 51.3 | C | 51.7 | C | 1.0 | 0.034 | |
| 15 | San Tomas Expressway and Stevens Creek Boulevard * | San Jose | AM | 88.4 | F | 97.2 | F | 99.4 | F | 16.1 | 0.063 | 34% |
| | | | PM | 67.5 | E | 70.3 | E | 71.5 | E | 2.7 | 0.023 | |
| 16 | Saratoga Avenue and Stevens Creek Boulevard * | San Jose | AM | 35.7 | D | 38.1 | D | 38.0 | D | 5.9 | 0.055 | |
| | | | PM | 39.7 | D | 40.6 | D | 41.3 | D | 3.6 | 0.057 | |
| 17 | Kiely Boulevard and Stevens Creek Boulevard * | San Jose | AM | 37.5 | D | 37.1 | D | 37.0 | D | 0.1 | 0.032 | |
| | | | PM | 37.6 | D | 37.7 | D | 37.6 | D | 0.3 | 0.023 | |
| 18 | Saratoga Avenue and Kiely Boulevard * | San Jose | AM | 35.1 | D | 38.2 | D | 38.1 | D | 9.2 | 0.065 | |
| | | | PM | 41.2 | D | 48.7 | D | 48.8 | D | 6.8 | 0.084 | |
| 19 | Saratoga Avenue and I-280 (North) * | San Jose | AM | 29.5 | C | 27.8 | C | 27.7 | C | -23.5 | 0.038 | |
| | | | PM | 23.7 | C | 23.0 | C | 22.9 | C | -1.3 | 0.035 | |
| 20 | Saratoga Avenue and I-280 (South) * | San Jose | AM | 34.6 | C | 39.9 | D | 40.2 | D | 9.2 | 0.055 | |
| | | | PM | 33.2 | C | 35.7 | D | 35.7 | D | 4.3 | 0.051 | |
| 21 | Saratoga Avenue and Moorpark Avenue * | San Jose | AM | 46.8 | D | 47.2 | D | 47.7 | D | 1.1 | 0.037 | |
| | | | PM | 46.3 | D | 46.7 | D | 46.8 | D | 1.0 | 0.031 | |
| 22 | San Tomas Expressway and Moorpark Avenue * | San Jose | AM | 87.6 | F | 92.5 | F | 92.2 | F | 8.2 | 0.023 | 36% |
| | | | PM | 48.7 | D | 49.5 | D | 51.6 | D | 5.6 | 0.030 | |
| 23 | Winchester Boulevard and Olin Avenue | San Jose | AM | 17.9 | B | 18.4 | B | 21.2 | C | 7.4 | 0.207 | |
| | | | PM | 19.5 | B | 22.5 | C | 33.8 | C | 25.2 | 0.291 | |
| 24 | Winchester Boulevard and Olsen Drive | San Jose | AM | 22.9 | C | 22.5 | C | 26.6 | C | 5.3 | 0.073 | |
| | | | PM | 32.5 | C | 32.2 | C | 47.0 | D | 18.3 | 0.283 | |
| 25 | Winchester Boulevard and I-280 WB on-ramp/Tisch Way | San Jose | AM | 32.7 | C | 34.2 | C | 56.3 | E | 43.0 | 0.197 | 85% |
| | | | PM | 52.5 | D | 56.7 | E | 75.1 | E | 29.1 | 0.103 | 81% |
| 26 | Winchester Boulevard and Moorpark Avenue | San Jose | AM | 42.4 | D | 43.1 | D | 49.6 | D | 11.8 | 0.103 | |
| | | | PM | 43.5 | D | 43.8 | D | 43.9 | D | 1.0 | 0.007 | |
| 27 | I-280 EB off-ramp and Moorpark Avenue * | San Jose | AM | 11.8 | B | 11.8 | B | 12.3 | B | 0.2 | 0.037 | |
| | | | PM | 13.5 | B | 13.6 | B | 13.7 | B | 0.1 | 0.019 | |
| 28 | Winchester Boulevard and Williams Road | San Jose | AM | 35.5 | D | 35.5 | D | 35.8 | D | 0.5 | 0.032 | |
| | | | PM | 36.2 | D | 36.1 | D | 35.9 | D | -0.6 | 0.016 | |
| 29 | Winchester Boulevard and Payne Avenue | San Jose | AM | 38.6 | D | 38.5 | D | 38.5 | D | 0.1 | 0.023 | |
| | | | PM | 38.5 | D | 38.5 | D | 38.2 | D | -0.6 | 0.016 | |
| 30 | I-880 NB Ramps and Stevens Creek Boulevard | San Jose | AM | 22.4 | C | 22.6 | C | 24.1 | C | 1.7 | 0.110 | |
| | | | PM | 24.9 | C | 25.3 | C | 25.9 | C | 1.3 | 0.059 | |
| 31 | Delmas Avenue and San Carlos Street | San Jose | AM | 15.0 | B | 14.7 | B | 14.8 | B | 1.2 | 0.218 | |
| | | | PM | 22.0 | C | 37.0 | D | 38.2 | D | 22.1 | 0.309 | |
| 32 | Woz Way and San Carlos Street | San Jose | AM | 32.9 | C | 46.6 | D | 46.8 | D | 17.7 | 0.382 | |
| | | | PM | 35.0 | D | 151.1 | F | 151.6 | F | 140.8 | 0.678 | 1% |
| 33 | Bascom Avenue and I-880 (N) * | San Jose | AM | 11.2 | B | 11.5 | B | 11.4 | B | 0.3 | 0.010 | |
| | | | PM | 10.3 | B | 10.8 | B | 10.8 | B | 0.4 | 0.020 | |
| 34 | Bascom Avenue and I-880 (S) * | San Jose | AM | 9.2 | A | 9.3 | A | 9.2 | A | 0.2 | 0.009 | |
| | | | PM | 6.6 | A | 6.6 | A | 6.6 | A | 0.2 | 0.006 | |
| 35 | San Tomas Expressway and Williams Road | San Jose | AM | 64.6 | E | 68.4 | E | 71.0 | E | 11.1 | 0.025 | 32% |

FORTBAY

FILE NO: PDC16-036

PROJECT APPLICANT: FORTBAY, LLC

PROJECT LOCATION: 4300-4340 Stevens Creek Blvd.

Project Description: The project is a Planned Development Rezoning of a 9.9-acre site to allow a mixed-use commercial/residential project. The project includes demolition of the existing buildings, construction of two seven-story residential buildings (Building A and B) to allow up to 500 residential units with approximately 11,500 square feet of ground floor retail within Building A, a six-story approximately 244,000 square foot office building, and a six-story parking garage with up to 1,089 parking spaces. Additionally, the project may relocate an existing public right-of-way (Lopina Way), to the east property line; include two new driveways along Albany Drive to provide access to the proposed office parking garage and Building B; and relocate the existing driveways along Stevens Creek Boulevard. Residential parking would be provided within both residential buildings, and the existing Lopina Way right-of-way will be replaced with a landscaped promenade.

APPLE CAMPUS 2:

TIA traffic study for EIR:

<https://s3.amazonaws.com/Apple-Campus2-DEIR/Appendix-B-Transportation-Impact-Analysis.pdf>

Table V.I-9: Levels of Service for Intersections Operating Unacceptably under Existing Plus Project Conditions

| Intersection | Peak Hour ^a | Jurisdiction ^b | Inter-section Control | Existing Conditions | | Existing Plus Project Conditions | | | |
|---|------------------------|---------------------------|-----------------------|---------------------|------------------|----------------------------------|------------------|----------------------------------|------------------------------------|
| | | | | Delay ^c | LOS ^d | Delay ^c | LOS ^d | Change in Crit. V/C ^e | Change in Crit. Delay ^f |
| 21 Wolfe Road/I-280 Northbound Ramp | AM PM | CUP | Signal | 12.8 | B | 61.7 | E | +0.376 | +69.7 |
| | | | | 13.4 | B | 26.0 | C | +0.124 | +16.5 |
| 31 Tantau Avenue/Vallco Parkway ^g | AM PM | CUP | Signal | 24.1 | C | 55.1 | E+ | +0.454 | +48.8 |
| | | | | 27.8 | C | 23.5 | C | +0.149 | -6.1 |
| 36 Stevens Creek Boulevard/Calvert Drive/I-280 Ramps (West) | AM PM | CMP | Signal | 27.6 | C | 27.1 | C | +0.116 | -3.9 |
| | | | | 44.1 | D | 85.5 | F | +0.207 | +78.5 |
| 52 Stevens Creek Boulevard/San Tomas Expressway | AM PM | CMP | Signal | 51.2 80.5 | D- F | 51.5 82.0 | D- F | +0.004 +0.007 | +0.5 +2.8 |

Notes:

^a AM = morning peak hour; PM = afternoon peak hour

^b Intersection Jurisdictions: CUP = City of Cupertino Intersection (LOS D threshold); CMP = CMP Intersection (LOS E threshold)

^c Whole intersection weighted average control delay expressed in seconds per vehicle

^d LOS = Level of Service

^e Change in the critical volume-to-capacity ratio (V/C) between Existing and Existing Plus Project Conditions

^f Change in critical movement delay between Existing and Existing Plus Project Conditions

^g It should be noted that the delay would improve during the PM peak hour due to the project proposed improvement on the eastbound approach of the intersection (convert eastbound through lane to shared left-turn/through lane).

Bold indicates unacceptable intersection operations. **Bold and highlighted** indicates significant impacts.

Source: Fehr & Peers, May 2013.

The addition of project traffic would exacerbate unacceptable LOS F operations at the intersection of Stevens Creek Boulevard/San Tomas Expressway in the PM peak hour under Existing Plus Project Conditions. However, the critical delay is not projected to increase by more than 4 seconds (2.8 seconds) and the critical V/C ratio is not projected to increase by more than 0.01 (0.007) between the Existing and Existing Plus Project scenarios; therefore the project is considered to have a less-than-significant impact at the Stevens Creek Boulevard/San Tomas Expressway intersection based on VTA's impact criteria.

The proposed project would result in significant intersection impacts under Existing plus Project Conditions, as discussed below.

The project would exacerbate unacceptable conditions or cause unacceptable operating conditions at the following intersections, and these changes would be considered a significant impact.

- Int. 21. Wolfe Road/I-280 Northbound Ramps (Cupertino)
- Int. 31. Tantau Avenue/Vallco Parkway (Cupertino)
- Int. 36. Stevens Creek Boulevard/Calvert Drive/I-280 Ramps (west) (CMP)

Table V.I-12: Levels of Service for Intersections Operating Unacceptably under Cumulative Plus Project Conditions

| Intersection | Peak Hour ^a | Jurisdiction ^b | Intersection Control | Cumulative Conditions | | Cumulative Plus Project Conditions | | | |
|--|------------------------|---------------------------|----------------------|-----------------------|------------------|------------------------------------|------------------|----------------------------------|------------------------------------|
| | | | | Delay ^c | LOS ^d | Delay ^c | LOS ^d | Change in Crit. V/C ^e | Change in Crit. Delay ^f |
| 3 Stevens Creek Boulevard/Stelling Road | AM PM | CUP | Signal | 44.3 62.2 | D E | 44.4 62.7 | D E | +0.002 +0.005 | +0.1 +0.8 |
| 5 De Anza Boulevard/Homestead Road | AM PM | CUP | Signal | 45.6 61.4 | D E | 46.5 64.2 | D E | +0.002 +0.014 | +0.2 +4.0 |
| 8 De Anza Boulevard/Stevens Creek Blvd | AM PM | CUP | Signal | 40.0 58.6 | D E+ | 40.4 62.5 | D E | +0.015 +0.047 | +0.9 +11.3 |
| 9 De Anza Boulevard/McClellan Road | AM PM | CUP | Signal | 31.2 61.0 | C E | 31.4 62.7 | C E | +0.020 +0.012 | +0.3 +2.6 |
| 15 Wolfe Road/Fremont Avenue | AM PM | SUN | Signal | 46.4 58.0 | D E+ | 47.3 60.4 | D E | +0.021 +0.033 | +0.4 +3.1 |
| 21 Wolfe Road/I-280 Northbound Ramps | AM PM | CUP | Signal | 13.3 15.7 | B B | 69.9 32.1 | E C- | +0.389 +0.092 | +82.7 +20.9 |
| 23 Wolfe Road/Vallco Parkway | AM PM | CUP | Signal | 25.9 64.6 | C E | 31.3 93.9 | C- F | +0.159 +0.117 | +6.9 +42.7 |
| 27 Tantau Avenue/Homestead Road | AM PM | CUP | Signal | 36.3 36.9 | D+ D+ | 64.7 49.9 | E D | +0.350 +0.204 | +37.8 +13.9 |
| 31 Tantau Avenue/Vallco Parkway | AM PM | CUP | Signal | 28.7 35.3 | C D+ | 56.8 35.4 | E+ D+ | +0.453 +0.170 | +49.1 +0.9 |
| 32 Tantau Avenue/Stevens Creek Blvd | AM PM | CUP | Signal | 41.4 52.1 | D D- | 48.6 83.4 | D F | +0.135 +0.148 | +11.4 +48.0 |
| 36 Stevens Creek Blvd/Calvert Drive/I-280 Ramps (West) | AM PM | CMP | Signal | 28.2 98.1 | C F | 29.3 151.4 | C F | +0.144 +0.216 | +3.4 +106.0 |
| 40 Stevens Creek Blvd/Lawrence Ex Ramps (east) | AM PM | CMP | Signal | 43.7 33.8 | D C- | 84.6 36.3 | F D+ | +0.188 +0.043 | +54.8 +2.2 |
| 41 Lawrence Expressway/I-280 SB Ramps | AM PM | CMP | Signal | 55.1 74.8 | E+ F | 76.3 141.7 | E- F | +0.084 +0.155 | +27.1 +68.0 |
| 52 Stevens Creek Blvd/San Tomas Expressway | AM PM | CMP | Signal | 55.8 101.8 | E+ F | 56.5 103.1 | E+ F | +0.006 +0.005 | +1.0 +2.4 |

Notes:

- ^a AM = morning peak hour; PM = afternoon peak hour
- ^b Intersection Jurisdictions: CUP = City of Cupertino Intersection (LOS D threshold, except at #8, LOS E+); SUN = City of Sunnyvale Intersection (LOS D threshold); CMP = CMP Intersection (LOS E threshold)
- ^c Whole intersection weighted average control delay expressed in seconds per vehicle
- ^d LOS = Level of Service
- ^e Change in the critical volume-to-capacity ratio (V/C) between Cumulative and Cumulative Plus Project Conditions
- ^f Change in critical movement delay between Cumulative and Cumulative Plus Project Conditions

Bold indicates unacceptable intersection operations. **Bold and highlighted** indicates significant impacts.

Source: Fehr & Peers, May 2013.

At four intersections (intersection numbers 3, 9, 15, and 52) the critical delay during the PM peak hour is not projected to increase by more than 4 seconds and the critical V/C ratio is not projected to increase by more than 0.01 between the Cumulative and Cumulative Plus Project scenarios; therefore the project would have a less-than-significant impact at the #3 Stevens Creek Boulevard/Stelling

| APPENDIX E APPROVED, NOT OCCUPIED AND PENDING PROJECTS | | | | | | | |
|---|--------------------|---|-------|-------|--------------------|-------|-------|
| Project Name | Land Use | AM Peak Hour Trips | | | PM Peak Hour Trips | | |
| | | In | Out | Total | In | Out | Total |
| Approved and Built-Not Occupied Projects (c. January 2013) | | | | | | | |
| Downtown Sunnyvale Area Projects | Mixed Use | 565 | 352 | 917 | 526 | 771 | 1,297 |
| North Santa Clara Area Projects | Mixed Use | 7,180 | 1,601 | 8,781 | 2,273 | 6,382 | 8,655 |
| Valico South Area Projects | Mixed Use | 235 | 201 | 436 | 584 | 576 | 1,160 |
| 10212 and 10165 N. De Anza Blvd. | Retail, Hotel | 51 | 36 | 87 | 50 | 54 | 104 |
| Villa Serra | Condominiums | <i>Project Traffic Assignments Taken Directly from Villa Serra TIA</i> | | | | | |
| PW Market | Retail | <i>Project Traffic Assignments Taken Directly from PW Market TIA</i> | | | | | |
| 19770 Stevens Creek Blvd | Retail | 20 | 13 | 33 | 58 | 63 | 121 |
| De Anza College Expansion | Junior College | 892 | 88 | 980 | 728 | 392 | 1120 |
| 10100 N. Tantau Avenue | Retail | 35 | 38 | 73 | 30 | 23 | 53 |
| Cupertino Village | Retail | 34 | 22 | 56 | 74 | 80 | 154 |
| Oaks Shopping Center | Mixed Use | 119 | 59 | 178 | 141 | 214 | 355 |
| 900 Kiely Boulevard | Mixed Use | 79 | 313 | 392 | 312 | 167 | 479 |
| Carden Academy - 2499 Homestead Rd | Private School | 124 | 101 | 225 | 71 | 79 | 150 |
| Main Street Cupertino | Mixed Use | 492 | 190 | 682 | 564 | 592 | 1,256 |
| Crossroads | Mixed Use | 106 | 82 | 188 | 217 | 206 | 422 |
| Biltmore | Mixed Use | -2* | 32 | 30 | 13 | 6 | 19 |
| 3175 El Camino Real | Apartments | 14 | 55 | 69 | 59 | 32 | 91 |
| 5403 Stevens Creek Boulevard | Office | 475 | 65 | 540 | 85 | 414 | 499 |
| Kaiser - 3800 Homestead Road | Medical Offices | 272 | 73 | 345 | 115 | 310 | 425 |
| Valley Fair Expansion | Shopping Mall | 291 | 186 | 477 | 1,124 | 1,170 | 2,294 |
| Apple Cafeteria | Cafeteria | 11 | 11 | 22 | 5 | 4 | 9 |
| Cupertino Bay Club | Health Club | 34 | 43 | 77 | 3 | -42 | -39 |
| City of San Jose Projects | Various | <i>Project Traffic Assignments Taken Directly from City of San Jose <u>Approved Trip Database</u></i> | | | | | |
| Pending Projects (c. January 2013) | | | | | | | |
| Valico South Area Projects | Retail, Restaurant | 242 | 154 | 396 | 804 | 805 | 1,609 |

| | | | | | | | |
|---|--------------|----|-----|-----|-----|----|-----|
| Saich Way Station | Mixed Use | 34 | 21 | 55 | 23 | 23 | 46 |
| 3515 Monroe Street | Apartments | 43 | 172 | 215 | 166 | 89 | 255 |
| 2645 El Camino Real | Apartments | 20 | 80 | 100 | 82 | 44 | 126 |
| 2585 El Camino Real | Condominiums | 6 | 27 | 33 | 25 | 13 | 38 |
| Downtown Sunnyvale Area Projects | Apartments | 16 | 9 | 25 | 16 | 9 | 25 |
| * Taken as 0 trips for analysis | | | | | | | |
| Sources: City of Cupertino Approved and Pending Projects List, City of Sunnyvale Approved and Pending Projects List, City of Santa Clara Approved and Pending Projects List, City of San Jose Approved Projects Count Database, Fehr & Peers, 2012. | | | | | | | |

| LOS Comparison for San Tomas Expressway and Stevens Creek Boulevard | | | | | |
|---|----------------------|-------------------------|-------------------------|----------------------|----------------------|
| | | Existing AM LOS/Date | Existing PM LOS/Date | Cumulative AM LOS | Cumulative PM LOS |
| Apple Campus 2 | May 31, 2013 | D-/2011 | F/2011 | E+ | F |
| Santana Row Lots 9 & 17 Development | November 12, 2014 | D/2/26/2013 | E/9/11/2012 | E | E |
| Santana West | June 14, 2016 | F/5/27/2015 | E/9/24/2014 | F | E |

CITY PLACE SANTA CLARA (UNDER CEQA LITIGATION)

Traffic study from DEIR:

Chapter 03-03 - Transportation, Part 1 (PDF) <http://santaclaraca.gov/home/showdocument?id=15536>

Chapter 03-03 - Transportation, Part 2 (PDF) <http://santaclaraca.gov/home/showdocument?id=15538>

Table 3.3-49. Cumulative with-Project Signalized Intersection LOS Results

| ID | Intersection | Jurisdiction/ CMP ^a | Peak Hour ^b | Existing ^c | | Cumulative ^d | | Cumulative with Project | | | | |
|-----|---|-----------------------------------|---------------------------|-----------------------|------------------|-------------------------|------------------|-------------------------|------------------|-----------------------------------|-------------------------------------|-------------------------|
| | | | | Delay ^e | LOS ^f | Delay ^e | LOS ^f | Delay ^e | LOS ^f | Δ in Crit. V/C ^g | Δ in Crit. Delay ^h | Project Contribution |
| 125 | San Tomas Expressway/Stevens Creek Boulevard ⁱ | Santa Clara County (CMP) | AM | 63.5 | E | >180 | F | >180 | F | 0.033 | 14.2 | 1.6% |
| | | | PM | 59.9 | E | 142.6 | F | 147.8 | F | -0.104 | 11.2 | 2.0% |

Table 3.3-49. Cumulative with-Project Signalized Intersection LOS Results

| ID | Intersection | Jurisdiction/ CMP ^a | Peak Hour ^b | Existing ^c | | Cumulative ^d | | Cumulative with Project | | | | |
|----|--------------|-----------------------------------|---------------------------|-----------------------|------------------|-------------------------|------------------|-------------------------|------------------|-----------------------------------|-------------------------------------|-------------------------|
| | | | | Delay ^e | LOS ^f | Delay ^e | LOS ^f | Delay ^e | LOS ^f | Δ in Crit. V/C ^g | Δ in Crit. Delay ^h | Project Contribution |

Notes:

- a. CMP = Congestion Management Program intersection (VTA).
- b. AM = morning peak hour, PM = evening peak hour
- c. "Existing" presents the delay and LOS for intersections, using existing geometry plus any approved and funded transportation projects and existing traffic counts plus project trips from projects that are currently under construction (see Appendix 3.3-B and Appendix 3.3-D).
- d. "Cumulative" presents the delay and LOS for intersections, using 2040 geometry and traffic volumes estimated using the VTA travel demand model.
- e. Whole intersection weighted average control delay expressed in seconds per vehicle, calculated using methods described in the 2000 *Highway Capacity Manual*, with adjusted saturation flow rates to reflect Santa Clara County conditions for signalized intersections.
- f. LOS = Level of service. LOS calculations conducted using the TRAFFIX analysis software packages, which applies the methods described in the 2000 *Highway Capacity Manual*.
- g. Change in critical volume-to-capacity ratio between cumulative without-Project and cumulative with-Project conditions.
- h. Change in average critical movement delay between cumulative without-Project and cumulative with-Project conditions.
- i. Geometry has been modified to include the improvements for projects under construction and planned under Cumulative conditions as outlined in Appendix 3.3-D.
- j. An LOS D threshold is used for study intersections within San José, including CMP designated intersections. Santa Clara County intersections in San José use an LOS E threshold.
- k. Maximum left-/right-turn lane or through-lane queuing in excess of available/potential storage at driveway entrances (intersections #10, 11, 12, 61, 62, 85, 86, and 87) during the morning and evening peak hours will most likely result in a worse LOS than calculated. These queues would require multiple traffic signal cycles to clear and could extend upstream and affect nearby intersections.

Bold text indicates unacceptable operations according to the jurisdiction's LOS standard.

Bold and highlighted indicates a significant impact.

Source: Fehr & Peers, September 2015.

| Street | | | | | | | | | | | | |
|--------|------------------------------------|--------------------------|----------|--------------|--------|------------------------------|----------------------|--------------------------------|----------------------|------------------------------|----------------------------|--------------|
| 55 | Lawrence Expressway/Homestead Road | Santa Clara County (CMP) | AM PM | 73.5 56.7 | E E | 135.3 168.8 | F F | 144.0 >180 | F F | 0.047 0.076 | 15.4 33.6 | 2.3% 2.9% |

Table 3.3-49. Cumulative with-Project Signalized Intersection LOS Results

| ID | Intersection | Jurisdiction/ CMP ^a | Peak Hour ^b | Existing ^c | | Cumulative ^d | | Cumulative with Project | | | | |
|----|---|-----------------------------------|---------------------------|-----------------------|------------------|-------------------------------|----------------------|-------------------------------|----------------------|-----------------------------------|-------------------------------------|-------------------------|
| | | | | Delay ^e | LOS ^f | Delay ^e | LOS ^f | Delay ^e | LOS ^f | Δ in Crit. V/C ^g | Δ in Crit. Delay ^h | Project Contribution |
| 56 | Lawrence Expressway/Pruneridge Avenue | Santa Clara County | AM PM | 62.5 48.5 | E D | 100.8 147.9 | F F | 110.2 159.5 | F F | 0.024 0.004 | 8.9 -1.2 | 2.4% 2.7% |
| 80 | San Tomas Expressway/Homestead Road ⁱ | Santa Clara County (CMP) | AM PM | 53.0 57.9 | D E | 144.4 109.4 | F F | 167.3 120.4 | F F | 0.083 0.045 | 37.3 17.1 | 2.4% 3.1% |
| 81 | San Tomas Expressway/Forbes Avenue ⁱ | Santa Clara County | AM PM | 26.4 24.3 | C C | 23.8 23.4 | C C | 29.2 35.2 | C D | 0.017 0.078 | 0.2 28.0 | 3.1% 3.6% |
| 82 | San Tomas Expressway/Pruneridge Avenue ⁱ | Santa Clara County | AM PM | 69.1 50.8 | E D | >180 82.0 | F F | >180 87.5 | F F | 0.049 0.021 | 24.1 8.7 | 2.5% 3.3% |
| 83 | San Tomas Expressway/Saratoga Avenue ⁱ | Santa Clara County (CMP) | AM PM | 73.7 55.4 | E E | 116.8 120.8 | F F | 132.1 130.7 | F F | 0.052 -0.008 | 24.6 -11.0 | 2.4% 3.0% |

SAN JOSE ENVISION 2040 GENERAL PLAN TIA FOR THE DEIR

<http://www.sanjoseca.gov/DocumentCenter/View/2198>

- The broad-brush program-level traffic study shows 73% of Cupertino’s lane miles are impacted by San Jose’s GP. Stevens Creek Blvd. will be deficient.
- San Jose indicates they altered their policy to no longer driver comfort and convenience, yet this is not holding up to CEQA scrutiny due to other concerns such as greenhouse gas emissions.

adjacent jurisdiction are attributable to San Jose. The 25 percent threshold represents what would be a noticeable change in traffic by San José General Plan.

**TABLE 15
 ADJACENT JURISDICTION IMPACTS SUMMARY
 (BASED ON AM PEAK 4-HOUR PERIOD VOLUMES)**

| City | Existing Conditions | | | Proposed General Plan Update | | |
|----------------------------------|--|--|---|---|--|---|
| | Total Lane Miles with Deficient V/C Ratio ¹ | Impacted Lane Miles (San Jose traffic ≥ 10% of volume) | Percent of Impacted Lane Miles Affected | Total Lane Miles with Deficient V/C Ratio | Impacted Lane Miles (San Jose traffic ≥ 10% of volume) | Percent of Impacted Lane Miles Affected |
| Campbell | 0.13 | 0.13 | 100 | 0.42 | 0.42 | 100 |
| Cupertino | 0.67 | 0.67 | 100 | 7.52 | 5.45 | 73 |
| Gilroy | 0.00 | 0.00 | 0 | 1.65 | 1.65 | 100 |
| Los Altos | 0.78 | 0.78 | 100 | 2.52 | 2.52 | 100 |
| Los Altos Hills | 0.17 | 0.02 | 14 | 3.61 | 3.00 | 83 |
| Los Gatos | 0.12 | 0.12 | 100 | 0.90 | 0.90 | 100 |
| Milpitas | 0.73 | 0.73 | 100 | 22.17 | 22.17 | 100 |
| Monte Sereno | 0.00 | 0.00 | 0 | 0.00 | 0.00 | 0 |
| Morgan Hill | 0.00 | 0.00 | 0 | 1.97 | 1.97 | 100 |
| Mountain View | 0.72 | 0.65 | 90 | 11.76 | 10.83 | 92 |
| Palo Alto | 0.48 | 0.16 | 33 | 7.58 | 4.76 | 63 |
| Santa Clara | 0.17 | 0.17 | 100 | 1.95 | 1.95 | 100 |
| Saratoga | 1.26 | 1.26 | 100 | 5.71 | 5.71 | 100 |
| Sunnyvale | 0.00 | 0.00 | 0 | 1.45 | 1.42 | 98 |
| Caltrans Facilities ² | 5,093.26 | 4,391.72 | 86 | 4,951.58 | 4,584.04 | 93 |
| Santa Clara County Facilities | 3.01 | 3.01 | 100 | 21.33 | 21.33 | 100 |

Notes: Impacts are identified in **bold** text.

1 Lane miles of less than 0.5 were rounded to 0. For evaluating significant impacts, if impacted lane miles attributable to the City are less than 0.5, impacts are considered *less-than-significant*.

2 Includes all Caltrans facilities within Santa Clara County.

Source: Fehr & Peers, 2010.

The following roadways were analyzed to determine impacts presented in **Table 15**. CMP system roadways are identified in *italicized* text. Minor arterials were also analyzed to determine impacts presented in **Table 15**; however, they are not specifically identified below.

- **Campbell:** *Hamilton Avenue*, Campbell Avenue, Winchester Boulevard
- **Cupertino:** Homestead Road, Foothill Boulevard, Bubb Road, *Stevens Creek Boulevard*, Pruneridge Avenue, North Wolfe Road, *De Anza Boulevard*, Stelling Road
- **Gilroy:** Monterey Street, Leavesley Road, Hecker Pass Highway, East 10th Street, Monterey Street, East Luchessa Avenue

**TABLE 14
 TRANSIT PRIORITY CORRIDOR IMPACT SUMMARY**

| Roadway Segment | Cross Street | Cross Street | Distance (Miles) | AM Peak Hour Travel Speed (MPH) | |
|-----------------------------------|-------------------|------------------|------------------|---------------------------------|----------------------------------|
| | | | | Existing Conditions | Proposed General Plan Conditions |
| Second St. | San Carlos St. | St. James St. | 0.6 | 11.5 | 11.4 |
| Alum Rock Ave. | Capitol Ave. | US 101 | 3.4 | 20.0 | 12.9 |
| Camden Ave. | SR 17 | Meridian Ave. | 5.2 | 24.0 | 18.0 |
| Capitol Ave. | S. Milpitas Blvd. | Capital Expwy. | 7.6 | 24.1 | 17.5 |
| Hillsdale Ave./ Capitol Expwy. | Capitol Ave. | Meridian Ave. | 19.8 | 28.6 | 23.8 |
| E. Santa Clara St. | US 101 | Delmas Ave. | 4.6 | 20.4 | 16.2 |
| Meridian Ave. | Park Ave. | Blossom Hill Rd. | 12.2 | 25.5 | 19.6 |
| Monterey Rd. | Keyes St. | Metcalf Rd. | 18.2 | 24.6 | 17.0 |
| First St. | CA 237 | Keyes St. | 17.2 | 22.6 | 13.4 |
| San Carlos St. | Bascom Ave. | SR 87 | 4.2 | 24.3 | 19.7 |
| Stevens Creek Blvd. | Bascom Ave. | Tantau Ave. | 8.2 | 23.1 | 16.8 |
| Tasman Dr. | Lick Mill Blvd. | McCarthy Ln. | 5.0 | 24.3 | 9.5 |
| The Alameda | Alameda Wy. | Delmas Ave. | 4.2 | 22.6 | 14.2 |
| W. San Carlos St. | SR 87 | Second St. | 1.3 | 19.9 | 17.5 |

Note: The values shown have been rounded for presentation purposes.
 Source: Fehr & Peers, 2010.

g. Adjacent Jurisdictions

Operations of adjacent jurisdiction roadway segments outside the City of San José boundaries were reviewed to determine the potential impacts of the proposed General Plan Update. **Table 15** summarizes these results.

Given changes in land use, trip patterns, and behavior between the two scenarios, vehicular traffic on roadway segments within several jurisdictions is projected to increase with the proposed General Plan Update land uses as compared to existing conditions.

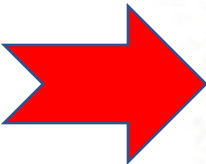
A roadway segment within adjacent jurisdictions is considered to be deficient if the future volume-to-capacity (V/C) ratio is 1.0 or greater during the AM peak 4-hour period in the year 2035. Given the large population and employment projected to reside in the region, and the complex travel patterns created by the large population and employment numbers, only a portion of trips on any roadway segment in adjacent jurisdictions are expected to have originated from a resident or job within City of San José. Therefore, a deficient roadway segment in adjacent jurisdictions is attributed to City of San José General Plan when the trips from the City are 10 (ten) percent or more on the deficient segment. The impact to an adjacent jurisdiction is considered significant when 25 percent or more of total deficient lane miles in that

Adjacent Jurisdiction Impacts

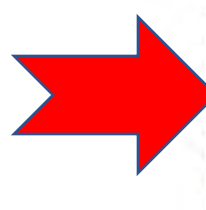
Impact TRANS-4. Motor vehicle traffic and congestion resulting from implementation of the proposed General Plan Update would increase on roadway segments outside of the City of San Jose. (Significant)

Roadways within adjacent jurisdictions are considered to be deficient if the volume to capacity (V/C) ratio under proposed General Plan Update conditions is 1.0 or greater, and is considered an impact when the trips from the City are 10 (ten) percent or more of the total traffic on these roadways. The impact is considered significant when the impacted roadway lane miles are 25 percent of the deficient lane miles.

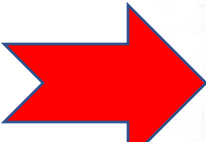
With implementation of the proposed General Plan Update, 15 adjacent jurisdictions would have impacts on greater than one lane mile of roadways. These impacts are the aggregate of the major roadways within the adjacent jurisdiction boundaries of Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Mountain View, Palo Alto, Saratoga, Sunnyvale, Milpitas, Morgan Hill, Santa Clara, Caltrans facilities, and Santa Clara County facilities.



The traditional response to mitigate significant traffic-related impacts, or increases in automobile trips on street segments, is to increase roadway capacity by providing additional lanes or facilities. In Santa Clara County, widening roads to provide additional travel lanes is no longer feasible in most cases because available right-of-way is already constrained and utilized by other land uses or transportation facilities. Dedication of additional land to paved roadways decreases landscaping, eliminates street trees/bus stops/bicycle lanes, reduces sidewalk widths, increases intersection sizes, and moves vehicular traffic (with associated noise and pollution) closer to residences and businesses.



The proposed General Plan Update recognizes and acknowledges that there will be increased levels of congestion resulting from new development, both within San Jose and elsewhere in the Bay Area. This reflects a change in policy for the City to acknowledge that transportation planning based solely on roadway traffic operations (i.e. analysis based on traffic level of service and volume to capacity ratios), which considers only driver comfort and convenience, is not desirable since it fails to acknowledge other users of the circulation system and other community values. In evaluating the roadway system, an impact to adjacent roadways may be desired when balanced against other community values related to resource protection, social equity, economic development, and consideration of pedestrians, bicyclists, and transit users.



Widening a road to achieve a lower volume to capacity ratio results in higher expenditure of infrastructure dollars for wider roadways that do not necessarily serve all users of the circulation system. Roadway widening also provides capacity that is excess for the majority of the day outside the peak periods. Furthermore wider roadways, in general, are inconsistent with goals promoting a more livable city, cause greater impacts to biological resources and discourage roadway use by pedestrians and bicyclists. In addition, mitigating impacts to affected roadway segments can have high infrastructure costs.

The proposed General Plan update contains several policies and actions that seek to reduce automobile travel. They include TR 1.1 through TR-1.9, TR 2.1 through 2.11, TR-3.1 through 3.4, TR-4.1 through 4.4, and TR-8.1 through 8.4. Implementation of these policies and actions would help reduce the magnitude of traffic impacts on adjacent jurisdictions.

The proposed General Plan update also includes an implementing action to encourage coordination with other jurisdictions:

- CR-1.8 **Interagency Participation and Coordination.** Actively coordinate with regional transportation, land use planning, and transit agencies to ensure development and maintenance of a transportation network with complementary land uses that encourage travel by bicycle, walking, and transit, and ensure regional greenhouse gas emission standards are met

Based on the considerations above, no mitigation measures are feasible to reduce adjacent jurisdiction impacts to a less than significant level. With adoption of the new policies and implementing actions contained in the General Plan Update, this impact would be reduced but could remain significant. Therefore, impacts to adjacent jurisdictions would remain **significant and unavoidable**.

Cupertino presents that 11 of 16 intersections would operate at unacceptable level of service due to the proposed project. 9 out of 16 intersections are outside of Cupertino jurisdiction.

Tuesday, March 20, 2012

Cupertino City Council

Jennifer Griffin expressed her concern that the vacation of Finch Avenue would be determined before an EIR is completed or permits for Main Street have been pulled. She said that she felt Main Street and the vacation of Finch Avenue should be separate items.

Director of Public Works Timm Borden said that the vacation would not be approved until Main Street is approved and that Council is only setting May 1 as the date for a public hearing to coincide with the hearing regarding Main Street.

Wong moved and Mahoney seconded to adopt Resolution No. 12-029 as amended with the correct hearing date of May 1. The motion carried unanimously.

SECOND READING OF ORDINANCES - None

PUBLIC HEARINGS - None

ORDINANCES AND ACTION ITEMS

13. Subject: Annual Status report of the General Plan and Housing Element
Recommended Action: Approve for submission to the California Department of Housing & Community Development (HCD) by April 1, 2012
Description: Review of the General Plan progress and program implementation as required by State Law

Community Development Director Aarti Shrivastava reviewed the staff report.

Jennifer Griffin said that developments such as Main Street, Biltmore, Rose Bowl, Apple, and the IHOP development are coming up. She noted that the General Plan says the City can't approve additional housing if road intersections can't maintain above a D grade level of service. She said she is concerned that Stevens Creek Blvd. will take the brunt of the traffic with these new developments. She urged Council to take a look at this when approving the projects.

Shrivastava explained that the General Plan does talk about maintaining a level of service D for all intersections. She said that this will be looked at during the environmental review of the projects. She noted that the City will review and get a chance to provide comments regarding the IHOP development, but since it's in a different city, they can only comment. She said that staff would make sure that none of Cupertino's intersections would be impacted above level service D when the projects are approved.

Wong moved and Mahoney seconded to approve the submission of the General Plan and Housing Element annual status report. The motion carried unanimously.

TRANSPORTATION AND TRAFFIC

Five (5) of the sixteen (16) intersections that would operate at an unacceptable level of service for at least one peak hour under the proposed Project were also predicted to operate at an unacceptable level of service under the No Project scenario.

The intersections that would operate at an unacceptable level of service are bolded and underlined in Table 4.13-13. All other study intersections would continue to operate at acceptable levels of service under the proposed Project conditions. The LOS calculation sheets are included in Appendix G, Transportation and Traffic Data, of this Draft EIR.

TABLE 4.13-13 PROPOSED PROJECT INTERSECTION LEVELS OF SERVICE TABLE

| # | Intersection | LOS Standard | Peak Hour | No Project | | Proposed Project | | | |
|----|---|--------------|-----------|-------------|-----------|------------------|----------|---------------------|-----------------------|
| | | | | Avg. Delay | LOS | Avg. Delay | LOS | Change in Crit. V/C | Change in Crit. Delay |
| 1 | SR 85 SB Ramps and Stevens Creek Blvd. ^a | D | AM | 29.2 | C | 31.9 | C | 0.127 | 4.6 |
| | | | PM | 29.1 | C | 32.2 | C- | 0.103 | 4.4 |
| 2 | SR 85 NB Ramps and Stevens Creek Blvd. ^a | D | AM | 51.1 | D- | 65.1 | E | 0.084 | 25.3 |
| | | | PM | 20.9 | C+ | 21.5 | C+ | 0.110 | 2.2 |
| 3 | Stelling Rd. and Stevens Creek Blvd. ^a | E+ | AM | 46.2 | D | 47.7 | D | 0.050 | -0.7 |
| | | | PM | 52.9 | D- | 88.2 | F | 0.240 | 71.7 |
| 4 | Sunnyvale-Saratoga Rd. and Fremont Ave. ^a | E | AM | 42.8 | D | 44.5 | D | 0.054 | 3.1 |
| | | | PM | 52.5 | D- | 63.0 | E | 0.075 | 17.6 |
| 5 | Sunnyvale-Saratoga Rd./De Anza Blvd. and Homestead Rd. ^a | D | AM | 51.2 | D- | 101.5 | F | 0.273 | 88.4 |
| | | | PM | 66.1 | E | 181.4 | F | 0.486 | 214.8 |
| 6 | De Anza Blvd. and I-280 NB Ramp ^a | D | AM | 46.4 | D | 100.0 | F | 0.393 | 170.6 |
| | | | PM | 71.7 | E | 162.2 | F | 0.623 | 274.1 |
| 7 | De Anza Blvd. and I-280 SB Ramp ^a | D | AM | 47.0 | D | 110.9 | F | 0.345 | 142.6 |
| | | | PM | 35.3 | D+ | 99.9 | F | 0.550 | 237.3 |
| 8 | De Anza Blvd. and Stevens Creek Blvd. ^a | E+ | AM | 45.8 | D | 53.6 | D- | 0.079 | 10.8 |
| | | | PM | 76.2 | E- | 160.4 | F | 0.445 | 188.9 |
| 9 | De Anza Blvd. and McClellan Rd./Pacifica Dr. | D | AM | 33.0 | C- | 39.3 | D | 0.138 | 9.3 |
| | | | PM | 70.7 | E | 108.8 | F | 0.153 | 57.3 |
| 10 | De Anza Blvd. and Bollinger Rd. ^a | E+ | AM | 44.0 | D | 51.4 | D- | 0.067 | 10.7 |
| | | | PM | 25.1 | C | 22.6 | C+ | 0.029 | -1.3 |
| 11 | De Anza Blvd. and SR 85 NB Ramp ^a | D | AM | 32.9 | C- | 37.6 | D+ | 0.099 | 5.9 |
| | | | PM | 16.4 | B | 27.8 | C | 0.130 | 18.2 |
| 12 | De Anza Blvd. and SR 85 SB Ramp ^a | D | AM | 23.9 | C | 26.2 | C | 0.063 | 3.6 |
| | | | PM | 22.2 | C+ | 29.5 | C | 0.148 | 13.7 |
| 13 | Blaney Ave. and Homestead Rd. | D | AM | 34.9 | C- | 52.9 | D- | 0.205 | 26.5 |
| | | | PM | 16.4 | B | 25.0 | C | 0.187 | 10.7 |
| 14 | Wolfe Rd. and El Camino Real (SR 82) ^b | E | AM | 47.6 | D | 48.0 | D | 0.016 | 0.7 |
| | | | PM | 51.8 | D- | 53.2 | D- | 0.027 | 1.4 |
| 15 | Wolfe Rd. and Fremont Ave. ^c | E | AM | 45.8 | D | 47.4 | D | 0.045 | -1.5 |
| | | | PM | 51.8 | D- | 59.3 | E+ | 0.060 | 7.1 |

TRANSPORTATION AND TRAFFIC

TABLE 4.13-13 PROPOSED PROJECT INTERSECTION LEVELS OF SERVICE TABLE

| # | Intersection | LOS Standard | Peak Hour | No Project | | Proposed Project | | | |
|----|--|--------------|-----------|-------------|-----------|------------------|-----------|---------------------|-----------------------|
| | | | | Avg. Delay | LOS | Avg. Delay | LOS | Change in Crit. V/C | Change in Crit. Delay |
| 16 | Wolfe Rd. and Homestead Rd. | D | AM | 36.3 | D+ | 39.6 | D | 0.094 | 4.7 |
| | | | PM | 51.9 | D- | 105.2 | F | 0.224 | 77.2 |
| 17 | Wolfe Rd. and Pruneridge Ave. | D | AM | 17.0 | B | 32.0 | C | 0.204 | 18.8 |
| | | | PM | 26.9 | C | 43.2 | D | 0.118 | 20.6 |
| 18 | Wolfe Rd. and I-280 NB Ramp ^a | D | AM | 88.3 | F | 113.2 | F | 0.100 | 44.0 |
| | | | PM | 36.5 | D+ | 70.3 | E | 0.146 | 57.9 |
| 19 | Wolfe Rd. and I-280 SB Ramp ^a | D | AM | 38.9 | D+ | 86.0 | F | 0.175 | 69.9 |
| | | | PM | 24.7 | C | 85.7 | F | 0.230 | 84.9 |
| 20 | Wolfe Rd. and Vallco Pkwy | D | AM | 26.4 | C | 31.1 | C | 0.113 | 5.9 |
| | | | PM | 51.2 | D- | 50.1 | D | -0.011 | -3.4 |
| 21 | Wolfe Rd./Miller Ave. and Stevens Creek Blvd. ^a | D | AM | 46.5 | D | 57.8 | E+ | 0.114 | 16.5 |
| | | | PM | 72.2 | E | 54.6 | D- | -0.072 | -22.4 |
| 22 | Miller Ave. and Bollinger Rd. ⁸ | D | AM | 42.0 | D | 42.6 | D | 0.019 | 1.0 |
| | | | PM | 44.2 | D | 49.3 | D | 0.046 | 8.1 |
| 23 | Finch Ave. and Stevens Creek Blvd. | D | AM | 26.6 | C | 23.1 | C | 0.195 | -1.1 |
| | | | PM | 41.8 | D | 46.6 | D | 0.032 | 3.5 |
| 24 | North Tantau Ave./Quail Ave. and Homestead Rd. | D | AM | 49.6 | D | 67.7 | E | 0.130 | 28.4 |
| | | | PM | 43.6 | D | 56.7 | E+ | 0.107 | 18.5 |
| 25 | North Tantau Ave. and Pruneridge Ave. | D | AM | 29.2 | C | 31.1 | C | 0.050 | -8.0 |
| | | | PM | 16.6 | B | 17.4 | B | 0.032 | 1.3 |
| 26 | North Tantau Ave. and Vallco Pkwy | D | AM | 29.2 | C | 31.4 | C | 0.135 | 13.9 |
| | | | PM | 34.6 | C- | 37.5 | D+ | 0.034 | 2.8 |
| 27 | Tantau Ave. and Stevens Creek Blvd. | D | AM | 47.4 | D | 58.1 | E+ | 0.134 | 15.2 |
| | | | PM | 56.8 | E+ | 85.3 | F | 0.136 | 41.7 |
| 28 | Lawrence Expressway and Homestead Rd. ^d | E | AM | 59.0 | E+ | 62.9 | E | 0.022 | 6.5 |
| | | | PM | 58.0 | E+ | 66.9 | E | 0.032 | 10.7 |
| 29 | I-280 SB Ramp and Stevens Creek Blvd. ^e | E | AM | 34.8 | C- | 63.1 | E | 0.136 | 42.8 |
| | | | PM | 84.9 | F | 118.3 | F | 0.159 | 70.4 |
| 30 | Agilent Tech Drive Way and Stevens Creek Blvd. ^f | D | AM | 52.9 | D- | 82.9 | F | 0.096 | 37.6 |
| | | | PM | 29.8 | C | 30.1 | C | -0.008 | -0.1 |
| 31 | Lawrence Expressway SB Ramp and Stevens Creek Blvd. ^d | E | AM | 72.8 | E | 112.4 | F | 0.126 | 52.3 |
| | | | PM | 29.9 | C | 29.9 | C | -0.012 | -0.6 |
| 32 | Lawrence Expressway NB Ramp and Stevens Creek Blvd. ^d | E | AM | 53.9 | D- | 89.4 | F | 0.142 | 52.3 |
| | | | PM | 30.1 | C | 29.8 | C | 0.016 | 0.7 |
| 33 | Lawrence Expressway and Calvert Dr./I-280 SB Ramp ^d | E | AM | 48.6 | D | 54.3 | D- | 0.026 | 7.0 |
| | | | PM | 50.6 | D | 65.1 | E | 0.062 | 21.9 |
| 34 | Lawrence Expressway and Bollinger Rd./Moorpark Ave. ^d | E | AM | 60.5 | E | 62.8 | E | 0.014 | 3.5 |
| | | | PM | 46.0 | D | 46.0 | D | -0.005 | 0.5 |

TRANSPORTATION AND TRAFFIC

TABLE 4.13-13 PROPOSED PROJECT INTERSECTION LEVELS OF SERVICE TABLE

| # | Intersection | LOS Standard | Peak Hour | No Project | | Proposed Project | | | |
|----|--|--------------|-----------|------------|-----|------------------|-----|---------------------|-----------------------|
| | | | | Avg. Delay | LOS | Avg. Delay | LOS | Change in Crit. V/C | Change in Crit. Delay |
| 35 | De Anza Blvd. and Rainbow Dr. (south) | D | AM | 20.2 | C+ | 19.5 | B- | 0.036 | -0.4 |
| | | | PM | 19.2 | B- | 18.8 | B- | 0.061 | 0.3 |
| 36 | Bubb Rd./Peninsula Blvd. and Stevens Creek Blvd. | D | AM | 31.0 | C | 31.9 | C | 0.107 | 2.3 |
| | | | PM | 31.1 | C | 33.8 | C- | 0.104 | 2.7 |
| 37 | North Stelling Rd./Hollenbeck Ave. and Homestead Rd. | D | AM | 38.5 | D+ | 39.9 | D | 0.072 | 4.8 |
| | | | PM | 43.6 | D | 44.4 | D | 0.036 | 2.9 |
| 38 | Blaney Ave. and Stevens Creek Blvd. | D | AM | 34.1 | C- | 40.9 | D | 0.194 | 11.9 |
| | | | PM | 40.0 | D | 43.5 | D | 0.115 | 14.4 |
| 39 | Foothill Blvd. and Stevens Creek Blvd. | D | AM | 48.7 | D | 48.9 | D | 0.011 | 1.8 |
| | | | PM | 25.2 | C | 26.3 | C | 0.024 | 0.4 |
| 40 | Stelling Rd. and McClellan Rd. | D | AM | 32.1 | C- | 32.4 | C- | -0.001 | 0.0 |
| | | | PM | 35.6 | D+ | 36.6 | D+ | 0.014 | 1.8 |
| 41 | Wolfe Rd. and Apple Campus Access ^h | D | AM | 18.9 | B- | 22.8 | C+ | 0.069 | 9.1 |
| | | | PM | 36.8 | D+ | 48.2 | D | 0.077 | 12.2 |

Notes: Notes: NB = northbound; SB = southbound; EB = eastbound; WB = westbound. **Bold and underlined** indicates a substandard level of service.

Bold, underlined, and shaded in gray indicates a significant project impact

a. This is a CMP intersection within the City of Cupertino. Cupertino applies its own standard of LOS D to CMP intersections.

b. This is a CMP intersection within the City of Sunnyvale. The CMP's standard of LOS E applies.

c. The City of Sunnyvale is the controlling jurisdiction for the intersection.

d. This is a CMP intersection on a County Expressway. The CMP and County's standard of LOS E applies.

e. This is a CMP intersection within the City of Santa Clara. The CMP's standard of LOS applies.

f. The City of Santa Clara is the controlling jurisdiction for the intersection.

g. The City of San Jose is the controlling jurisdiction for the intersection.

h. This is a future intersection.

As shown in Table 4.13-13, above, the proposed Project would result in *significant* impacts to seventeen (17) intersections during at least one of the peak hours.

- SR 85 Northbound Ramps and Stevens Creek Boulevard (#2): LOS E – AM Peak Hour
- Stelling Road and Stevens Creek Boulevard (#3): LOS F – PM Peak Hour
- Sunnyvale-Saratoga Road/De Anza Boulevard and Homestead Road (#5): LOS F – AM and PM Peak Hours
- De Anza Boulevard and I-280 Northbound Ramp (#6): LOS F – AM and PM Peak Hours
- De Anza Boulevard and I-280 Southbound Ramp (#7): LOS F – AM and PM Peak Hours
- De Anza Boulevard and Stevens Creek Boulevard (#8): LOS F – PM Peak Hour
- De Anza Boulevard and McClellan Road/Pacifica Drive (#9): LOS F – PM Peak Hour
- Wolfe Road and Homestead Road (#16): LOS F – PM Peak Hour
- Wolfe Road and I-280 Northbound Ramp (#18): LOS F – AM Peak Hour
- Wolfe Road and I-280 Southbound Ramp (#19): LOS F – AM and PM Peak Hours
- Stevens Creek Boulevard and Wolfe Road/Miller Avenue (#21): LOS E+ AM Peak Hour
- North Tantau Avenue/Quail Avenue and Homestead Road (#24): LOS E – AM Peak Hour and E+ – PM Peak Hour

TRANSPORTATION AND TRAFFIC

- Stevens Creek Boulevard and Tantau Avenue (#27): LOS F – PM Peak Hour
- Stevens Creek Boulevard and I-280 SB Ramps/Calvert Drive (#29): LOS F – PM Peak Hour
- Agilent Tech Drive Way and Stevens Creek Boulevard (#30): LOS F - AM Peak Hour
- Lawrence Expressway Southbound Ramp and Stevens Creek Boulevard (#31): LOS F – AM Peak Hour
- Stevens Creek Boulevard and Lawrence Expressway Northbound Ramp (#32): LOS F – AM Peak Hour

Mitigation Measures

Mitigation Measure TRAF-1: The City of Cupertino shall commit to preparing and implementing a Traffic Mitigation Fee Program to guarantee funding for roadway and infrastructure improvements that are necessary to mitigate impacts from future projects based on the then current City standards. As part of the preparation of the Traffic Mitigation Fee Program, the City shall also commit to preparing a "nexus" study that will serve as the basis for requiring development impact fees under AB 1600 legislation, as codified by California Code Government Section 66000 et seq., to support implementation of the proposed Project. The established procedures under AB 1600 require that a "reasonable relationship" or nexus exist between the traffic improvements and facilities required to mitigate the traffic impacts of new development pursuant to the proposed Project. The following examples of traffic improvements and facilities would reduce impacts to acceptable level of service standards and these, among other improvements, could be included in the development impact fees nexus study:

- **SR 85 Northbound Ramps and Stevens Creek Boulevard (#2):** An exclusive left-turn lane for the northbound leg of the intersection (freeway off-ramp) at the intersection of SR 85 and Stevens Creek Boulevard would result in one left-turn lane, one all-movement lane, and one right turn lane. The additional lane could be added within the existing Caltrans right-of-way.
- **Stelling Road and Stevens Creek Boulevard (#3):** The addition of a second exclusive left-turn lane for the eastbound leg of the intersection from Stevens Creek Boulevard to northbound Stelling Road, which could be accomplished by reworking the median. Right turns would share the bike lane.
- **Sunnyvale-Saratoga Road/De Anza Boulevard and Homestead Road (#5):** Widen De Anza Boulevard to four lanes in each direction or the installation of triple left-turn lanes.
- **De Anza Boulevard and I-280 Northbound Ramp (#6):** Restriping of De Anza Boulevard in the southbound direction to provide room for right turn vehicles to be separated from through traffic may be required. The bike lane would be maintained, and right turns would occur from the bike lane. The right turns would continue to be controlled by the signal and would need to yield to pedestrians. Painting a bike box at the front of the lane to provide space for bikes wait at red lights may enhance the bicycle experience.
- **De Anza Boulevard and Stevens Creek Boulevard (#8):** Restripe westbound Stevens Creek Boulevard to provide room for right turn vehicles to be separated from through vehicles may be required. The right turn vehicles will share the bike lane and will still be controlled by the traffic signal. Paint a bike box at the front of the lane to provide bikes a place to wait at red lights. The pedestrian crossings will not be affected may enhance the bicycling experience.

County) (#32): Redesign of the northbound leg of the intersection at the Lawrence Expressway Northbound Ramp and Stevens Creek Boulevard to provide one through-movement lane, and one exclusive right-turn lane may be required. Right-of-way acquisition would be required.

The fees shall be assessed when there is new construction, an increase in square footage in an existing building, or the conversion of existing square footage to a more intensive use. The fees collected shall be applied toward circulation improvements and right-of-way acquisition. The fees shall be calculated by multiplying the proposed square footage, dwelling unit, or hotel room by the appropriate rate. Traffic mitigation fees shall be included with any other applicable fees payable at the time the building permit is issued. The City shall use the traffic mitigation fees to fund construction (or to recoup fees advanced to fund construction) of the transportation improvements identified above, among other things that at the time of potential future development may be warranted to mitigate traffic impacts.

While implementation of Mitigation Measure TRAF-1 would secure a funding mechanism for future roadway and infrastructure improvements that are necessary to mitigate impacts from future projects based on then current standards, impacts would remain *significant and unavoidable*, because the City cannot guarantee improvements at these intersections at this time. This is in part because the nexus study has yet to be prepared and because some of the impacted intersections are under the jurisdictions of the Cities of Sunnyvale and Santa Clara and Caltrans. Specifically, the following intersections are outside the jurisdiction of Cupertino:

TRANSPORTATION AND TRAFFIC

- SR 85 Northbound Ramps and Stevens Creek Boulevard (#2)
- De Anza Boulevard and I-280 Northbound Ramp (#6)
- Wolfe Road and Homestead Road (#16)
- Wolfe Road and I-280 Northbound Ramp (#18)
- Wolfe Road and I-280 Southbound Ramp (#19)
- North Tantau Avenue/Quail Avenue and Homestead Road (#24)
- Stevens Creek Boulevard and Agilent Technologies Driveway (#30)
- Lawrence Expressway Southbound Ramp and Stevens Creek Boulevard (CMP, County)(#31)
- Lawrence Expressway Northbound Ramp and Stevens Creek Boulevard (CMP, County) (#32)

However, the City will continue to cooperate with these jurisdictions to identify improvements that would reduce or minimize the impacts to intersections and roadways as a result of implementation of future development projects in Cupertino.

Significance With Mitigation: Significant and Unavoidable.

Comments for Vallco Shopping District Specific Plan Environmental Impact Report NOP File Number EA- 2017-05

Contents

| | |
|--|----|
| Potential to Cease EIR Mid-Stream:..... | 2 |
| Similarity of “Proposed Project” to Failed Ballot Initiative Measure D, Nov. 8, 2016 Should Disqualify It | 3 |
| General Plan Directive to Create a Vallco Shopping District Specific Plan: | 3 |
| Insufficient and Conflicting Information Presented in NOP EIR Scoping Meeting, with Infeasible “Proposed Project” due to Inconsistency with General Plan & Initiative Vote Results | 19 |
| Proposed Project and Project Alternatives:..... | 20 |
| Proposed Project: | 20 |
| Alternatives to Project: | 22 |
| Occupied/Re-tenanted Mall is Not “No Project” | 23 |
| Alternative B is Not Consistent with the General Plan..... | 23 |
| Alternative C is Insufficiently Described – May be inconsistent | 24 |
| Conclusions:..... | 24 |
| Table of Proposed Project and Alternatives: | 25 |
| Comments For Environmental Impact Report Given Proposed Project and Alternatives A-D ... | 26 |

Potential to Cease EIR Mid-Stream:

The EIR scoping meeting provided inadequate and conflicting information with an infeasible “Proposed Project” and infeasible alternatives.

According to [“CEQA Does Not Apply to Project Disapproval, Even if the EIR is Underway,”](#) by [Abbott & Kindermann](#) Leslie Z. Walker, on September 22, 2009, the EIR process may be stopped mid-stream:

According to [Las Lomas Land Co., LLC v. City of Los Angeles](#) (Sept. 17, 2009, B213637) ___ Cal.App.4th ___, the long standing rule that CEQA does not apply to projects rejected or disapproved by a public agency, allows a public agency to reject a project before completing or considering the EIR. In *Las Lomas*, the Court of Appeals for the Second Appellate District made clear that a city may stop environmental review mid-stream and reject a project without awaiting the completion of a final EIR. While this holding may avoid wasting time and money on an EIR for a dead-on-arrival project, it will also make it harder for projects to stay in play until the entire environmental document is complete.

The article continues:

One of the City’s council members opposed the project and asked the City to cease its work on it. The City attorney advised the council members that the City was required to continue processing and completing the EIR. Nonetheless, the objecting council member introduced a motion to suspend the environmental review process until the city council made “a policy decision” to resume the process. The city council ultimately approved a modified motion which also called for the City to cease work on the proposed project.

Should the City Council find reason to cease the EIR, such as the “Proposed Project” being inconsistent with the General Plan (explained on the following pages), or that in light of its’ similarity to failed Cupertino ballot Measure D: The Vallico Initiative November 8, 2016, there is precedent as demonstrated above, to do so.

Similarity of “Proposed Project” to Failed Ballot Initiative Measure D, Nov. 8, 2016 Should Disqualify It

The Vallco Measure D Initiative is described in the following: [CITY ATTORNEY'S BALLOT TITLE AND SUMMARY FOR PROPOSED INITIATIVE SUBMITTED ON MARCH 3, 2016](#) and would consist of:

- 2,000,000 SF office
- 640,000 SF retail
- 191 additional hotel rooms, bringing the site total to 339 hotel rooms
- 389 residential units with a Conditional Use Permit bringing the total to 800 residential units

The [November 8, 2016 Election results for Measure D](#) were 55% No. Advertising for the initiative obscured the office and focused on the retail portions. The actual square footage percentages for the Measure D Initiative were:

- 56% office
- 22% residential
- 16% retail
- 6% hotel

Notice these above percentages result in 84% non-retail uses and would be a majority office park. The “Proposed Project” for the EIR has less retail (600,000 SF) and other uses the same as Measure D.

The EIR process is not intended to be a disregard of the city’s General Plan to “try out” alternative concepts which have no consistency with the General Plan. This creates a great deal of confusion and distrust.

General Plan Directive to Create a Vallco Shopping District Specific Plan:

This section amasses the multiple sections of the General Plan which reference the Vallco Shopping District and describe what it is planned to become.

Refer to: [Cupertino General Plan Vision 2040](#):

In Chapter 2 of the Cupertino General Plan Vision 2040: Planning Areas: Vallco Shopping District is described as: “...Cupertino’s most significant commercial center...” and that “...Reinvestment is needed...so that this **commercial center** is more competitive and better serves the community.” It is referred to as a “shopping district”, not an office park, or a residential community. Following is the actual page from the General Plan describing Vallco Shopping District:

VALLCO SHOPPING DISTRICT

CONTEXT

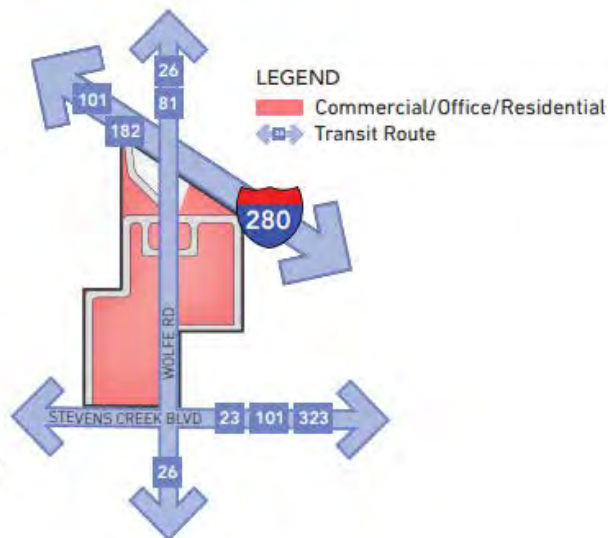
The Vallco Shopping District Special Area encompasses Cupertino's most significant commercial center, formerly known as the Vallco Fashion Park. This Special Area is located between Interstate 280 and Stevens Creek Boulevard in the eastern part of the city. The North Blaney neighborhood, an established single-family area, is adjacent on the west side of the Vallco Shopping District. Wolfe Road bisects the area in a north-south direction, and divides Vallco Shopping District into distinct subareas: Vallco Shopping District Gateway West and Vallco Shopping District Gateway East. In recent years there has been some façade improvement to the Vallco Fashion Mall; however, there has been no major reinvestment in the mall for decades. Reinvestment is needed to upgrade or replace older buildings and make other improvements so that this commercial center is more competitive and better serves the community. Currently, the major tenants of the mall include a movie theater, bowling alley and three national retailers. The Vallco Shopping District is identified as a separate Special Area given its prominence as a regional commercial destination and its importance to future planning/redevelopment efforts expected over the life of the General Plan.



VISION

The Vallco Shopping District will continue to function as a major regional and community destination. The City envisions this area as a new mixed-use "town center" and gateway for Cupertino. It will include an interconnected street grid network of bicycle and pedestrian-friendly streets, more pedestrian-oriented buildings with active uses lining Stevens Creek Boulevard and Wolfe Road, and publicly-accessible parks and plazas that support the pedestrian-oriented feel of the revitalized area. New development in the Vallco Shopping District should be required to provide buffers between adjacent single-family neighborhoods in the form of boundary walls, setbacks, landscaping or building transitions.

VALLCO SHOPPING DISTRICT SPECIAL AREA DIAGRAM



PA-8

Figure 1

Vallco Shopping District is further described in the [General Plan Vision 2040 Land Use Element](#) through goals, policies, and strategies:

GOAL LU-19 Create a distinct and memorable mixed-use "town center" that is a regional destination and a focal point for the community

VALLCO SHOPPING DISTRICT SPECIAL AREA The City envisions a complete redevelopment of the existing Vallco Fashion Mall into a vibrant mixed-use "town center" that is a focal point for regional visitors and the community. This new Vallco Shopping District **will become a destination for shopping, dining and entertainment in the Santa Clara Valley.**

POLICY LU-19.1: SPECIFIC PLAN Create a **Vallco Shopping District Specific Plan** prior to any development on the site that lays out the land uses, design standards and guidelines, and infrastructure improvements required. The Specific Plan will be based on the following strategies:

STRATEGIES: LU-19.1.1: Master Developer. Redevelopment will require a master developer in order to remove the obstacles to the development of a cohesive district with the highest levels of urban design.

LU-19.1.2: Parcel Assembly. Parcel assembly and a plan for complete redevelopment of the site is required prior to adding residential and office uses. Parcelization is highly discouraged in order to preserve the site for redevelopment in the future.

LU-19.1.3: Complete Redevelopment. The "town center" plan should be based on complete redevelopment of the site in order to ensure that the site can be planned to carry out the community vision.

LU-19.1.4: Land Use. The following uses are allowed on the site (see Figure LU-2 for residential densities and criteria):

1. Retail: High-performing retail, restaurant and entertainment uses. **Maintain a minimum** of 600,000 square feet of retail that provide a good source of sales tax for the City. Entertainment uses may be included but shall consist of no more than 30 percent of retail uses.

2. Hotel: **Encourage** a business class hotel with conference center and active uses including main entrances, lobbies, retail and restaurants on the ground floor.

3. Residential: **Allow** residential on upper floors with retail and active uses on the ground floor. Encourage a mix of units for young professionals, couples and/or active seniors who like to live in an active “town center” environment.

4. Office: **Encourage** high-quality office space arranged in a pedestrian-oriented street grid with active uses on the ground floor, publicly-accessible streets and plazas/green space.

| Table LU-1: Citywide Development Allocation Between 2014-2040 | | | | | | | | | | | | |
|---|--------------------------------|------------------|----------------|--------------------------------|-------------------|------------------|--------------------------------|--------------|------------|--------------------------------|---------------|--------------|
| | commercial (s.f.) | | | office (s.f.) | | | hotel (rooms) | | | residential (units) | | |
| | current built (Oct 7, 2014) | buildout | available | current built (Oct 7, 2014) | buildout | available | current built (Oct 7, 2014) | buildout | available | current built (Oct 7, 2014) | buildout | available |
| Heart of the City | 1,351,730 | 214,5000 | 793,270 | 2,447,500 | 2,444,613 | 17,113 | 404 | 526 | 122 | 1,336 | 1,805 | 469 |
| Vallco Shopping District** | 1,207,774 | 120,7774 | - | - | 2,000,000 | 2,000,000 | 148 | 339 | 191 | - | 389 | 389 |
| Homestead | 291,408 | 291,408 | - | 69,550 | 69,550 | - | 126 | 126 | - | 600 | 750 | 150 |
| N. De Anza | 56,708 | 56,708 | - | 2,081,021 | 2,081,021 | - | 126 | 126 | - | 49 | 146 | 97 |
| N. Vallco | 133,147 | 133,147 | - | 3,069,676 | 3,069,676 | - | 123 | 123 | - | 554 | 1154 | 600 |
| S. De Anza | 352,283 | 352,283 | - | 130,708 | 130,708 | - | 315 | 315 | - | 6 | 6 | - |
| Bubb | - | - | - | 444,753 | 444,753 | - | - | - | - | - | - | - |
| Monta Vista Village | 94,051 | 99,698 | 5,647 | 443,140 | 456,735 | 13,595 | - | - | - | 828 | 878 | 50 |
| Other | 144,964 | 144,964 | - | 119,896 | 119,896 | - | - | - | - | 18,039 | 18,166 | 127 |
| Major Employers | - | - | - | 109,935 | 633,053 | 523,118 | - | - | - | - | - | - |
| Citywide | 3,632,065 | 4,430,982 | 798,917 | 8,916,179 | 11,470,005 | 2,553,826 | 1,116 | 1,429 | 313 | 21,412 | 23,294 | 1,882 |

** Buildout totals for Office and Residential allocation within the Vallco Shopping District are contingent upon a Specific Plan being adopted for this area by May 31, 2018. If a Specific Plan is not adopted by that date, City will consider the removal of the Office and Residential allocations for Vallco Shopping District. See the Housing Element (Chapter 4) for additional information and requirements within the Vallco Shopping District.

Figure 2 - “General Plan Table LU-1”

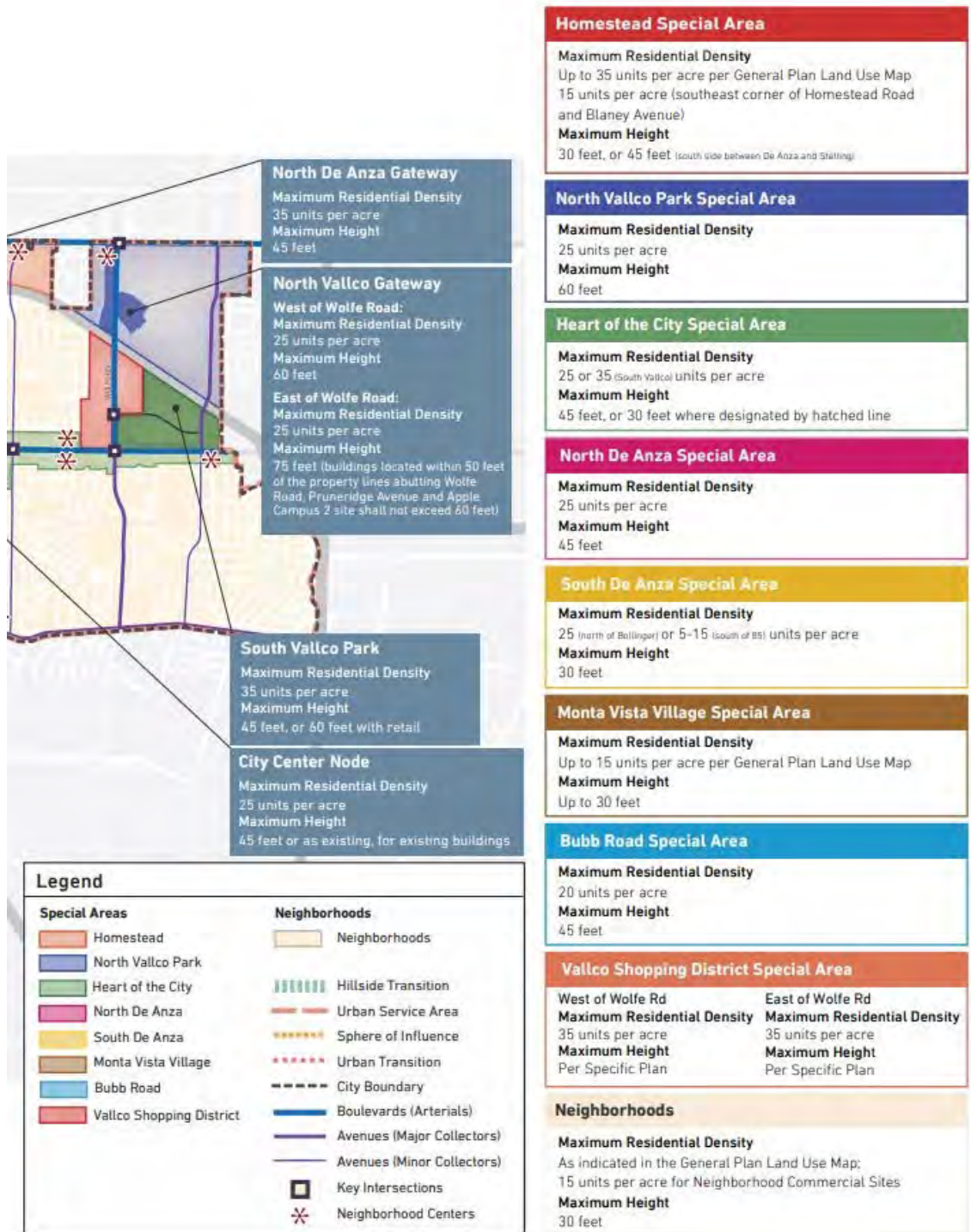


Figure 3 – “General Plan Figure LU-2”

General Plan Housing Element p H-21

“Priority Housing Sites: As part of the Housing Element update, the City has identified five priority sites under Scenario A (see Table HE-5) for residential development over the next eight years. The General Plan and zoning designations allow the densities shown in Table HE-5 for all sites except the Vallco Shopping District site (Site A2). The redevelopment of Vallco Shopping District will involve significant planning and community input. A specific plan will be required to implement a comprehensive strategy for a retail/office/residential mixed use development. The project applicant would be required to work closely with the community and the City to bring forth a specific plan that meets the community’s needs, with the anticipated adoption and rezoning to occur within three years of the adoption of the 2014-2022 Housing Element (by May 31, 2018). The specific plan would permit 389 units by right at a minimum density of 20 units per acre. If the specific plan and rezoning are not adopted within three years of Housing Element adoption (by May 31, 2018), the City will schedule hearings consistent with Government Code Section 65863 to consider removing Vallco as a priority housing site under Scenario A, to be replaced by sites identified in Scenario B (see detailed discussion and sites listing of “Scenario B” in Appendix B - Housing Element Technical Appendix). As part of the adoption of Scenario B, the City intends to add two additional sites to the inventory: Glenbrook Apartments and Homestead Lanes, along with increased number of permitted units on The Hamptons and The Oaks sites. Applicable zoning is in place for Glenbrook Apartments; however the Homestead Lanes site would need to be rezoned at that time to permit residential uses. Any rezoning required will allow residential uses by right at a minimum density of 20 units per acre.”

SITE A2 (VALLCO SHOPPING DISTRICT):

“The site is designated Regional Shopping/Office/Residential in the General Plan and zoned Planned Development with Regional Shopping and Commercial (P[Regional Shopping and P[CG]). Strategy HE-1.3.1 provides that the City will **adopt a Specific Plan for the Vallco site by May 31, 2018 that would permit 389 units by right at a minimum density of 20 units per acre. The zoning for the site would be modified as part of the Specific Plan process to allow residential uses as part of a mixed-use development at a maximum density of 35 units per acre. If the Specific Plan is not adopted, the City will schedule hearings consistent with Government Code Section 65863 to consider removing Vallco Shopping District as a Priority Housing Site and replacing it with the sites shown in Scenario B.**”

5.5. RESIDENTIAL SITES INVENTORY - SCENARIO B As noted above, one particular site identified in Scenario A will involve substantial coordination for redevelopment (Vallco Shopping District, Site A2). Due to the magnitude of the project, the **City has established a contingency plan to meet the RHNA if a Specific Plan is not adopted by May 31, 2018. This contingency plan (referred to here as Scenario B and shown on Figure B-8), involves the City removing Vallco Shopping District, adding more priority sites to the inventory, and also increasing the density/allowable units on other priority sites.** Four of the sites discussed in Scenario A above are also included in Scenario B, with some modifications to density and realistic capacity on two of these sites. Two additional sites are added to the inventory, one of which was included in the 2007-2014 Housing Element sites inventory.

**FIGURE HE-1
HOUSING ELEMENT: SITES TO
MEET THE RHNA**

Priority Housing Element Sites: Scenario A

Applicable if Vallco Specific Plan is adopted by May 31, 2018
 If Vallco Specific Plan is not adopted by May 31, 2018, the designated Priority Housing Element Sites will be as shown in General Plan Appendix B, Section 5.5: Residential Sites Inventory - Scenario B.

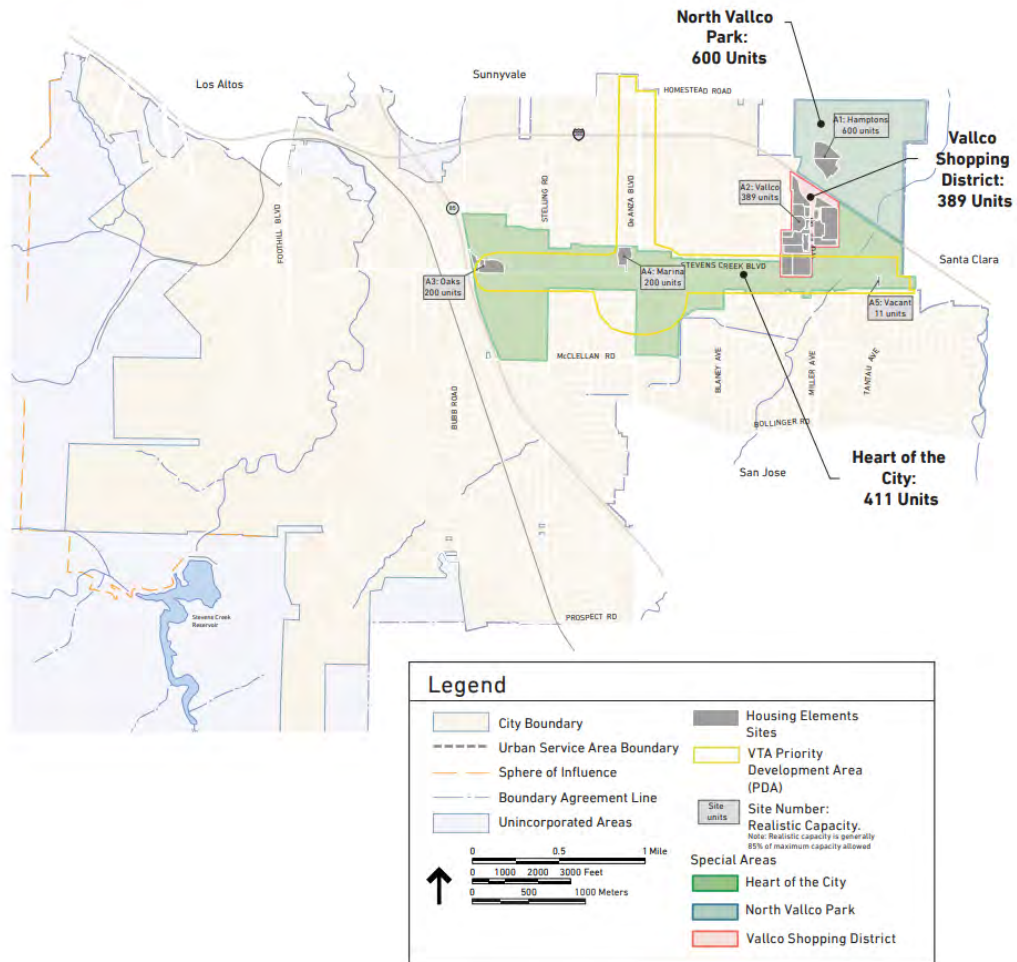


Figure 4 – “General Plan Figure HE-1”

“Figure HE-1 indicates the available residential development opportunity sites to meet and exceed the identified regional housing need pursuant to the RHNA. The opportunity sites can accommodate infill development of up to 1,400 residential units on properties zoned for densities of 20 dwelling units to the acre or more. The potential sites inventory is organized by geographic area and in particular, by mixed use corridors. As shown in Table HE-5, sites identified to meet the near-term development potential lie within the North Vallco Park Special Area, the Heart of the City Special Area, and the Vallco Shopping District Special Area. One particular site will involve substantial coordination for redevelopment (Vallco Shopping District, Site A2). Due to the magnitude of the project, the City has established a contingency plan to meet the RHNA if a Specific Plan is not approved within three years of Housing Element adoption. This contingency plan (called Scenario B and discussed further in General Plan Appendix B), would involve the City removing Vallco Shopping District, adding more priority sites to the inventory, and also increasing the density/allowable units on other priority sites.”

“DETERMINATION OF REALISTIC CAPACITY Sites inventory capacity must account for development standards such as building height restrictions, minimum setbacks, and maximum lot coverage, as well as the potential for non-residential uses in mixed-use areas. A survey of recent developments (Table 5.2) indicates that recent multi-family residential projects have built to between 82 percent and 99.5 percent of the maximum allowable density. To ensure that the sites inventory provides a “realistic capacity” for each site, estimates for maximum developable units on each site are conservatively reduced by 15 percent.”

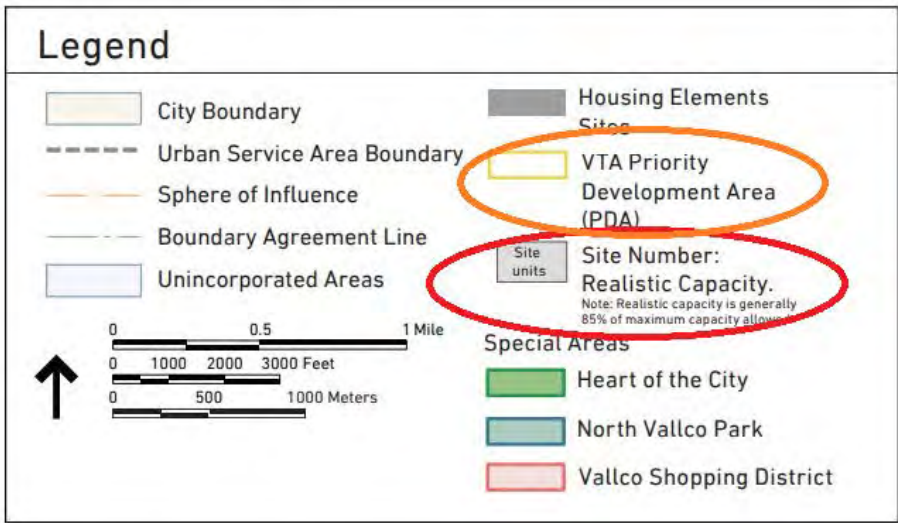
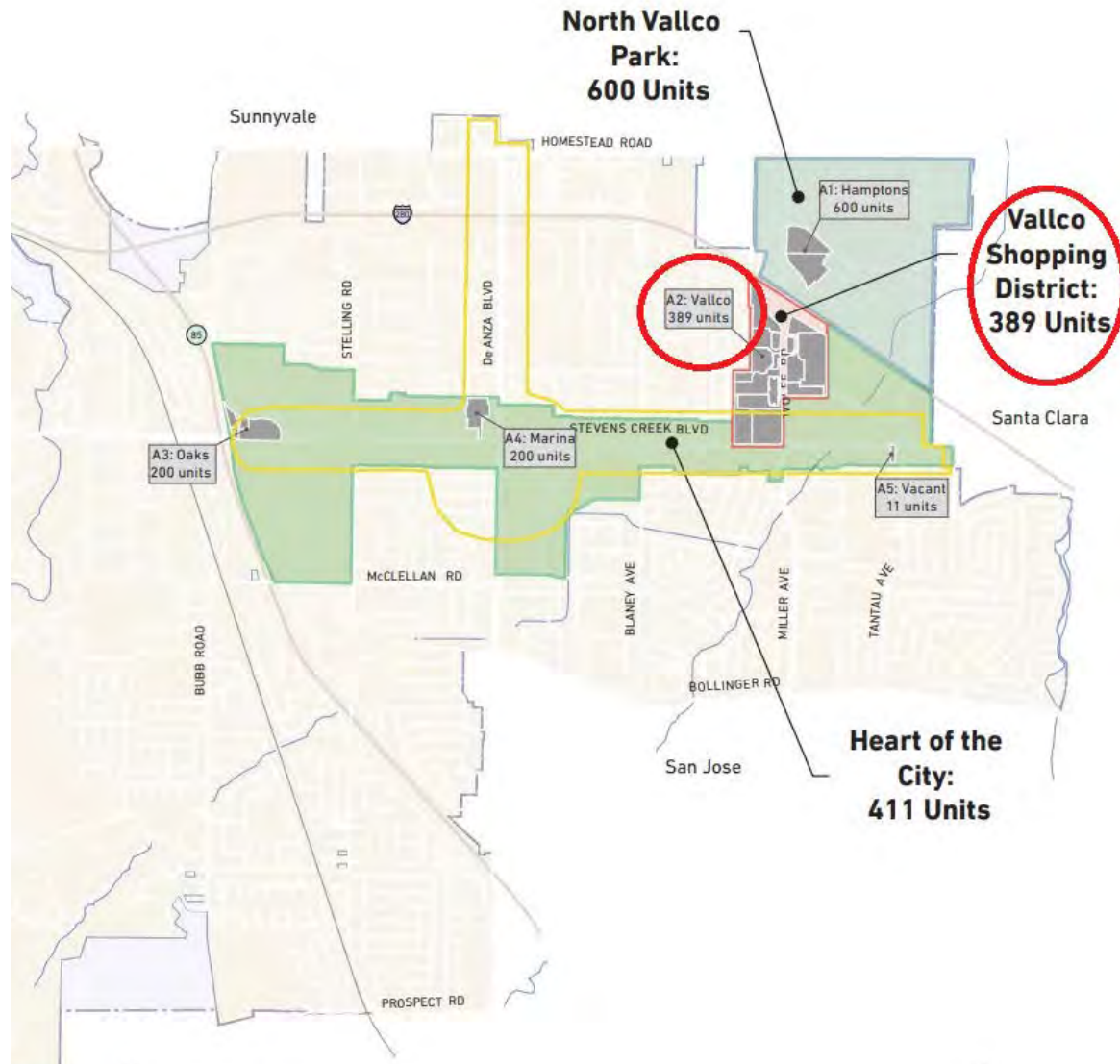
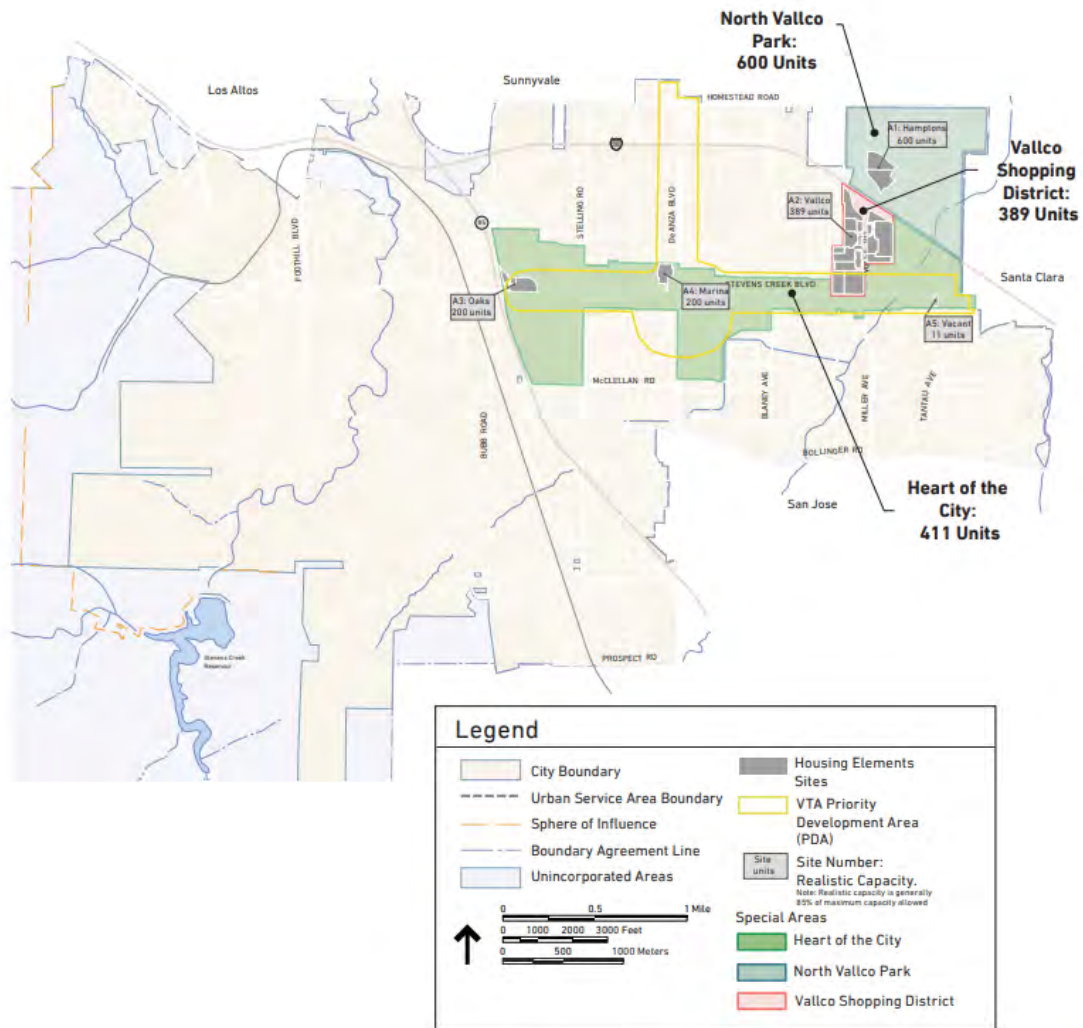


Figure 5 – “General Plan Figure HE-1 Zoomed in”

**FIGURE B-7
PRIORITY HOUSING ELEMENT SITES
SCENARIO A**

Applicable if Vallco Specific Plan is adopted by May 31, 2018
 If Vallco Specific Plan is not adopted by May 31, 2018, the designated Priority Housing Element Sites will be as shown in General Plan Appendix B, Section 5.5: Residential Sites Inventory - Scenario B.

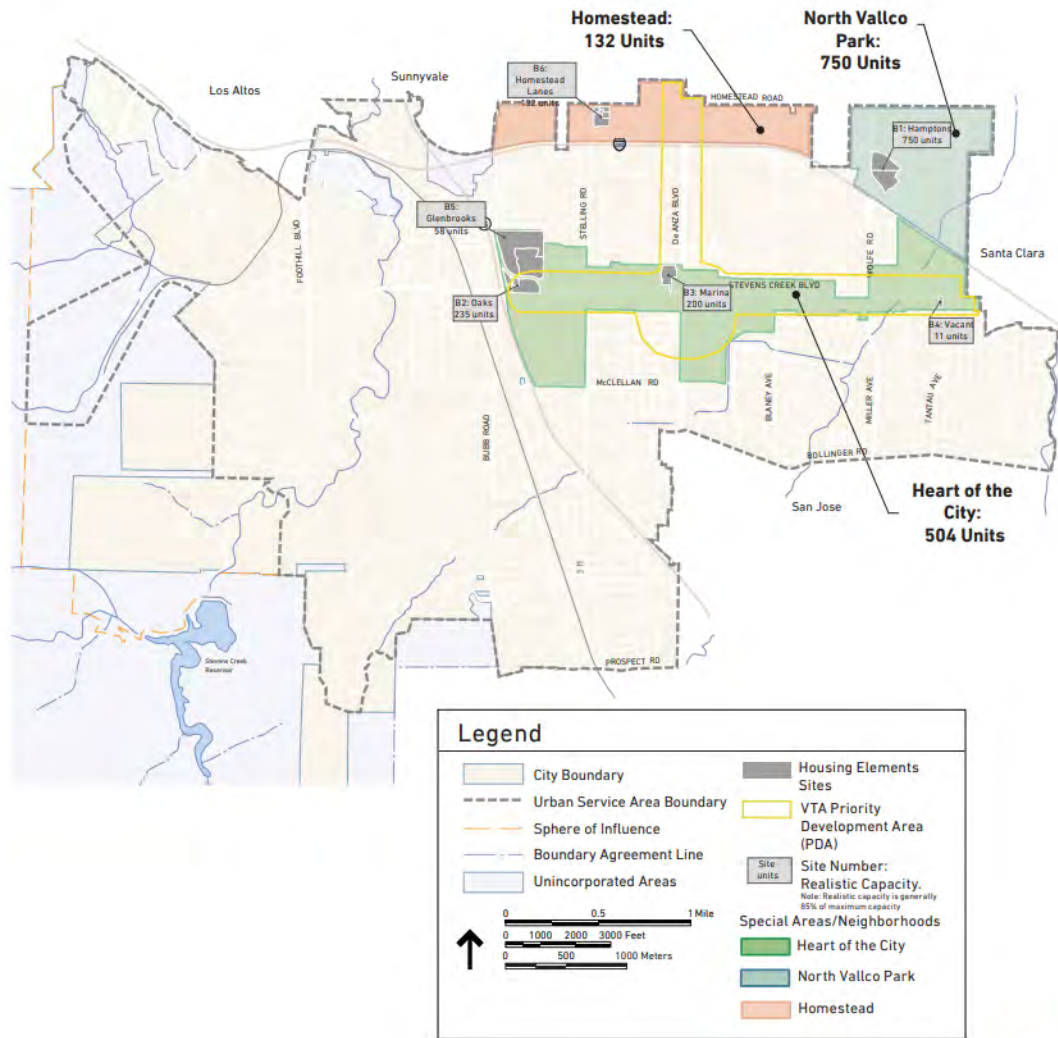


B-113

Figure 6 – “General Plan Figure B-7: Priority Housing Element Sites Scenario A”

**FIGURE B-8
PRIORITY HOUSING ELEMENT SITES
SCENARIO B**

Applicable if Vallco Specific Plan is not adopted by May 31, 2018.



B-123

Figure 7 – “General Plan Figure B-8 Priority Housing Element Sites Scenario B”

| Table 5.3: Summary of Priority Housing Sites - Scenario A | | | | | |
|---|---|-------------------|-------|----------------------------|---------------------|
| Site | Adopted General Plan/Zoning | Max Density (DUA) | Acres | Realistic Capacity (units) | Affordability Level |
| Site A1 (The Hamptons) | High Density P(Res) | 85 | 12.44 | 600 | Very Low/Low |
| Site A2 (Vallco Shopping District) | RS/O/R P(Regional Shopping) & P(CG) (a) | 35 | 58.7 | 389 | Very Low/Low |
| Site A3 (The Oaks Shopping Center) | C/R P(CG, Res) | 30 | 7.9 | 200 | Very Low/Low |
| Site A4 (Marina Plaza) | C/O/R P(CG, Res) | 35 | 6.86 | 200 | Very Low/Low |
| Site A5 (Barry Swenson) | C/O/R P(CG, Res) | 25 | 0.55 | 11 | Very Low/Low |
| Total | | | 86.51 | 1,400 | |

Notes:
 (a) Zoning to be determined by Specific Plan to allow residential uses.
 (b) Realistic capacity for Sites A1, A3, A4 and A5 reduces the maximum developable units by 15 percent. Realistic capacity for Site A2 is the amount allocated to the site in the Housing Element; a specific plan will be required for Site A2 prior to any new development.
 (c) Identified capacity of sites that allow development densities of at least 20 units per acre are credited toward the lower-income RHNA based on State law. Pursuant to Government Code Section 65583.2(c)(3)(B), local governments may utilize "default" density standards to provide evidence that "appropriate zoning" is in place to support the development of housing for very-low and low-income households. The default density standard for Cupertino and other suburban jurisdictions in Santa Clara County is 20 dwelling units per acre (DUA) or more.
 (d) Residential capacity for Site A1 reflects the net increase in units.
 Source: City of Cupertino, 2014.

Figure 8 – “General Plan Table 5.3: Summary of Priority Housing Sites – Scenario A”

Notice that Figures B-7 and HE-1, Table LU-1, Table HE-5 show Vallco Shopping District with 389 units and the Legend of both clearly state that the Site Number is Realistic Capacity with the note: “Realistic capacity is generally 85% of maximum capacity”. That would mean that 389 units is 85% of Vallco Shopping District’s maximum, which would be 457.6 units.

Current zoning does not allow residential uses at Vallco, and as shown above, and would need to be modified: **“The zoning for the site would be modified as part of the Specific Plan process to allow residential uses as part of a mixed-use development...”** p 116 General Plan

Appendix B Housing Element Technical Report:
<http://www.cupertino.org/home/showdocument?id=12717>

Table HE-5: Summary of PRIORITY HOUSING ELEMENT SITES To Meet the RHNA - Scenario A

| Site | Adopted General Plan/ Adopted Zoning | Special Area | Max Density (DUA) | Max Height | Realistic Capacity (units) |
|---------------------------------------|---|--------------------------------|-------------------------|--|----------------------------------|
| Site A1 (The Hamptons) | High Density P(Res) | North Vallco Park | 85 | 75 ft; or 60 ft in certain locations ¹ ; | 600 net |
| Site A2 (Vallco Shopping District) | RS/O/R P(Regional Shopping) & P(CG) | Vallco Shopping District | 35 | height to be determined in Vallco Shopping District Specific Plan | 389 |
| Site A3 (The Oaks Shopping Center) | C/R P(CG, Res) | Heart of the City | 30 | 45 ft | 200 |
| Site A4 (Marina Plaza) | C/O/R P(CG, Res) | Heart of the City | 35 | 45 ft | 200 |
| Site A5 (Barry Swenson) | C/O/R P(CG, Res) | Heart of the City | 25 | 45 ft | 11 |
| Total | | | | | 1,400 |

Notes: Zoning for Site A2 (Vallco) will be determined by Specific Plan to allow residential uses. Site A1 (Hamptons) height limit of 60 feet is applicable for buildings located within 50 feet of property lines abutting Wolfe Rd, Pruneridge Ave. & Apple Campus 2 site. Site A2 (Vallco) height will be determined by Specific Plan. For more detail on height limits, see Land Use and Community Design Element, Figure LU-2.

Figure 9 – “General Plan Table HE-%: Summary of Priority Housing Element Sites to Meet the RHNA – Scenartio A”

| Table 5.5: Summary of Priority Housing Sites - SCENARIO B | | | | | | |
|---|----------------------------|--------------------------|-------------------|--------------|----------------------------|---------------------|
| Site | Special Area/ Neighborhood | General Plan/Zoning | Max Density (DUA) | Acres | Realistic Capacity (units) | Affordability Level |
| Site B1 (Hamptons) | North Vallco Park | High Density P(Res) | 99(a) | 12.44 | 750 | Very Low/Low |
| Site B2 (The Oaks Shopping Center) | Heart of the City | C/R P(CG, Res) | 35 (b) | 7.9 | 235 | Very Low/Low |
| Site B3 (Marina Plaza) | Heart of the City | C/O/R P(CG, Res) | 35 | 6.86 | 200 | Very Low/Low |
| Site B4 (Barry Swenson) | Heart of the City | C/O/R P(CG, Res) | 25 | 0.55 | 11 | Very Low/Low |
| Site B5 (Glenbrook Apartments) | Heart of the City | Medium Density R3(10-20) | 20 | 31.3 | 58 | Very Low/Low |
| Site B6 (Homestead Lanes and Adjacency) | Homestead | C/R (c) P(CG, Res) (c) | 35 (c) | 5.1 | 132 | Very Low/Low |
| Total | | | | 64.24 | 1,386 | |
| Site B6 (Carl Berg property) | North De Anza | O//C/R P(CG, ML, Res) | 25 | 7.98 | 169 | Very Low/Low |
| Total | | | | 87.31 | 1318 | |

Notes:

- (a) A General Plan Amendment and zoning change will be necessary to allow the increase in density from 85 to 99 units per acre on Site B1.
- (b) A General Plan Amendment and zoning change will be necessary to allow the increase in density from 30 to 35 units per acre on Site B2.
- (c) A General Plan Amendment and zoning change will be necessary to allow residential uses at 35 units per acre on Site B6. Existing zoning for Site B6 is P(Rec, Enter).
- (d) Realistic capacity reduces the maximum developable units by 15 percent on Sites B1, B2, B3, B4, and B6. Realistic capacity of Site B5 is (d)reduced by 46 percent due to existing site constraints.
- (e) Identified capacity of sites that allow development densities of at least 20 units per acre are credited toward the lower-income RHNA based on State law. Pursuant to Government Code Section 65583.2(c)(3)(B), local governments may utilize "default" density standards to provide evidence that "appropriate zoning" is in place to support the development of housing for very-low and low-income households. The default density standard for Cupertino and other suburban jurisdictions in Santa Clara County is 20 dwelling units per acre (DUA) or more.
- (f) Realistic capacity for sites B1 and B5 represent net new units.

Source: City of Cupertino, 2014

Figure 10– “Table 5.5: Summary of Priority Housing Sites – Scenario B”

Scenario B more equitably spreads housing across the city and results in some positive consequences and emergency shelter potentials. There also appears to be a RHNA surplus of +384 generated by this Scenario alternative.

| Table 5.6: Comparison of Sites and RHNA - Scenario B | | | |
|--|--------------|----------------|-------------------------|
| Income Category | Sites | Remaining RHNA | Surplus/ Shortfall(+/-) |
| Extremely Low and Very Low | 1,386 | 356 | |
| Low | -- | 207 | |
| Moderate | -- | 196 | |
| Above Moderate | -- | 243 | |
| Total | 1,386 | 1,002 | +384 |

Source: City of Cupertino, 2014

As discussed in the Needs Assessment, the 2013 Santa Clara County Homeless Survey identified 112 homeless individuals on the streets and in emergency shelters, transitional housing, and domestic violence shelters in the city of Cupertino. The homeless facilities in Cupertino have a capacity to house 20 individuals. As a result, there is a need to accommodate at least 92 more homeless individuals in the City.

There are several underutilized parcels within the BQ zone that could accommodate a permanent emergency shelter that serves 92 or more individuals. In particular, a number of churches in BQ zones own more land than they currently use. Surplus lands owned by churches include large parking lots and recreational spaces like fields and tennis courts. There are at least five parcels with approximately 154,000 square feet of vacant land in the BQ zone that could accommodate a permanent emergency shelter. These sites range from 19,000 square feet to 50,000 square feet, with an average lot size of 31,000 square feet. Parcels of this size would be able to accommodate a permanent emergency shelter that meets the needs of Cupertino.

Those parcels with surplus land area in the BQ zone are primarily located on or near Cupertino's main arterial corridors, providing for easy access to public transportation and essential services. In total, 12 bus lines and 131

Figure 11 – Scenario B, the Alternative

Insufficient and Conflicting Information Presented in NOP EIR Scoping Meeting, with Infeasible “Proposed Project” due to Inconsistency with General Plan & Initiative Vote Results

Consistency Requirement with the General Plan

The Specific Plan must be consistent with the General Plan by law.

[Ca GC 65450-65457:](#)

(b) The specific plan shall include a statement of the relationship of the specific plan to the general plan.

http://www.opr.ca.gov/docs/specific_plans.pdf

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65451.&lawCode=GOV

A project that is inconsistent with an applicable General Plan or subsidiary land use plan may not be approved without an amendment to the Plan or a variance. See Gov't Code § 65860. Where a project conflicts with even a single general plan policy, its approval may be reversed. *San Bernardino County Audubon Society, Inc. v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 753; *Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors of El Dorado County* (1998) 62 Cal.App.4th 1334, 1341. Consistency demands that a project both "further the objectives and policies of the general plan and not obstruct their attainment." *Families*, 62 Cal.App.4th at 1336; see *Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 378. Accordingly, where a project opponent alleges that a project conflicts with plan policies, a court need not find an "outright conflict." *Napa Citizens* at 379. "The proper question is whether development of the [project] is compatible with and will not frustrate the General Plan's goals and policies ... without definite affirmative commitments to mitigate the adverse effect or effects." *Id.*

Proposed Project and Project Alternatives:

A resident of Cupertino spoke to the Fehr + Peers representative during the EIR Scoping Meeting February 22, 2018 regarding the ‘housing heavy’ option and was told that option would have “around 4,000 units.” During the slide show presentation the following slides were shown for the project and the alternatives:

Proposed Project:

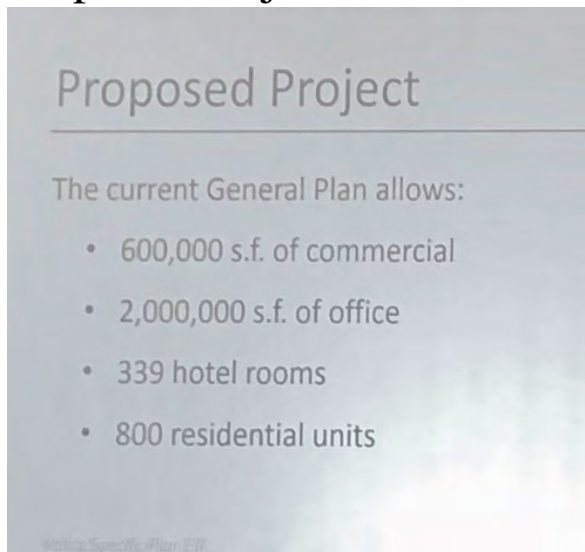


Figure 12

Figure 2

During the presentation, recorded here: https://youtu.be/kb89Oh1WU_0 The “Proposed Project”, Figure 12, was listed as:

Proposed Project:

- 600,000 S.F. of commercial
- 2,000,000 SF office
- 339 hotel rooms
- 800 residential units

The General Plan refers to Vallco Shopping District as: "... a vibrant mixed-use "town center" that is a focal point for regional visitors and the community. This new Vallco Shopping District will become a destination for shopping, dining and entertainment in the Santa Clara Valley."

The Square footage amounts would result in primarily office, then residential, then commercial, then hotel: 2,000,000 SF, approximately 961,622 SF (using the Measure D Initiative Square Footage for then proposed 800 units as listed in the "Vallco Specific Plan Initiative Environmental Assessment," 600,000 SF retail, and approximately 500,000 SF hotel. The hotel total is approximate due to part of the hotel allotment being currently under construction at Hyatt House and 277,332 SF of hotel was mentioned in the Vallco Specific Plan Initiative Environmental Assessment for the remaining 191 hotel rooms available in the allotments.

The "Proposed Project" would result in an even smaller percentage of retail than the failed Measure D percentage: 16%.

There appears to be no City Council support for 2 million SF of office at Vallco. As stated earlier, the EIR may be stopped, and the reason to stop it would be that it is both inconsistent with the General Plan, and has insufficient support from the city leaders or the community.

Retail has definite requiring language regarding Vallco. None of the other parts have more than "encourage". Residential says "allow". The Land use portion language is not solidly stating anything is required except for retail. Following this logic, having the 2 Million SF office allotment is inconsistent with the GP language because building that would cause the site to be an office destination with some retail.

The GP EIR studied 600,000 SF retail, 2 Million SF office, 800 residential units, and 339 hotel rooms. The adopted Scenario A in the GP has 389 units. 35 DU/Ac was not an allotment but a density maximum for the 389 units on the site in those parts of the mixed use area which would allow housing. Alternative Scenario B has no housing at Vallco. The Housing Element supports that Vallco could have 389 units, and refers to those unit quantities as "realistic capacity" in Table HE-5 (above).

The General Plan adopted "Scenario A" allotments for Vallco and stated that it would fall to Scenario B should a Specific Plan not be adopted by May 31, 2018.

As shown in the above section "General Plan Directive to Create a Vallco Shopping District Specific Plan", Vallco was never shown in any portion of the General Plan having more than 339 residential units.

A reasonable person ("reasonable person" from: http://www.opr.ca.gov/docs/specific_plans.pdf) would conclude that Vallco was never intended to be a heavy housing site and the General Plan provided Scenario B with other sites available for housing with **zero housing at Vallco**. The Vallco site was described in the General Plan as: "... a vibrant mixed-use "town center" that is a focal point for regional visitors and the community. This new Vallco Shopping District will become a destination for shopping, dining and entertainment in the Santa Clara Valley." While the Vallco owner may wish for something else, that would have to follow a different process such as a General Plan Amendment.

The goals, policies, and strategies to achieve this vision in the General Plan Land Use section support residential as subordinate to other uses.

Additionally, the 2 million SF of office completely *frustrates* the General Plan Housing Element Goal of providing adequate housing by generating an excess of employment. 2 million SF of office space would result in 1 employee per 300 SF or 6,667 new employees which far exceeds the number of residential units being studied. This is a project adjacent to 14,200 employees expected at Apple Park which has no onsite housing and 942 residential units planned in an expanded Hamptons complex, increased that complex by 600 residential units. This explains why there is scant support for 2 million SF of office at Vallco.

While Sand Hill requested that a much denser housing option be studied at Vallco, and that a mix between Measure D and a housing heavy option also be studied, neither of these options are consistent with the General Plan nor do they lessen the impacts of the “Proposed Project” which is a CEQA requirement.

Attempting to include a reallocation of allotments in and among other sites is beyond the scope of a Vallco Specific Plan and the General Plan. When office or any other allotment is pulled from the General Plan and placed in the city "pool" it results in an alteration of the General Plan. These options were not studied in the General Plan EIR.

Alternatives to Project:

“The California Environmental Quality Act (CEQA), Section 15126.6, requires an Environmental Impact Report (EIR) to describe a reasonable range of alternatives to a Project or to the location of a Project which **could feasibly attain its basic objectives but would avoid or substantially lessen any of the significant effects of the project**, and evaluate the comparative merits of the alternatives.”

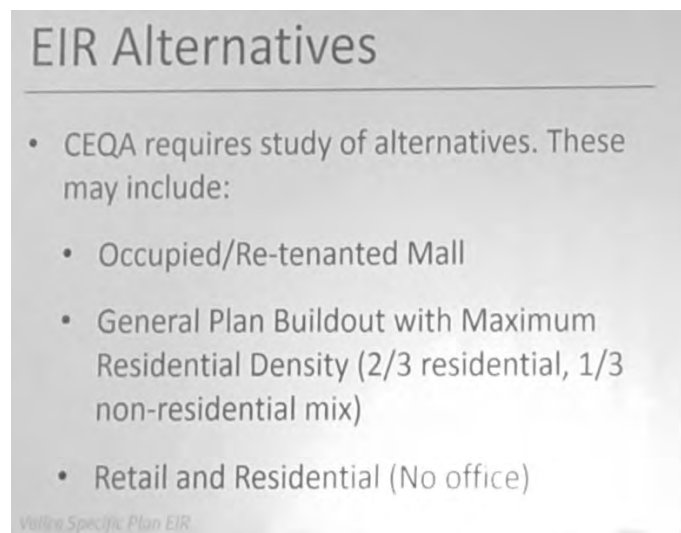


Figure 13

The EIR Alternatives were listed as:

- Occupied Re-Tenanted Mall
- General Plan Buildout with Maximum Residential Density (2/3 residential, 1/3 non-residential mix)
- Retail and Residential (No office)

Occupied/Re-tenanted Mall is Not “No Project”

CEQA alternatives require the “no project” alternative:

“NO PROJECT ALTERNATIVE CEQA Guidelines section 15126.6(e) requires that an EIR evaluate a “No Project” alternative. The purpose of this alternative is to “allow decision-makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project.” This alternative analysis compares the environmental effects of the project site remaining in its existing condition against environmental effects that would occur if the proposed project were approved.”

The mall has been gradually closed by the owners over the past few years, most recently announcing the departure of AMC theaters. The occupancy rate of the mall in 2014 was 66% according to Appendix 7 Table 2 City of Cupertino 9212 Report for Vallco Specific Plan ‘Measure D’ and had taxable sales of \$99,060,000 based on actual performance. AMC will close in March, 2018. (Traffic analysis must occur after their departure.)

A “re-tenanted mall” would be an alternative apart from and substantially different to “no project” since the mall has been largely shuttered and the owner has allowed other uses: automobile dealership car storage, Genentech and other shuttle bus commuter parking and transit pickup on the site, with Bay Club gym, Bowlmor lanes, the ice rink, Dynasty restaurant, and new remodeling of the Food Court for Fremont Union High School District classroom use either remaining or upcoming. These conditions are “no project”, not a re-tenanted mall. A re-tenanted mall would be a fourth alternative to project.

Alternative B is Not Consistent with the General Plan

The second alternative on the EIR Alternatives Slide, Figure 2, “Alternative B” was described as “General Plan Buildout with Maximum Residential density (2/3 residential, 1/3 non-residential mix)” At 8:48 in the recording, linked above, it was stated that the residential *‘may have approximately 2,600 to 2,640 residential units in addition to office and retail and hotel space’*. This alternative is inconsistent with the General Plan.

Vallco Shopping District in no part of the General Plan was ever described as a housing complex nor were housing totals ever in any vicinity of these amounts. The General Plan consistently shows 389 residential units as the realistic capacity any only by inference could a higher capacity

of 457.6 residential units be determined. When I attended the meeting, I did not hear the residential densities spoken and only learned of them through a news blog. In no mailings were these quantities given, and they are not listed on the city website. This is insufficient information describing the project since the slide shows no proposed sizes or any information as to what the non-residential mix could possibly have in it. Given the abundance of office at Apple Park (3.7 million SF with expected 14,200 employees), the variations in “the mix” can cause huge environmental impacts.

A reasonable person would find this proposed alternative ‘housing heavy’ option not consistent with the general plan.

Alternative C is Insufficiently Described – May be inconsistent

Lastly, the third alternative was listed as “Retail and Residential (No office).” This alternative, “Alternative C,” had no quantity either on the slide or spoken about for either retail or residential and omits the hotel room and office allotments from the General Plan.

This proposed alternative ‘retail and residential’ is described too insufficiently to determine if it could potentially avoid or substantially lessen any of the significant negative effects of the “Proposed Project”, or not.

Conclusions:

1. The “Proposed Project” does not appear to be consistent with the General Plan because it is an office park with over 84% non-retail use when the project is detailed as the “Vallco Shopping District.”
2. The “Proposed Project” frustrates the General Plan goal to balance employment with housing by providing a gross excess of jobs to housing.
3. Cupertino Ballot Measure D, a similar proposal to “Proposed Project”, was placed before voters and was rejected 55%. This project, with the high office square footage has scant support and would likely be rejected by City Council.
4. “No Project” would be a fourth alternative, Occupied/Re-tenanted mall is not the same as “No Project”
5. Alternative B, with conflicting 2,600-4,000 residential units, is inconstant with the General Plan.
6. Alternative C is too insufficiently described to determine if is consistent with the General Plan. Portions of the mixed uses were eliminated, which seems inconsistent.
7. For the above reasons, the EIR process must be halted for a replacement “Proposed Project” which is consistent with the General Plan.

Table of Proposed Project and Alternatives:

| Alternative | Retail | Office | Residential | Hotel |
|--|--|--|---|--|
| Proposed Project | 600,000 SF | 2,000,000 SF | 800 units | 339 hotel rooms |
| Alternative A: Occupied/ Re-tenanted mall | 1,207,774 SF | (25% of total Allowed in retail) | 0 units | 148 hotel rooms (Hyatt House) |
| Alternative B: (2/3 residential, 1/3 non- residential mix) | Unknown. General Plan states 600,000 SF Min. | Unknown. General Plan states no minimum | Unclear: 2,600- 4,000 units. General Plan shows realistic capacity: 389 units. | 148 min.-339 maximum hotel rooms |
| Alternative C: Retail and Residential (no office) | No amount stated: General Plan states 600,000 SF minimum, 30% maximum may be entertainment. Buildout amount is 1,207,774 SF, (assumed maximum) | 0 office | No amount stated, General Plan realistic capacity: 389 units | 148 min.-339 maximum hotel rooms |
| Alternative D: No Project (CEQA Requirement) | Approximately 400,000 SF currently occupied out of 1,207,774 SF total | 0 office | 0 units | 148 hotel rooms (Hyatt House) |

Comments For Environmental Impact Report Given Proposed Project and Alternatives A-D

I. Proposed Project EIR Topics and Problems

- a. Proposed Project is inconsistent with the General Plan.
 - i. Proposed Project is not a “...destination for shopping, dining, and entertainment...” as described in the [General Plan Land Use and Community Design Element](#). The site is not described as being for a “Major Employer” under the “Major Employer” definition.
 - ii. Proposed Project frustrates the [General Plan Housing Element](#) Goals and policies to provide adequate housing by creating over 6,667 new jobs and providing 800 residential units.
 - iii. EIR Proposed Projects must be consistent with the General Plan. Infeasibility is a measurement of consistency. Measure D, with 640,000 SF retail, 2,000,000 SF office, 800 residential units, and 339 hotel rooms was opposed by 55% in the November 8, 2016 vote. This Proposed Project has inadequate support for the office quantity. The EIR should be stopped for a replacement “Proposed Project” consistent with the General Plan and feasible.
- b. Proposed Project will cause significant and unavoidable impacts to traffic. See General Plan 2040 EIR, excerpts are included in the Appendix, Traffic Studies section. The impacts are primarily on the east side of Cupertino compounding the effects of Apple Park when it fully occupies with 14,200 employees.
 - i. Multiple projects including 239 acre “City Place” in Santa Clara, Valley Fair Expansion, Google in Mountain View and Diridon Station have added tens of thousands of employees which were not studied nor anticipated in the EIR. The EIR for “City Place” indicates impacts into the Cupertino area and must be reviewed for the current “Proposed Project” EIR
 - ii. San Jose’s Envision 2040 EIR showed they would impact 73% of vehicle lane miles in Cupertino. This was not studied in the Cupertino General Plan 2040 EIR and must be included in the “Proposed Project” EIR.
 - iii. Stevens Creek Urban Village has been approved. See Appendix “Stevens Creek Urban Village Overview” for details and overlap of that project and impacts on Cupertino
 1. Existing Conditions: 1,624 dwelling units, 1.6 million SF commercial space, the city of San Jose assumed 5,281 current jobs.
 2. Proposed increases: 3,860 dwelling units which could end up with an actual wide range of outcomes because NONE of their land use definitions have definite housing requirements and their General Plan had MAXIMUM housing not minimum. Stevens Creek Urban Village (“SCUV”) was to be a commercial area primarily, born out of the Great Recession need for jobs. Jobs: 4,500 jobs.

3. Stevens Creek Urban Village is approximately 3 miles long and is only the South Side of Stevens Creek Boulevard
4. Students would need to be relocated from Cupertino High School which is at capacity. The bus line currently has a simple east-west route for these students currently in the SCUUV area. Traffic impacts due to relocation, air quality impacts from students in routes requiring a bus change or now needing to drive must be studied along with students displaced by the “Proposed Project”
- iv. Impacts of Apple Park’s bus service must be included. The parking shortfall in Apple Park will require an approximate 3,500 employee increase in ridership over the 1,600 employee riders which were last reported using the private shuttle system. 10% of Apple employees live in Cupertino according to their DEIR for Apple Campus 2.
- v. Various different percentages of uses must be studied separately with a comparison chart of expected traffic daily trips. For instance, expect a maximum amount of restaurants like Main Street Cupertino, which is about 65% restaurants. A gym, movie theater, bowling alley, regulation size hockey rink (tournament potential), wedding banquet hall, all generate different amounts of traffic. The previous Environment Study for Measure D lumped all uses under “retail” which results in a low total. This would be unacceptable.
- vi. Baseline Counts: baseline counts for the project have definite requirements under CEQA. The previous Environmental Study for Measure D calculated assumed baseline traffic generated using an assumed mall occupancy of 83% which was not true at the time of the study. AMC has a departure date in March 2018. Tube counts for baseline could be needed after they close because that is the new “No Project” condition. Any disallowed uses at the mall should not be included in current traffic counts but removed.
- vii. Traffic impacts from student generation in “Proposed Project” must be studied. “Butcher’s Corner’s” project at Wolfe Rd. and El Camino Boulevard in Sunnyvale has units with 5 bedrooms. Main Street Cupertino has one bedroom units over 1,750 SF. Student generation rates from large apartments would be very high and will need to hold up to scrutiny.
 - a. [Part H. District Student Yield Factor \(To be completed by school districts only.\)](#) Report the district’s Student Yield Factor as defined in Section 1859.2, if different than the statewide average Student Yield Factors. The statewide average Student Yield Factors are as follows:
 - b. Elementary School District 0.5 students per dwelling unit
 High School District 0.2 students per dwelling unit
 Unified School District 0.7

students per dwelling unit Should the district wish to use its own Student Yield Factor, **a copy of the district's study that justifies the Student Yield Factor** must be submitted with this form. Please see the General Information section for additional instructions.

- c. Cupertino Union School District's report of student generation rates do not hold up to scrutiny because low student apartments, and those near heavy current or future construction were selected: projecting the Hills at Vallco (same 800 units as "Proposed Project"):
 - i. Elementary (K-5): 0.19
 - ii. Middle (6-8): 0.09
 - iii. High School (FUHSD): 0.06
 - iv. New SGRs must be calculated using the Gateway/Archstone Apartments and even apartments along Stevens Creek Boulevard in the SCUUV area which better reflect student generation potentials, particularly if low income housing is offered making the apartments very attractive to families.
- d. SB 50 allows for various impacts to be studied from a development which impacts schools. The application of SB 50 is explained by attorneys retained by the city here:
 - i. <https://cupertino.legistar.com/View.ashx?M=F&ID=3388406&GUID=EC84D162-9D05-4EF3-8EFC-BDC6CC2B517C>
 - ii. "Therefore, a lead agency may consider, in an EIR, among other factors the following impacts potentially caused by school expansion or construction:
 1. traffic impacts associated with more students traveling to school;
 2. dust and noise from construction of new or expanded school facilities;
 3. effects of construction of additional school facilities (temporary or permanent) on wildlife at the construction site
 4. effects of construction of additional school facilities on air quality;
 5. other "indirect effects" as defined by CEQA Guidelines § 15258 (a)(2)

(growth-inducing effects, changes in pattern of land use and population density, related effects on air and water and other natural systems). See *Chawanakee Unified School District*, 196 Cal. App. 4th at 1029.

- c. Proposed Project has no height limits which can cause multiple effects, 160' is the assumed height. See Appendix, "Letters to and from City and Developer".
 - i. Study shadows in a methodology equally stringent to Berkeley's Shadow study requirements. Times to study are based on sunrise and sunset, not 9am, 4 pm for example. Any rooftop amenities will be shown in the shadows including any rooftop landscaping or air conditioning. Renderings showing the site line blockage from the structures obstructing views from across the I-280 of the surrounding hills must be presented. Shadows cast onto the surrounding neighborhoods, likely shadows during evenings within the project. Temperature drops expected relative to non shaded areas.
 - ii. Hyatt House hotel had a planned in-ground pool which may have months without sunlight due to "Proposed Project" shadows.
 - iii. Apple Park issues in their comment letter to City, regarding the DEIR for the General Plan, in Appendix, must be addressed for the "Proposed Project":
 - 1. Shadow sensitive areas
 - 2. Light intrusion and glare
 - 3. Preserve hillside views
 - 4. Privacy and security needs (due to heights allowing a view in to the buildings)
 - 5. Having suitable setbacks and buffers
 - 6. Protect neighbor's privacy
 - 7. "Placing 85-foot residential towers immediately adjacent to Apple Campus 2 poses the same security concerns as a trail through the site." (Then surely a 160' Vallco campus would result in the same security concern.)
- d. Proposed Project will have impacts to air quality
 - i. CEQA Article 9, Section 15125(d) allows us to ask that the EIR cover any inconsistencies between the Vallco Specific Plan and these plans.:
 - 1. <https://www.arb.ca.gov/planning/plan01/planjan02.pdf>
 - 2. https://www.arb.ca.gov/cc/scopingplan/scoping_plan_2017.pdf
 - 3. http://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-proposed-final-cap-vol-1-pdf.pdf?la=en
 - 4. Cover any inconsistencies between these above plans. CEQA Article 9, Section 15125(d): (d) *The EIR shall discuss any*

inconsistencies between the proposed project and applicable general plans and regional plans. Such regional plans include, but are not limited to, the applicable air quality attainment or maintenance plan or State Implementation Plan, area-wide waste treatment and water quality control plans, regional transportation plans, regional housing allocation plans, habitat conservation plans, natural community conservation plans and regional land use plans for the protection of the Coastal Zone, Lake Tahoe Basin, San Francisco Bay, and Santa Monica Mountain

5. The above discrepancies could include, among other things:
 - a. Environmental Justice Principles (placing low income renters or seniors next to a freeway)
 - b. Sound Understanding of Health Effects
 - c. Reduce or Eliminate Disproportionate Pollution Impacts – this project concentrates them, along with Apple Park, Main Street Cupertino, Hyatt House to one part of Cupertino disproportionately.
 - d. Clean Air
 - e. Clean Water
 - f. Communities free from Toxic risk.
6. Impacts to Air Quality were discussed in the General Plan Amendment process:
 - a. Significant unavoidable impacts start on I-13.
 - i. “Impact AQ-1: Implementation of the Project would conflict with or obstruct implementation of the applicable air quality plan. The Final EIR finds that while the Project would support the primary goals of the 2010 Bay Area Clean Air Plan, the buildout of the Project would conflict with the BAAQMD Bay Area Clean Air Plan goal for community-wide VMT to increase at a slower rate compared to population and employment growth. The rate of growth in VMT would exceed the rate of population and employment growth, resulting in a substantial increase in regional criteria air pollutant emissions in Cupertino. **There are no mitigation measures to reduce this impact to a less-than-significant level.** Policies and development standards in the Project would lessen the impact, but due to the level of growth forecast in the city and the programmatic nature of the Project, the impact would be significant and unavoidable.”

- ii. <https://cupertino.legistar.com/View.ashx?M=F&ID=3388394&GUID=40D6F528-734D-4726-A2F9-A91F34952C3E>
 - iii. The GHG lawsuit in San Jose should be reviewed for applicability in Cupertino. Air Quality GHG Writ of Mandate must be adhered to regarding San Jose's Envision 2040 EIR:
[https://d3n8a8pro7vhmx.cloudfront.net/cleanenergy/pages/22/attachments/original/1426349313/Order Re Petition for Writ of Mandate.pdf?1426349313](https://d3n8a8pro7vhmx.cloudfront.net/cleanenergy/pages/22/attachments/original/1426349313/Order_Re_Petition_for_Writ_of_Mandate.pdf?1426349313) “CCEC has argued (and the City did not dispute the calculations) that if present emissions data is compared to that allowed by the proposed General Plan update as required by Guidelines § 15064.4, GHG emissions will increase by 2.7 MNT or 36 percent by 2020 (from the approximate 2008 figure of 7.6 to the estimated 10.3). This is "substantially different information" that was not provided to the public. This failure to provide relevant information was prejudicial as the failure **"deprived the public and decision makers of substantial relevant information about the project's likely adverse impacts."** Smart Rail, supra, at 463.” “That said, given that the failure to state the "present" GHG emissions affects the Project baseline and all comparisons and determinations made using the baseline, and the City's stated intention to tier other projects off this defective EIR, a limited order may not be possible.”
- b. Impacts to air quality due to placement of the project on a major east-west corridor in Silicon Valley: the I-280.
 Project will significantly slow the freeway increasing air pollution to homes which would have been in areas without stopped traffic. The I-280 pm SB traffic is stopping further and further west. Air pollution generated from slowed and stopped traffic is much higher than that of free flowing traffic. The impacts of the difference in traffic speeds must be analyzed to determine the increases above baseline to be expected.
 - c. Social Justice: The existing location of Vallco adjacent to the I-280 places project occupants within 1000' of a freeway with over 200,000 vehicles per day. If residents with an economic level below that of the average in

Cupertino are expected to live at Vallco, that would be a social justice issue. In essence placing poorer residents in harms' way intentionally. The negative effects of air pollution have been long known. It is also known that poorer people tend to have less adequate health care. Asthmatics from lower economic levels tend to end up in the emergency room and have longer hospital stays than those patients with higher levels of care. Santa Clara County has 257,000 asthmatics and asthma [costs the state of California \\$11.3 billion annually](#).

- ii. Proposed Project may trap the dispersal of freeway pollution. If the 'green roof' concept returns, it will exacerbate the dispersion of the freeway line source pollution. This would not make the site acceptable for community use or for placing low income renters which is a social justice issue.
 - iii. The green roof will need approximately 168,000 CY of soil which will need to be hauled up to areas 60'-160' up and soil will get blown to the adjacent residences.
 - iv. Old construction like Vallco will likely have asbestos, lead, vermin, unaccounted for petroleum products leakage. When these are excavated the surrounding areas will have particulate matter blown their way. The interiors should be properly demolished to contain any asbestos or other carcinogens.
- e. Proposed Project Impacts to Water usage
- i. The Water Supply Assessment, WSA, report for the Hills at Vallco assumed only 20% restaurant use while the same developer has approximately 65% restaurants at their Main Street Cupertino project. Water use for restaurants is 10 TIMES that of retail. The new WSA report must take into account the likelihood of more than 50% restaurants in their water consumption calculations and base the calculations on predictions which hold up to scrutiny.
 - ii. Existing water usage must be recalculated to account for the current gym, Dynasty restaurant, ice rink, bowling alley, upcoming FUHSD occupancy, departed AMC, and whatever uses are current. The previous WSA report can not be resubmitted without an update.
 - iii. The WSA made the assumption that no toilets or faucets had been updated from old and therefore made no reduction in their flow calculations. Then reduced all proposed amounts by 25%. When the various water using parts of the mall had been remodeled over the years all of the outdated plumbing would have had to be updated to code.
 - 1. Assumptions made in WSA: "For example, old toilets often exceed 2 gallons per flush. Later toilets use 1.6 gallons per flush. The latest water efficient toilets use only 0.6 gallons per flush. Depending on the reference toilet, the latest toilets achieve 62.5% to 70% reduction in

water use. In residential dwelling units, new dishwashers will be installed which use less water than older conventional machines, which use between 7 and 14 gallons per wash load. New water efficient dishwashers use between 4.5 and 7 gallons per wash load. Using an average of 10.5 gallons for conventional machines and 5.75 gallons for new water efficient machines results in an average savings of 4.75 gallons per load or a reduction of 45%. Showers with restricted flow heads have an average flow rate of 2.0 gallons per minute (gpm) versus conventional shower head flows of 2.5 gpm or a 20% reduction. Washing machines 18 years or older used 40 gallons per standard load versus new machines using only 13 gallons per load or a reduction of 67.5%.”

2. “Total Proposed Project estimated average daily potable water use: 597,486 gpd” – See WSD in Appendix: California SB 610 Water Supply Assessment.
 3. The WSS for Main Street Cupertino would have been incorrect because the restaurants were underreported.
- iv. Impacts to air quality from potable water treatment must be calculated for such a substantial water demand. Water treatment generates air pollution.
 - v. Impacts to air quality from recycled water treatment demand must be calculated. Wastewater treatment generates air pollution.
 - vi. Lack of recycled water supply. Tertiary treated water from the Donald Somers plant is currently insufficient. Impacts related to the need to expand the plant will include air quality impacts as well. There is not enough capacity at the Donald Somers plant to supply the Vallco “Hills” project. Should the same green roof be added to the project, there would need to be a dual water system on the roof. This is due to the need to flush the recycled water out to keep certain plants healthy. The water use from the dual roof system needs to be addressed in coordination with the arborist report for the green roof irrigation system. The roof irrigation system may need an auxiliary pump system to irrigate gardens 140-160’ in the air.
 - vii. Effects of wind and tilting the green roof towards the sun must be taken into account along with increased water needs establishing the 30 acre garden.
- f. Noise from project, project demolition, and project construction
 - i. Sound walls must be constructed to reduce noise. Unacceptable noise levels from construction were already determined from the Environmental Study for Measure D.
 - ii. Noise was inadequately studied for the interior of the project. Particularly from a social justice perspective, it is unacceptable to place low income renters in a high noise area. Likewise, seniors, and children, should not be placed in high noise areas.
 - iii. Should the roof park be part of the project, a large scale model should be built to address both noise and odors from multiple restaurants trapped under the roof. Parks are not acceptable land uses next to a freeway.

- iv. Extreme amounts of soil cut which would take several months of diesel trucks hauling the entire hill behind the JC Penney to more than two stories below the sidewalk grade on Wolfe is not environmentally sound (removing all topsoil). Here is an excerpt from the 9212 Report for Vallco Measure D:
 1. It is anticipated that approximately 2.2 million cubic yards of soil would be excavated for the proposed below-ground garages and most of the excavated soil would be hauled off-site. The applicant anticipates that the soiled hauled off-site would be used at another construction site **within 20 miles of the project site**. Some of the soil excavated is proposed to be used on the green roof and at-grade landscaped areas. It is estimated that 168,000 cubic yards of soil would need to be imported to the site.
 2. My neighbor broke her hip bicycling on Tantau because all of the spilled clay soil became unpassably slick. Her husband could barely walk on the street to come help her. That was with that project “balancing cut and fill on site” and simply needing to move soil across the street. How much air pollution would 5 months of diesel truck traffic generate? How much soil will be spilled onto the I-280 and other streets? What will the economic cost of shutting down lanes for non-stop street sweeping be? How will the trucks return to the site?
- g. Green Roof Violates city policies for parkland and may become a city financial burden and a dangerous trap for air pollution. Should the 30 acre green roof return here are some of the issues:
 - i. Common sense tells us that removing 1.2 million SF of Vallco mall and excavating up to 41’ of soil across 50 acres is not an environmentally friendly act. Unlike Apple Campus 2’s design to increase permeable surfaces, decrease their footprint, and use 100% renewable energy, Vallco plans to excavate and entomb the site in concrete.
 - ii. The 30 acre roof garden is tilted toward the sun for the hottest time of the day (afternoon). That roof soars to 160,’ the max parapet on 19,800 Wolfe Road is 61’ by comparison. It will be windy. The wind and sun (tilting it towards the sun rather than to the north) will result in higher water consumption which needs to be taken into account along with higher water needs in the first few years of plant establishment.
 - iii. Noise contours and noise compatibility with land use, do not make much of the roof area acceptable for a park (see Appendix, Future Noise Contours).
 - iv. Cupertino adopted the Community Vision 2040, Ch. 9 outlines the “Recreation, Parks, and Services Element.” Their Policy RPC-7.1 Sustainable design, is to minimize impacts, RPC-7.2 Flexibility Design, is to design for changing community needs, and RPC-7.3 Maintenance design, is to reduce maintenance.

- v. The Vallco roof violates the three City of Cupertino Parks policies listed: it is not sustainable, it is not flexible (a baseball field cannot be created), and it is extremely high maintenance. Parkland acquisition is supposed to be based on “Retaining and restoring creeks and other natural open space areas” and to “design parks to utilize natural features and the topography of the site in order to...keep maintenance costs low.”
- vi. And unfortunately for us, the city states: “If public parkland is not dedicated, require park fees based on a formula that considers the extent to which the publicly-accessible facilities meet community need.” How much will this cost the public if it is a public park?
- vii. The proposed fruits which would be grown on the roof may absorb an excess of pollutants from the freeway. Additionally, air pollution can make it harder for plants to grow well in general.
- h. Inadequate parking/Use of Mall as Park and Ride
 - i. Currently the mall is used a commuter parking lot for Genentech and others, how will the use of the site continue as a known transit center and/or as a “casual” one. There is already a parking issue at 19,800 Wolfe Road.
 1. <https://www.mercurynews.com/2017/12/22/parking-restrictions-proposed-for-front-of-cupertino-condo-complex/>
 2. Proposed Measure D had inadequate parking and would have required an extensive valet parking system to stack vehicles and would burden the city Public Works department having to review and monitor the TDM program. This is unacceptable. Parking must be adequate for demand without expending future city resources form Code Enforcement or Public Works reviews. What will happen to the commuters using the lots now?
 3. The current shuttle service must be studied in the traffic study including the potential for Apple employees.
 - i. Population: All current development and population increases have occurred in Cupertino east of De Anza Boulevard. Main Street Cupertino added 120 units, 19,800 Wolfe Rd. added 204 units, Hamptons Apartments will add 942 units minimum, Metropolitan added 107 units. The Proposed Project would add 800 residential units. That is 2,173 residential units within a very small area. Because there is speculation the Vallco apartments are intended for Apple employees, and there employees are 70-80% male, how will this project effect the balance of male and female residents in Cupertino, which is balanced now. What future effects on the population of children can we expect? If traffic assumptions were made expecting Apple employees at Vallco, what happens when they move? Traffic study assumptions must hold up to scrutiny.
 - j. Soil Contamination:

- i. there was a petroleum distillate plume at the intersection of Wolfe and Stevens Creek which extended onto the Vallco site, SE corner. Please research this.
 - ii. 19,333 Vallco Parkway is prohibited from having housing. Verify the soil contamination is not under the parking garage adjacent to this site at Vallco.
 - iii. The following sites have had/may have contamination, and must be remediated:
 - 1. J.C. PENNEY (T0608500770)
 - 2. SEARS AUTOMOTIVE CENTER (T0608552828)
 - 3. FORMER TANDEM / APPLE (T10000000740)
 - 4. TOSCO #11220 (T0608575840)
 - 5. MOBIL (T0608500926)
 - 6. SHELL (T0608501269)
 - iv. The Vallco site was historically an orchard. Area orchards were treated with arsenic and lead arsenate. Orchards typically would have a UST for onsite gas filling of farm equipment. Thoroughly research the potential for soil contamination and report during excavation. Main Street Cupertino had to 'haul off contaminated soil' but the only record was verbal.
 - v. Potential for contamination from HVAC systems to soil.
- k. Groundwater
 - i. Proposed Project covers nearly the entire site in impermeable concrete. If cisterns are built for groundwater recharge, their sizing must hold up to scrutiny which will be very difficult. If the green roof is built, fertilizer contamination may result.
- l. Hydrology
 - i. Proposed Project increases impermeable areas which is contrary to best practices. Runoff must account for planters over concrete which would increase runoff. If the green roof structure is built, the slope and soil depth must be taken into consideration when calculating runoff, because both will increase runoff amounts and require larger pipe sizing.
- m. Storm Drains
 - i. Determine whether existing storm drains are adequate using the above mentioned hydrology calculations. Show both with and without the green roof scenarios.
- n. Sewage System
 - i. Current system is likely inadequate. What traffic impacts would be expected from mitigating the sewage system. The Sewage treatment plant capacity must be re-analyzed with all of the earlier mentioned large developments which will impact it.

- o. Thresholds and standards for the determination of impact significance must be characterized and justified. Individual components must also be aggregated to see if their

cumulative effects are significant. Indirect effects that are reasonably foreseen must likewise be addressed.

II. Alternative A: Occupied/Re-tenanted Mall

- a. The current mall would likely require some inspections because it has been closed up. If the WSA report was correct in their assumption that all water usage at the current mall is old style high flow, then all of the fixtures should be replaced as a condition for re-occupancy. Whatever remodeling may take place for the mall would need permits, as part of that permitting process, a traffic study would need to be performed. My assertion is that to study the mall fully occupied or with over 95% occupancy would be a different alternative from the required “no project.”

III. Alternative B: 2/3 residential, 1/3 non-residential mix.

- a. This alternative is inconsistent with the General Plan as stated earlier. It should not be studied because it is an infeasible alternative.
- b. All of the above mentioned comments for “Proposed Project” apply to Alternative B.
- c. **Social Justice Issues are magnified** under Alternative B:
 - i. Social Justice: The existing location of Vallco adjacent to the I-280 places project occupants within 1000’ of a freeway with over 200,000 vehicles per day. If residents with an economic level below that of the average in Cupertino are expected to live at Vallco, that would be a social justice issue. In essence placing poorer residents in harms’ way intentionally. The negative effects of air pollution have been long known. It is also known that poorer people tend to have less adequate health care. Asthmatics from lower economic levels tend to end up in the emergency room and have longer hospital stays than those patients with higher levels of care. Santa Clara County has 257,000 asthmatics and asthma costs the state of California \$11.3 billion annually.
 - ii. Proposed Project may trap the dispersal of freeway pollution. If the ‘green roof’ concept returns, it will exacerbate the dispersion of the freeway line source pollution. This would not make the site acceptable for community use or for placing low income renters which is a social justice issue.
 - iii. This many units adjacent to the freeway would inevitably place vulnerable populations in harm’s way due to poor air quality. This Alternative will likewise require similar building masses as “Proposed Project”. These large building masses may block air flow. Combined with urban street traffic within the street grid, and proposed underground parking in two levels, the air quality will be unacceptable. Ventilation will be problematic. Should the green roof be placed over these residents this

could be disastrous. HEPA filtration, should it be used, does not block VOC's.

- d. Alternative B, imbalances to population. Apple has a 70-80% male workforce. If the intention is to populate the residential units with Apple employees we can expect a similar gender ratio. This may result in an 11 % increase in the male population of Cupertino. This is a significant impact which could alter whatever other uses are proposed. Should the employees leave Apple, traffic would be worsened. Traffic analysis should study a wide range of residency outcomes. The Alternative gave no estimates as to residential unit size. Consider any options such as family size apartments or micro-apartments. Employment centers both near and far. School impacts, as listed above for Proposed Project, for the potential of a massive amount of students, must be studied. Results and SGR's must stand up to scrutiny.

IV. Alternative C: Retail and Residential (no office)

- a. This alternative ignores the hotel.
- b. There is not enough information to speculate how much retail or residential they are attempting. The realistic capacity is 389 residential units and retail maximum is 1.2 million SF. This project would result in tearing down the mall structure to create the grid layout for the Specific Plan. (see Proposed Project for all comments and apply here).
- c. This could result in residents who would have been shopping in an enclosed mall now in a street grid. Because the structures would potentially be lower, the air pollution could dissipate more rapidly. There are too many missing variables to speculate.
- d. Placement of the residential units would need to be away from the freeway and other major streets (Wolfe Road and Stevens Creek Boulevard are over 30,000 vehicles per day).
- e. While not having office helps meet the housing goals better, the types of retail would need to be addressed. This matters for traffic (retail generating ¼ the traffic of a restaurant, and retail generates 1/10th the traffic of a fast food restaurant). Should the proposed regulation sized ice rink be built, that could have pre-dawn skaters, so the placement of that and parking would best be away from residents.
- f. If, referring back to CEQA and the need to present alternatives to project "which could feasibly attain its basic objectives but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives."
 - i. this option would need to have less impacts than Proposed Project, and still be compliant. That would be 1.2 million SF retail maximum and 389 units residential. 30% of retail could be entertainment: 360,000 SF. It is possible it will have less impacts and could be compliant with the General Plan. However, since the Proposed Project is infeasible and inconsistent. This exercise has been moot.

RESOLUTION NO. 14-210

OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
CERTIFYING AN ENVIRONMENTAL IMPACT REPORT FOR THE GENERAL PLAN
AMENDMENT, HOUSING ELEMENT UPDATE, AND ASSOCIATED REZONING PROJECT;
AND ADOPTING FINDINGS AND A STATEMENT OF OVERRIDING CONSIDERATIONS,
MITIGATION MEASURES, AND A MITIGATION MONITORING AND REPORTING
PROGRAM

SECTION I: PROJECT DESCRIPTION

Application No: EA-2013-03
Applicant: City of Cupertino
Location: Citywide

SECTION II: ENVIRONMENTAL REVIEW PROCESS

WHEREAS pursuant to City Council direction to initiate a project to replenish, reallocate and increase citywide development allocations in order to plan for anticipated future development activity while keeping with the community's character, goals, and objectives, and to consolidate development requests by several property owners for amendments to the General Plan, both under a comprehensive community vision, and

WHEREAS, pursuant to State Housing Law, the City Council has directed staff to update the Housing Element of the General Plan and make associated zoning amendments to comply with State Law; and

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970 (Public Resources Code Section 21000 *et seq.*) ("CEQA") and the State CEQA Guidelines (Title 14, Sections 15000 *et seq.* of the California Code of Regulations) ("CEQA Guidelines"), the City of Cupertino as lead agency caused the General Plan Amendment, Housing Element Update and Associated Rezoning Final Environmental Impact Report (SCH#20140322007) ("EIR") to be prepared; and

WHEREAS, on March 5, 2014, the City issued Notice of Preparation for the EIR for the Project. A scoping session was held on March 11, 2014 to provide the public the opportunity to comment on the topics to be studied in the Draft Environmental Impact Report ("Draft EIR"). Public comments were collected through the scoping period's conclusion on April 7, 2014; and

WHEREAS, from April 8, 2014 to June 17, 2014, the City prepared a Draft EIR pursuant to the requirements of CEQA and the CEQA Guidelines; and

WHEREAS, the Draft EIR was released for a 45-day public review/comment period beginning on June 18, 2014 and ending August 1, 2014; and

WHEREAS, the Notice of Completion of the Draft EIR was sent to the State Clearinghouse in the Governor's Office of Planning and Research on June 18, 2014 under State Clearinghouse No.

2014032007, and the Notice of Availability was filed with the Santa Clara County Clerk-Recorder on the same day and was also: (1) sent to other potentially affected agencies as required by CEQA; (2) sent to adjacent property owners as required by CEQA; and (3) posted at the Project site and at City Hall; and

WHEREAS, on June 24, 2014, the City held a duly noticed public meeting during the public comment period on the Draft EIR to allow the public an additional opportunity to provide input on the DEIR and received public testimony; and

WHEREAS, following the close of the public review and comment period on the Draft EIR, responses to written comments concerning the adequacy of the DEIR received during the public review and comment period have been prepared and compiled in the Response to Comments Document, which includes revisions to the DEIR ("RTC Document"); and

WHEREAS, the RTC Document was issued on August 28, 2014 and notice of availability was sent to the Santa Clara County Clerk Recorder's Office, posted at City Hall and the Project site, and sent to 10 local libraries and interested persons registered through the project website; and

WHEREAS, copies of the RTC Document were sent to all public agencies that commented on the Draft EIR; and

WHEREAS, the City received comments on the Draft EIR following the close of the public review and comment period ("Late Comments") and, although pursuant to Public Resources Code Section 21091(d)(1) and CEQA Guidelines Section 15088(a) written responses are not required, responses to Late Comments have been provided with staff reports; and

WHEREAS, pursuant to Cupertino Municipal Code Section 2.86.100, the Housing Commission is authorized to assist the Planning Commission and the City Council in developing housing policies and strategies for implementation of general plan housing element goals; and

WHEREAS, the necessary public notices have been given as required by the procedural ordinances of the City of Cupertino and the Government Code, the Housing Element and proposed amendments to the Cupertino Municipal Code pertaining to housing and affordable housing, were presented to the Housing Commission at a public hearing on August 28, 2014; and

WHEREAS, on August 28, 2014, the Housing Commission recommended that the City Council authorize staff to forward the Draft Housing Element to the State Department of Housing and Community Development (HCD) and use the High-Low prioritization of Potential Housing Element Sites;

WHEREAS, the necessary public notices have been given as required by the procedural ordinances of the City of Cupertino and the Government Code, the Draft EIR, the RTC Document, and all documents incorporated therein were presented to the Planning Commission on September 9, 2014 at a Planning Commission Study Session; and

WHEREAS, on October 2, 2014, City Staff presented the Draft EIR and the RTC Document, and all documents incorporated therein, to the Environmental Review Committee ("ERC") for

review and recommendation. After considering the documents, and Staff's presentation, the ERC recommended that the City of Cupertino City Council approve the Project; and

WHEREAS, Supplemental Text Revisions to the General Plan Amendment, Housing Element Update and Associated Rezoning, which is part of the Final EIR, identifies revisions which are typographical corrections, insignificant modifications, amplifications and clarifications of the Draft EIR and the RTC Document; and

WHEREAS, the "Final EIR" consisting of the Draft EIR (published in June 2013), the RTC Document (published in September 2013), and Supplemental Text Revisions (published October 8, 2014) and all documents incorporated therein was presented to the City Council on October 7, 2014 at a City Council Study Session; and

WHEREAS, the necessary public notices have been given as required by the procedural ordinances of the City of Cupertino and the Government Code, and the Planning Commission held public hearings on October 14, 2014 and October 20, 2014 to consider the project; and

WHEREAS, on October 20, 2014, the Planning Commission recommended on a 4-0-1 (Takahashi absent) vote that the City Council certify that the Final EIR has been completed in compliance with the California Environmental Quality Act, Public Resources Code Section 21000 *et seq.*, and reflects the independent judgment and analysis of the City, adopt the Findings and Statement of Overriding Considerations, and adopt the Mitigation Measures and adopt the Mitigation Monitoring and Reporting Program, in substantially similar form to the Resolution presented (Resolution no. 6760); adopt the General Plan Amendment (GPA-2013-01) (Resolution no. 6761); authorize staff to forward the Draft Housing Element to the State Department of Housing and Community Development for review and certification (GPA-2013-02); approve the prioritized list of potential Housing Element sites in the event amendments are needed to the proposed Housing Element sites upon HCD review (Resolution no. 6762); approve the Zoning Map Amendments, Z-2013-03, in substantially similar form to the Resolution presented (Resolution no. 6763); approve the Municipal Code Amendments to make changes to conform to the General Plan and Housing Element and other clean up text edits (MCA-2014-01) (Resolution no. 6764); approve the Specific Plan Amendments, SPA-2014-01, in substantially similar form to the Resolution presented (Resolution no. 6765); and

WHEREAS, on November 10, 2014, public comment was heard from the community;

WHEREAS, on December 2, 2014, the City Council held a duly noticed public hearing on the EIR (EA-2013-03); as well as the following concurrent Project applications: General Plan Amendment (GPA-2013-01), Housing Element update (GPA-2013-02), Zoning Map Amendment (Z-2013-01), Municipal Code Amendments (MCA-2014-01), Specific Plan Amendment (SPA-2014-01).

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of maps, facts, exhibits, testimony, staff reports, public comments, and other evidence submitted in this matter, the City Council does:

1. Certify that the Final EIR for the Project has been completed in compliance with the

California Environmental Quality Act, Public Resources Code Section 21000 et seq., and reflects the independent judgment and analysis of the City.

2. Adopt the Findings and Statement of Overriding Considerations for the Project, attached hereto as "Exhibit EA-1," and incorporated herein by reference.

3. Adopt and incorporate into the Project all of the mitigation measures for the Project that are within the responsibility and jurisdiction of the City that are identified in the Findings.

4. Adopt the Mitigation Monitoring and Reporting Program for the Project, attached hereto as "Exhibit EA-2," and incorporated herein by reference.

PASSED AND ADOPTED at a Meeting of the City Council of the City of Cupertino the 2nd day of December 2014, by the following roll call vote:

Vote: Members of the City Council:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSE:

ATTEST:

APPROVED:

Grace Schmidt
City Clerk

Mayor, City of Cupertino

EXHIBIT EA-1

**CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS
AND STATEMENT OF OVERRIDING CONSIDERATIONS FOR
GENERAL PLAN AMENDMENT, HOUSING ELEMENT UPDATE,
AND ASSOCIATED REZONING**

I. INTRODUCTION

The City of Cupertino (City), as lead agency under the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 *et seq.*, has prepared the Final Environmental Impact Report for the General Plan Amendment, Housing Element Update, And Associated Rezoning (the “Project”) (State Clearinghouse No. 2014032007) (the “Final EIR” or “EIR”). The Final EIR is a program-level EIR pursuant to Section 15168 of the State CEQA Guidelines.¹ The Final EIR consists of Volumes I and II of the June 2014 Public Review Draft Project Environmental Impact Report (the “Draft EIR”); the August 2013 Response to Comments Document; and the November 3, 2014 Supplemental Text Revisions memorandum,² which contains typographical corrections, insignificant modifications, amplifications and clarifications of the EIR.

In determining to approve the Project, which is described in more detail in Section II, below, the City makes and adopts the following findings of fact and statement of overriding considerations, and adopts and makes conditions of project approval the mitigation measures identified in the Final EIR, all based on substantial evidence in the whole record of this proceeding (administrative record). Pursuant to Section 15090(a) of the State CEQA Guidelines, the Final EIR was presented to the City Council, the City Council reviewed and considered the information contained in the Final EIR prior to making the findings in Sections II through XIII, below, and the City Council determined that the Final EIR reflects the independent judgment of the City. The conclusions presented in these findings are based on the Final EIR and other evidence in the administrative record.

II. PROJECT DESCRIPTION (the “Planning Commission Recommendation”)

As fully described in Chapter 3 of the Draft EIR, the Project involves all of the following: (1) a focused General Plan Amendment consisting of revised city-wide development allocations

¹ The State CEQA Guidelines are found at California Code of Regulations, Title 14, Section 15000 *et seq.*

² PlaceWorks, *Supplemental Text Revisions to the General Plan Amendment, Housing Element Update and Associated Rezoning Project Final Environmental Impact Report (EIR)* (November 3, 2014) (“Supplemental Text Revisions Memo”).

for office commercial, and hotel uses, as well as buildings heights and densities for Major Mixed-Use Special Areas; (2) updating the General Plan Housing Element to accommodate the Regional Housing Needs Allocation (RHNA) for the 2014-2022 planning period to meet the City's fair-share housing obligation of 1,064 units; (3) amending certain Zoning and Density Bonus portions of the City's Municipal Code to be consistent with the Housing Element and to be consistent with requirements pertaining to emergency shelters; and (4) conforming changes to the General Plan Land Use Map, Zoning Ordinance and Zoning Map for consistency and for revisions required by State law, and reorganization for purposes of increasing clarity and ease of use.

The increased development allocations would be allowed in specific locations throughout the City, which are categorized as follows and are described and depicted on figures in the EIR:

- Special Areas (including City Gateways and Nodes along major transportation corridors);
- Study Areas;
- Other Special Areas (including Neighborhoods and Non-Residential/Mixed-Use Special Areas); and
- Housing Element Sites

The buildout of the potential future development in these identified locations is based on a horizon year of 2040; therefore, the EIR analyzes growth occurring between 2014 and 2040. The 2040 horizon year is generally consistent with other key planning documents, including Plan Bay Area, which is the Bay Area's Regional Transportation Plan/ Sustainable Community Strategy to Senate Bill 375, the Sustainable Communities and Climate Protection Act.

The EIR analyzed the proposed Project (which is titled "Land Use Alternative C" in the EIR)³ and three additional alternatives (No Project Alternative, Land Use Alternative A, and Land Use Alternative B), all at the same level of detail. The Planning Commission Recommendation is for the most part a combination of Alternatives A and B. The Planning Commission Recommendation consists of development allocations that are the same or reduced from the development allocations that were analyzed in the EIR, and revisions to the prioritization of the Housing Element sites that were analyzed in the EIR along with reassignment of housing units among the Housing Element sites. On several sites/gateways, the maximum height limits are reduced or remained the same as the heights analyzed in the EIR, except at two locations where the maximum height limits are increased from 35 to 45 feet (the Glenbrook Apartments Housing Element site and the

³ Draft EIR, p. 2-5 (Table 2-1, footnote a).

Summerwinds/Granite Rock/Jack-in-the-Box Housing Element site). Residential densities also are reduced or remained the same as the densities analyzed in the EIR, except that the residential density at the Glenbrook Housing Element site are increased from 20 to 23 dwelling units per acre. The increase in the number of additional units on the Glenbrook site is limited to a maximum of 228 (100% of the remaining capacity at the site if the density is increased to 23 dwelling units per acre) to avoid increased traffic impacts. The purpose of the revisions to Alternative C in the Planning Commission Recommendation is to reduce the amount of additional office development in the City in order to reduce the regional impacts of creating jobs in Cupertino without commensurate, increased development of housing (see Section II.A, below).

A. General Plan Amendment

Every city and county in California is required to prepare and to adopt a comprehensive, long-term general plan for the physical development of the county or city and, in some cases, land outside the city or county boundaries. Government Code § 65300. The City's current, 2000-2020 General Plan controls the area and density of commercial, office, hotel, and residential uses built in the city through development allocations in terms of square feet (commercial and office), rooms (hotel), and units (residential). The allocations are geographically assigned in certain neighborhoods, commercial, and employment centers so that private development fulfills both City goals and priorities and reduces adverse impacts to the environment. The City allocates development potential on a project-by-project basis to applicants for net new office and commercial square footage, hotel rooms, and/or residential units. As a result of several recent approvals of projects, a large amount of the current office, commercial and hotel development allocation has been granted, leaving an inadequate pool to allocate to additional development in the city.

While the Project is not a complete revision of the City's 2000-2020 General Plan. The current General Plan contains many goals, policies, standards, and programs that the City and community would like to continue into the future. The Project instead focuses on identifying and analyzing potential changes along the major transportation corridors in Cupertino that have the greatest ability to evolve in the near future because the rest of the city consists primarily of single-family residential neighborhoods.

The development allocations in the Planning Commission Recommendation are as follows:

- Office allocation : 1,040,231 square feet (net increase of 500,000 square feet from the 2000-2020 General Plan)⁴

⁴ The Alternative C proposed office allocation is 4,040,231 square feet (net increase of 3,500,000 square feet from 2000-2020 General Plan).

- Commercial allocation (same as Alternative C): 1,343,679 square feet (net increase of 0 square feet from the 2000-2020 General Plan)⁵
- Hotel allocation (same as Alternative C): 1,339 rooms (net increase of 1,000 rooms from the 2000-2020 General Plan)
- Residential allocation eliminated; residential land uses permitted according to applicable General Plan land use designations and policies, Housing Element site inventory and policies, and zoning⁶

As shown above, development allocations are the same as or are reduced from Alternative C, and the residential allocation pool has been eliminated altogether. Residential development is allowed at the locations, densities and intensities as provided for in the General Plan and Zoning Ordinance. As described above, the recommended heights are lower than those analyzed in the EIR, except in two locations (Glenbrook Apartments in the Heart of the City and Summerwinds/Granite Rock/Jack in the Box Housing Element sites) at which the height limits would be increased from Alternative C (from 30 to 45 feet), and the residential density at one site are increased at one location (Glenbrook Apartments in the Heart of the City Special Area) from 20 dwelling units per acre analyzed in the EIR to 23 dwelling units per acre up to a limit of 228 units. The maximum height limits would be the same as or lower than Alternative B. See Land Use and Community Design Element, Table LU-2. The Planning Commission Recommendation provides for a reduced amount of new development and has less emphasis on office development than Alternative C. These changes in the General Plan Amendment and accompanying approvals do not create new or substantially more severe significant effects on the environment for the reasons explained below.

The 15-foot height increases at Glenbrook Apartments Housing Element site, located in the Heart of the City Special Area, and the Summerwinds/Granite Rock/Jack in the Box Housing Element site, located in the South De Anza Mixed-Use Special Area, would not block views of areas that provide or contribute to scenic vistas and/or scenic corridors or from specific

⁵ The EIR provided an analysis for the commercial development allocation of 1,343,679 square feet for Alternative C, which is an increase in commercial development allocation of 642,266 square feet over the remaining allocation of 701,413 square feet in the 2020 General Plan; however, the additional 642,266 square footage does not constitute a net increase in commercial development in Cupertino during the planning period of the General Plan Amendment (through 2040). That is because the entire 642,266 square feet of the increased allocation would come from demolition of Vallco Shopping Center and rebuilding and/or relocating that existing commercial square footage to other sites. Due to the high vacancy rate at the Vallco Shopping Mall under existing conditions, however, the EIR conservatively analyzed the total commercial development allocation of 1,343,679 square feet (642,266 existing square feet + 701,413 new square feet).

⁶ The Alternative C proposed residential allocation analyzed in the EIR is 4,421 units (net increase of 2,526 units from the 2000-2020 General Plan).

publically accessible vantage points or the alteration of the overall scenic vista/corridor itself or adversely impact the visual character of these sites or the surrounding areas. These two sites are already developed and/or underutilized, and in close proximity to existing residential and residential-serving development, where future development would have a lesser impact on scenic vistas. Neither of these locations is within the viewshed of I-280, an eligible State Scenic Highway. The topography at these locations is essentially flat and the views from street-level public viewing to the scenic resources are currently inhibited by existing conditions such as buildings, structures, and mature trees or vegetation. Similar views would continue to be visible between projects and over lower density areas. Considering this and the fact that Housing Element Sites 5 and 16 are not considered a destination public viewing points nor are they visible from scenic vistas, overall impacts to scenic vistas would be less than significant.

Furthermore, the 15-foot height increases would be subject to the City's Architectural and Site Review process, in accordance with Chapter 19.168 of the Zoning Ordinance, or would be required to comply with Design Standards outlined in the General Plan and other regulatory documents. In addition, the General Plan policies aimed at protecting scenic resources would ensure future development of these sites would conceivably reduce potential aesthetic impacts of future development under the proposed Project.

The increase in residential density at the Glenbrooks Apartments site, from 20 to 23 dwelling units per acre up to a maximum of 228 additional units, are minor, and would not cause new or substantially more severe significant environmental effects, because the number of additional units that could be developed in each Traffic Analysis Zone (TAZ), above what was analyzed in the EIR, would be 50 or fewer additional units. In addition, the site is located in either the VTA Priority Development area or adjacent to a major employment district and would provide residential development close to a large employment area, thereby potentially reducing traffic impacts.

However, like Alternative C, the Planning Commission Recommendation will continue to have significant avoidable traffic, air quality and noise impacts even after incorporation of all feasible mitigation measures.

The majority of the Planning Commission Recommendation is located in the City's Special Areas as identified in the current General Plan. The development allocations can generally be used in Special Areas, Study Areas, Housing Element Sites and Other Special Areas; however, hotel development allocations may not be used in Other Special Areas. The boundaries and proposed changes within each Special Area, Study Area and Other Special Area are described in detail in Section 3.7 (Project Components) of Chapter 3 (Project Description) of the Draft EIR.

B. Housing Element Update

The Planning Commission Recommendation includes a comprehensive update to the City's

Housing Element (the “2014-2022 Housing Element”) in compliance with State law. The Housing Element’s policies and programs are intended to guide the City’s housing efforts through the 2014 to 2022 Housing Element period. The 2014-2022 Housing Element keeps many of the existing policies and strategies in the 2007-2014 Housing Element and revises them to conform to changes in State law or based on a critical evaluation of the programs and policies. The Housing Element assesses housing needs for all income groups and establishes a program to meet these needs. The policies and strategies have also been reorganized to provide for better readability and to eliminate redundancies.

State law requires each jurisdiction to address how it will satisfy the quantified objectives for new residential units as represented by the Regional Housing Needs Allocation (RHNA). The RHNA identifies Cupertino’s housing needs by income levels. The City’s housing needs allocation for the period 2014 to 2022 is 1,064 new housing units. The income levels are separated into four categories: very low, low, moderate and above moderate, shown in Draft EIR Table 3-20. Draft EIR, p. 3-66. State law allows jurisdictions to take credit for residential projects that have been approved, building permits issued during the plan period in which the review is taking place, and second dwelling units (also known as accessory dwelling units) that are anticipated to be constructed during the plan period.

The City has issued entitlements and/or building permits for 30 units since January 1, 2014. Additionally, it is anticipated that 32 second units (on single-family lots) were constructed in the 2007-2014 plan period, 32 second units will be constructed in the current plan period as well. Therefore, the City can take credit for a total of 62 units (30 units approved and 32 second units anticipated). As a result, the City is required to identify sites for the construction of 1,064 minus 62 units, or 1,002 units.

To accommodate the current planning period’s RHNA, the Available Land Inventory in the Draft 2014-2022 Housing Element identified 19 potential housing sites, which are analyzed in the EIR. The State Department of Housing and Community Development (HCD) generally requires jurisdictions to show a surplus of sites/units in order to guarantee that the City could realistically accommodate the RHNA allocations. Of the original 19 sites identified in the Draft EIR, nine remain for consideration.⁷ If all nine potential housing sites were developed, this would result in a net increase in housing in Cupertino of 1,843 new residential units between 2014 and 2040. Draft EIR, Table 3-12, pp. 3-68 to 3-70. The

⁷ Of the 19 studied in the EIR, nine sites are available for selection. That is because the largest property owner (Valley Chuch) associated with the IntraHealth/Tennis Courts etc. site on Stelling Road, and the owners of the Cypress Building/Hall Property have notified the City that their sites should not be included in the Housing Sites Inventory, and the Planning Commission Recommendation deleted 8 sites and added the Summerwinds/Granite Rock/Jack in the Box site.

maximum number of new residential units pursuant to the Planning Commission Recommendation is 1,843 units.

These changes described above in the recommended Housing Element sites do not have the potential to create any new or substantially more severe significant effects on the environment for the following reasons. The increase of up to 228 units on the Glenbrook Apartments site would result in an increase of 135 units above the 93-unit increase that was analyzed in the Draft EIR (228 units – 93 units = 135 units). An increase of 50 or fewer units of housing is generally considered to be a negligible increase, and this increase is below that screening threshold because the Glenbrook site is adjacent to The Oaks Shopping Center Housing Element site at which where the residential units are reduced from the 235 units analyzed in the EIR to 150 units. Therefore, the total increased development in the area would be offset by the 85 units that no longer would be built at The Oaks Shopping Center site (235 units – 150 units = 85 units). This reduction at The Oaks Shopping Center Site would offset part of the 135 unit increase at the Glenbrook site, but not the full increased amount of 135 units. There would still be an increase in the area of 122 units (135 units - 85 units = 50 units), which does not exceed the screening threshold of 50 additional units. Hence, the additional density would not create a new or substantially more severe significant impact than was analyzed in the EIR.

HCD generally requires jurisdictions to show a surplus of sites/units in order to guarantee that the RHNA realistically can be accommodated. Based on consultation with HCD and the City's housing consultant expert, it is anticipated that HCD will require sites to accommodate units equivalent to a moderate surplus, between 25% and 40% above the City's housing need, or approximately between 1,250 and 1,400 units. Of the nine identified sites, the City Council has directed staff to submit six sites to HCD for review as to their adequacy under State Planning and Zoning Law.

The means of achieving the development of these units are provided for in the policies and programs described in the Housing Element. The City's quantified objectives are identified in Table 3.4 of the Housing Element. The City is not obligated to construct the housing units identified by the RHNA. Rather, the City is required to demonstrate adequate capacity for 1,064 housing units by identifying sufficient specific sites in order to satisfy the RHNA under existing zoning and land use policy.

In addition to analyzing the 2014-2022 Housing Element for the specified planning period, the Final EIR analyzes the overall environmental effects of increasing housing units on a citywide basis to address, which is necessary to address the two future housing elements that are expected to be adopted during the period between 2014 and General Plan Amendment horizon year of 2040. The Plan Bay Area (the Bay Area Region's Sustainability Communities Strategy and Regional Transportation Plan) identifies that the City of

Cupertino's housing need by 2040 will be 4,421 units.

C. Conforming General Plan Amendments, Zoning Amendments, and Density Bonus Amendments

As part of the Housing Element update process, Chapter 19.56 (Density Bonus) in Title 19 (Zoning) of the City's Municipal Code will be amended to be consistent with the 2007–2014 Housing Element Program 12 (Density Bonus Program). Chapter 19.20 (Permitted, Conditional and Excluded Uses in Agricultural and Residential Zones), Chapter 19.76 (Public Building (BA), Quasi-Public Building (BQ) and Transportation (T) Zones), and Chapter 19.84 (Permitted, Conditional And Excluded Uses In Open Space, Park And Recreation And Private Recreation Zoning Districts), also in Title 19 (Zoning) of the City's Municipal Code, will be amended to ensure conformance with SB 2 requirements pertaining to permanent emergency shelters and to comply with the State Employee Housing Act with respect to farmworker housing and employee housing. In addition, Program 17 of the Housing Element, which addresses the potential loss of multi-family housing and displacement of lower- and moderate-income households due to new development, will be amended to comply with recent legislation and to mitigate the potential displacement impacts to renters (e.g. tenant relocation benefits).

The Planning Commission Recommendation also includes revisions to the General Plan Land Use Map, Zoning Ordinance (including the Chapters listed above and 19.08 (Definitions) and 19.144 (Development Agreements), and the Zoning map to ensure consistency with the General Plan as a result of changes to Housing Element policies or to address changes required as a result of State legislation adopted since the last General Plan update (such as Assembly Bill 1358, Complete Streets), and as a result of bringing non-conforming land uses into conformance with the General Plan and Zoning Ordinance.

D. Project Objectives

The project objectives are as follows:

- Emphasize employment and a mix of economic development opportunities by replenishing, reallocating, and increasing city-wide office, commercial, and hotel, allocations in order to capture:
 - A share of the regional demand for office and hotel development, and
 - Retail sales tax leakage in the trade area.
- Address local needs and regional requirements for new housing, including affordable housing, in Cupertino by replenishing, re-allocating and increasing city-wide residential allocations to be consistent with 2040 Bay Area Plan projections to

allow flexibility for the city when future state-mandated updates are required to the Housing Element.

- Update the Housing Element as required by State law.
- Creating opportunities for mixed-use development consistent with Regional Sustainable Communities Strategies for greenhouse gas emissions reductions as required by SB 375.
- Investing in improvement to adapt to climate change over time.
- Consider increased heights in key nodes and gateways, if proposed development provides retail development and benefits directly to the community.
- Update General Plan policies to implement multi-modal traffic standards as opposed to LOS thresholds currently identified. Balancing development objectives with transportation constraints and opportunities.
- Revitalize the Vallco Shopping District by adopting policies to support its redevelopment, so it becomes a cohesive, vibrant shopping and entertainment destination that serves both the region and the local community.

III. ENVIRONMENTAL REVIEW PROCESS

A. Environmental Impact Report

On March 5, 2014, the City circulated a Notice of Preparation (NOP) of the Draft EIR to the Office of Planning and Research (OPR) State Clearinghouse and interested agencies and persons. A postcard notice had previously been delivered in February 2014 to all postal addresses in the City to announce upcoming dates for the General Plan and Housing Element projects. The NOP was circulated for comment by responsible and trustee agencies and interested parties for a total of 30 days, from March 5, 2014 through April 7, 2014, during which time the City held a public scoping meeting on March 11, 2014. Comments on the NOP were received by the City and considered during preparation of the Draft EIR.

The Draft EIR was made available for review by the public and interested parties, agencies, and organizations for a 45-day comment period starting on June 18, 2014 and ending August 1, 2014. The Draft EIR was distributed to local, regional and State agencies. Copies of the Draft EIR in paper or electronic format were available to interested parties for purchase or review at Cupertino City Hall. The Draft EIR was also available for review at libraries in the City and in surrounding communities, and an electronic version of the Draft EIR and all appendices were posted on a website the City created for the combined General Plan and Housing Element projects at www.cupertinogpa.org, which included an electronic comment portal to receive public comment 24 hours a day, seven days a week. The City continues to make these documents available on its website for the Project at the

following URL: http://www.cupertino.org/app_folders/view/1. The public was also invited to submit written comments on the Draft EIR to the City of Cupertino Community Development Department by mail or e-mail to planning@cupertino.org.

Notice of availability of the Draft EIR was made in several ways. The City sent a postcard announcing the availability of the Draft EIR and inviting attendance at the Draft EIR comment meeting to all postal addresses in Cupertino. In addition, in accordance with CEQA, the City posted the Notice of Availability (NOA) on the Project website. The City also sent emails providing notice of the Draft EIR's availability to all persons who had indicated an interest in the Project and signed up for notifications through the City's website. The local media publicized the availability of the Draft EIR and the public comment period.

The City held a Community Open House and EIR Comment Meeting during the comment period on June 24, 2014. The City solicited written comments at the meeting by distributing comment cards that were collected at the end of the evening.

The 45-day comment period on the Draft EIR ended on August 1, 2014 at 4:30 p.m. Agencies, organizations, and members of the public submitted written comments on the Draft EIR. The Responses to Comments Document, which is the third volume of the Final EIR, was issued for public review on August 28, 2014 and sent to public agencies who had commented on the Draft EIR. Chapter 5 of the Responses to Comments Document provides responses to the comments received during the comment period on the Draft EIR. Late comments received after the close of the public comment period have been addressed in memoranda submitted to the City Council.

On September 9, 2014, the Planning Commission held a Study Session on the EIR and took public comments. On October 7, 2014, the City Council held a Study Session on the Final EIR and took public comments.

On October 2, 2014, the Environmental Review Committee determined that the EIR was adequate and recommended that the City Council certify the EIR. On October 20, 2014, following a duly noticed public hearing on October 14, 2014 that was continued on October 20, 2014, the City Planning Commission, recommended that the City Council certify the Final EIR.

B. Additional Housing Element Public Review Process

The Housing Element must identify community involvement and decision-making processes and techniques that constitute affirmative steps for receiving input from all economic segments of the community, especially low-income persons and their representatives, as well as from other members of the community. Public participation, pursuant to Section 65583(c)(8) of the Government Code, was accomplished in a variety of

ways. Outreach was conducted in the form of in-person interviews with stakeholders including several housing-related non-profits and organizations that provide services to low income families and individuals in the City; and with parties interested in the Housing Element process, including property owners and community groups such as the Concerned Citizens of Cupertino and neighborhood groups. Below are some examples of outreach and noticing conducted as part of the Housing Element update.

- Notice postcard sent to every postal address in the City.
- Joint Housing Commission and Planning Commission workshop – January 23, 2014
- Housing Commission Workshop – February 12, 2014
- Open House – February 19, 2014, September 16, 2014
- Study Session held with Planning Commission – February 19, 2014
- Study Session held with City Council – March 3, 2014
- Housing Commission meeting on housing policy – March 19, 2014
- Joint Planning Commission/City meeting on housing policy – April 1, 2014
- Newspaper notices.
- Notices sent to all prospective housing element site property owners prior to City Council authorization to commence environmental review.
- Notices sent to all prospective housing element site property owners prior to Planning Commission and City Council prioritization of the sites for HCD review.
- Webpage hosted focusing on the Housing Element Update process.
- Notice of website additions and Workshop reminders e-mailed to over 300 Housing Element website subscribers.
- Staff presentations at the Chamber of Commerce.
- Housing Commission Meeting – August 28, 2014
- Planning Commission Hearing – October 14, 2014 and October 20, 2014

The City's outreach also included stakeholder meetings with non-profit and for-profit housing developers, building industry trade groups, architects, planners, and affordable housing funders. The Housing Element update process in the City has involved a number of groups and individuals in the process of reviewing current housing conditions and needs

and considering potential housing strategies. Two public workshops were held at Housing Commission meeting and at a Joint Planning Commission Housing Commission meeting. In addition, one publicly noticed Planning Commission Study Session was held and included opportunity for public comment. Feedback from these study sessions and public workshops was used to identify needs, assess constraints and develop draft programs for the Housing Element update, and are included in Section 1.3 of Appendix A of the General Plan.

IV. FINDINGS

The findings, recommendations, and statement of overriding considerations set forth below (the "Findings") are made and adopted by the Cupertino City Council as the City's findings under CEQA and the State CEQA Guidelines relating to the Project. The Findings provide the written analysis and conclusions of this City Council regarding the Project's environmental impacts, mitigation measures, alternatives to the Project, and the overriding considerations that support approval of the Project despite any remaining environmental effects it may have.

These findings summarize the environmental determinations of the Final EIR with regard to project impacts before and after mitigation, and do not attempt to repeat the full analysis of each environmental impact contained in the Final EIR. Instead, these findings provide a summary description of and basis for each impact conclusion identified in the Final EIR, describe the applicable mitigation measures identified in the Final EIR, and state the City's findings and rationale about the significance of each impact following the adoption of mitigation measures. A full explanation of these environmental findings and conclusions can be found in the Final EIR, and these findings hereby incorporate by reference the discussion and analysis in the Final EIR supporting the Final EIR's determinations regarding mitigation measures and the Project's impacts.

When evaluating cumulative impacts, CEQA allows the use of either a list of past, present, and probable future projects, including projects outside the control of the lead agency, or a summary of projections in an adopted planning document. The cumulative impacts analysis in the Final EIR uses the projections approach and takes into account growth from the Project within the Cupertino city boundary and Sphere of Influence (SOI), in combination with impacts from projected growth in the rest of Santa Clara County and the surrounding region, as forecast by the Association of Bay Area Governments (ABAG).

In adopting mitigation measures, below, the City intends to adopt each of the mitigation measures identified in the Final EIR. Accordingly, in the event a mitigation measure identified in the Final EIR has been inadvertently omitted from these findings, such mitigation measure is hereby adopted and incorporated into the Project in the findings below by reference. In addition, in the event the language of a mitigation measure set forth below fails to accurately reflect the mitigation measure in the Final EIR due to a clerical error, the language of the mitigation measure as set forth in the Final EIR shall control

unless the language of the mitigation measure has been specifically and expressly modified by these findings.

Sections V and VI, below, provide brief descriptions of the impacts that the Final EIR identifies as either significant and unavoidable or less than significant with adopted mitigation. These descriptions also reproduce the full text of the mitigation measures identified in the Final EIR for each significant impact.

V. SIGNIFICANT AND UNAVOIDABLE ADVERSE IMPACTS AND DISPOSITION OF RELATED MITIGATION MEASURES RESULTING IN SIGNIFICANT AND UNAVOIDABLE ADVERSE IMPACTS

The Final EIR identifies the following significant and unavoidable adverse impacts associated with the approval of the Project, some of which can be reduced, although not to a less-than-significant level, through implementation of mitigation measures identified in the Final EIR. Public Resources Code § 21081(a)(1). In some cases, the City cannot require or control implementation of mitigation measures for certain impacts because they are within the responsibility and jurisdiction of other public agencies. Public Resources Code § 21081(a)(2). Therefore, as explained below, some impacts will remain significant and unavoidable notwithstanding adoption of feasible mitigation measures. To the extent that these mitigation measures will not mitigate or avoid all significant effects on the environment, and because the City cannot require mitigation measures that are within the responsibility and jurisdiction of other public agencies to be adopted or implemented by those agencies, it is hereby determined that any remaining significant and unavoidable adverse impacts are acceptable for the reasons specified in Section XII, below. Public Resources Code § 21081(a)(3). As explained in Section IX, below, the findings in this Section V are based on the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

A. Impact AQ-1: Implementation of the Project would conflict with or obstruct implementation of the applicable air quality plan.

The Final EIR finds that while the Project would support the primary goals of the 2010 Bay Area Clean Air Plan, the buildout of the Project would conflict with the BAAQMD Bay Area Clean Air Plan goal for community-wide VMT to increase at a slower rate compared to population and employment growth. The rate of growth in VMT would exceed the rate of population and employment growth, resulting in a substantial increase in regional criteria air pollutant emissions in Cupertino.

There are no mitigation measures to reduce this impact to a less-than-significant level. Policies and development standards in the Project would lessen the impact, but due to the level of growth forecast in the city and the programmatic nature of the Project, the impact would be significant and unavoidable.

B. Impact AQ-2: Implementation of the Project would violate any air quality standard or contribute substantially to an existing or projected air quality violation.

The Final EIR finds that future development under the Project would result in a substantial long-term increase in criteria air pollutants over the 26-year General Plan horizon. Criteria air pollutant emissions would be generated from on-site area sources (e.g., fuel used for landscaping equipment, consumer products), vehicle trips generated by the project, and energy use (e.g., natural gas used for cooking and heating). Because cumulative development within the City of Cupertino could exceed the regional significance thresholds, the Project could contribute to an increase in health effects in the basin until such time as the attainment standards are met in the San Francisco Bay Area Air Basin (SFBAAB). The impact is considered significant and unavoidable.

Implementation of Mitigation Measures AQ-2a and AQ-2b, set forth below, which are hereby adopted and incorporated into the Project, would reduce these impacts, but not to a less-than-significant level. Due to the programmatic nature of the Project, no additional mitigation measures are available beyond Mitigation Measures AQ-2a and AQ-2b; therefore, the impact would be significant and unavoidable.

Mitigation Measure AQ-2a:

As part of the City's development approval process, the City shall require applicants for future development projects to comply with the current Bay Area Air Quality Management District's basic control measures for reducing construction emissions of PM10.

Mitigation Measure AQ-2b:

As part of the City's development approval process, the City shall require applicants for future development projects that could generate emissions in excess of the Bay Area Air Quality Management District's (BAAQMDs) current significance thresholds during construction, as determined by project-level environmental review, when applicable, to implement the current BAAQMD construction mitigation measures (e.g. Table 8-3 of the BAAQMD CEQA Guidelines) or any construction mitigation measures subsequently adopted by the BAAQMD.

C. Impact AQ-3: Implementation of the Project would result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is nonattainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors).

The Final EIR finds that the Project will combine with regional growth within the air basin to result in a cumulatively considerable net increase of pollutants for the SFBAAB, which is currently designated a nonattainment area for California and National O₃, California and

National PM_{2.5}, and California PM₁₀ ambient air quality standards (AAQS). Any project that produces a significant regional air quality impact in an area that is in nonattainment adds to the cumulative impact. Mitigation measures AQ-2a and AQ-2b, set forth and incorporated above, would reduce impacts to the extent feasible, but the Project's impacts would remain significant and unavoidable.

There are no mitigation measures to reduce the impact to a less-than-significant level. Air pollutant emissions associated with the Project would result in a cumulatively considerable contribution to air quality impacts, and the Project's impacts would be significant and unavoidable.

D. Impact AQ-6: Implementation of the Project would cumulatively contribute to air quality impacts in the San Francisco Bay Area Air Basin.

As described in the discussion of Impact AQ-3, the Final EIR finds that regional air quality impacts will be significant. Implementation of the Project, in combination with past, present, and reasonably foreseeable projects, would result in a significant cumulative impact with respect to air quality even with the applicable regulations, as well as the Mitigation Measures AQ-2a, AQ-2b, AQ-4a and AQ-4b and the General Plan policies outlined in Impact AQ-1 through AQ-5. Therefore, this cumulative impact would be significant and unavoidable.

There are no mitigation measures to reduce the impact to a less-than-significant level. Implementation of Mitigation Measures AQ-2a, AQ-2b, AQ-4a and AQ-4b and the General Plan policies outlined in Impact AQ-1 through AQ-5, would lessen the impact, but not to a less-than-significant level. Because the San Francisco Bay Area Air Basin is currently designated as a nonattainment area for California and National O₃, California and National PM_{2.5}, and California PM₁₀ AAQS, the Project's cumulative impact would be significant and unavoidable.

E. Impact NOISE-3: Implementation of the Project would result in a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project.

The Final EIR finds that implementation of the Project would have a significant impact if it results in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the Project. The Final EIR anticipates that there would be substantial permanent increases to ambient noise levels throughout Cupertino as a result of implementation of the Project and ongoing regional growth, and that these increases would result primarily from increases in transportation-related noise, especially noise from automobile traffic.

Although the Project contains policies that could in certain cases reduce or prevent significant increases in ambient noise at sensitive land uses upon implementation (e.g.,

noise-reducing technologies, rubberized asphalt, soundwalls, berms, and improved building sound-insulation), the measures described in these policies would not be universally feasible, and some of the most effective noise-attenuation measures, including sound walls and berms, would be infeasible or inappropriate in a majority of locations where sensitive land uses already exist.

There are no mitigation measures to reduce the impact to a less-than-significant level. All conceivable mitigations would be either economically impractical, scientifically unachievable, outside the City's jurisdiction, and/or inconsistent with City planning goals and objectives. Therefore, even after the application of relevant, feasible regulations and General Plan policies, the impact to ambient noise levels would remain significant and unavoidable.

F. Impact NOISE-5: Implementation of the Project, in combination with past, present, and reasonably foreseeable projects, would result in significant cumulative impacts with respect to noise.

The Final EIR finds that the analysis of the Project, as described in the discussions of Impact NOISE-3, addresses cumulative noise impacts from implementation of the Project. Similarly, the noise contours and traffic-related noise levels developed for the Project include and account for regional travel patterns as they affect traffic levels in the City. Thus, the future noise modeling which served as the foundation for the overall Project analysis was based on future, cumulative conditions, and finds that implementation of the Project would result in significant cumulative impacts.

The Final EIR finds that even after the application of pertinent policies and strategies of the General Plan Amendment cumulative noise impacts of the Project, as described in the discussion of Impact NOISE-3, would remain significant and unavoidable. Thus, implementation of the Project would result in a significant and unavoidable cumulative impact with respect to noise.

There are no feasible mitigation measures to reduce the impact to a less-than-significant level. As explained in the discussion of Impact NOISE-3, all conceivable cumulative noise mitigations would be economically impractical, scientifically unachievable, outside the City's jurisdiction, and/or inconsistent with City planning goals and objectives, and would be infeasible. Therefore, even after the application of relevant, feasible regulations and General Plan policies, the cumulative impact would remain significant and unavoidable.

G. Impact TRAF-1: Implementation of the Project would conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not

limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit.

The Final EIR finds that implementation of the Project would generate additional motor vehicle trips on the local roadway network, resulting in significant impacts to sixteen (16) out of 41 study intersections during at least one of the AM or PM peak hours. See Draft EIR, Table 4.13-13.⁸

Implementation of Mitigation Measure TRAF-1, set forth below, which is hereby adopted and incorporated into the Project, would secure a funding mechanism for future roadway and infrastructure improvements that are necessary to mitigate impacts from future projects based on then current standards, but not to a less-than-significant level. Impacts would remain significant and unavoidable because the City cannot guarantee improvements at these intersections at this time. This is in part because the nexus study has yet to be prepared and because some of the impacted intersections are within the jurisdiction of the City of Sunnyvale, the City of Santa Clara, and Caltrans. The City will continue to cooperate with these jurisdictions to identify improvements that would reduce or minimize the impacts to intersections and roadways as a result of implementation of future development projects in Cupertino, but, because many of the improvements in Mitigation Measure TRAF-1 are within the responsibility and jurisdiction of other agencies and not the City of Cupertino, this impact would remain significant and unavoidable.

Mitigation Measure TRAF-1:

The City of Cupertino shall commit to preparing and implementing a Transportation Mitigation Fee Program to guarantee funding for roadway and infrastructure improvements that are necessary to mitigate impacts from future projects based on the then current City standards. As part of the preparation of the Transportation Mitigation Fee Program, the City shall also commit to preparing a "nexus" study that will serve as the basis for requiring development impact fees under AB 1600 legislation, as codified by California Code Government Section 66000 et seq., to support implementation of the Project. The established procedures under AB 1600 require that a "reasonable relationship" or nexus exist between the transportation improvements and facilities required to mitigate the transportation impacts of new development pursuant to the Project. The following examples of transportation improvements and facilities would reduce impacts to acceptable level of service standards and these, among other improvements, could be included in the development impact fees nexus study:

- ◆ **SR 85 Northbound Ramps and Stevens Creek Boulevard (#2):** *An exclusive left-turn lane for the northbound leg of the intersection (freeway off-ramp) at the intersection of SR 85 and*

⁸ Following completion of the Draft EIR, the impacts to Intersection #29 were determined to be less-than-significant rather than significant. See Supplemental Text Revisions Memo.

Stevens Creek Boulevard would result in one left-turn lane, one all-movement lane, and one right turn lane. The additional lane could be added within the existing Caltrans right-of-way.

- ◆ ***Stelling Road and Stevens Creek Boulevard (#3):*** *The addition of a second exclusive left-turn lane for the eastbound leg of the intersection from Stevens Creek Boulevard to northbound Stelling Road, which could be accomplished by reworking the median. Right turns would share the bike lane.*
- ◆ ***Sunnyvale-Saratoga Road/De Anza Boulevard and Homestead Road (#5):*** *Widen De Anza Boulevard to four lanes in each direction or the installation of triple left-turn lanes.*
- ◆ ***De Anza Boulevard and I-280 Northbound Ramp (#6):*** *Restriping of De Anza Boulevard in the southbound direction to provide room for right turn vehicles to be separated from through traffic may be required. The bike lane would be maintained, and right turns would occur from the bike lane. The right turns would continue to be controlled by the signal and would need to yield to pedestrians.*
- ◆ ***De Anza Boulevard and Stevens Creek Boulevard (#8):*** *Restripe westbound Stevens Creek Boulevard to provide room for right turn vehicles to be separated from through vehicles may be required. The right turn vehicles will share the bike lane and will still be controlled by the traffic signal. Paint a bike box at the front of the lane to provide bikes a place to wait at red lights. The pedestrian crossings will not be affected may enhance the bicycling experience.*
- ◆ ***De Anza Boulevard and McClellan Road/Pacifica Drive (#9):*** *Realign the intersection that is currently offset resulting in inefficient signal timing such that the McClellan Road and Pacifica Drive legs are across from each other may be required. In addition, double left turn lanes may be required to be added to De Anza Boulevard with sections of double lanes on McClellan Road and Pacifica Drive to receive the double left turn lanes. These improvements will require the acquisition of right-of-way and demolition of existing commercial buildings. However, some existing right-of-way could be abandoned, which would reduce the net right-of-way take.*
- ◆ ***Wolfe Road and Homestead Road (#16):*** *The addition of a third southbound through lane to the southbound approach of the intersection of Wolfe Road and Homestead Road may be required, as well as the addition of a southbound exclusive right-turn lane. Three southbound receiving lanes on the south side of the intersection currently exist. An additional westbound through lane for a total of three through-movement lanes, an additional receiving lane on Homestead westbound to receive the additional through lane, as well as the addition of a westbound exclusive right-turn lane may be required. This will require widening Homestead Road. An additional eastbound through lane for a total of three through-movement lanes, an additional receiving lane on Homestead eastbound to receive the additional through lane, as well as the addition of an eastbound exclusive left-turn lane for a total of two left-turn lanes may be required. These improvements will require the acquisition of right-of-way and demolition of parking areas.*

- ◆ **Wolfe Road and I-280 Northbound Ramp (#18):** *The Apple Campus 2 project will be adding a third northbound through lane starting at the northbound on ramp. This third lane will need to be extended farther south to effectively serve the additional northbound traffic due to the General Plan development. This could require widening the Wolfe Road overcrossing. Right-of-way acquisition may be required. In accordance with Caltrans procedures, a Project Study Report (PSR) will need to be prepared. The PSR will look at all interchange improvement options, which may include widening the overcrossing and may also include a redesign of the interchange to go from a partial cloverleaf design to a diamond design. This could help with heavy volumes in the right lane, which contributes to the level-of-service deficiency.*
- ◆ **Wolfe Road and I-280 Southbound Ramp (#19):** *An additional through lane for a total of three through-movement lanes for the northbound leg of the intersection at the Wolfe Road and I-280 Southbound Ramp may be required. This additional northbound through lane would require widening to the freeway overcrossing. In addition to widening the overcrossing, the City may wish to pursue a redesign of the interchange to go from a partial cloverleaf design to a diamond design. This could help with the problem of heavy volume in the right lane, which contributes to the level of service deficiency.*
- ◆ **Wolfe Road/Miller Avenue and Stevens Creek Boulevard (#21):** *The restriping of the westbound leg of the intersection to provide room so that right turn vehicles can be separated from through vehicles may be required. Right turn vehicles would share the bike lane. Right turn vehicles would still be controlled by the signal, and pedestrian crossings would not be affected. Paint a bike box at the front of the lane to provide bikes a place to wait at red lights may enhance the bicycling experience.*
- ◆ **North Tantau Avenue/Quail Avenue and Homestead Road (#24):** *Restriping of the southbound leg of the intersection (Quail Avenue) to provide a separate left turn lane may be required. This will require the removal of on-street parking near the intersection. The level-of-service calculations show that with implementation of these improvements, the intersection would operate at an acceptable LOS D.*
- ◆ **Tantau Avenue and Stevens Creek Boulevard (#27):** *The addition of a separate left-turn lane to northbound Tantau Avenue may be required. Right-of-way acquisition and demolition of existing commercial buildings would be required.*
- ◆ **Stevens Creek Boulevard and Agilent Technologies Driveway (#30):** *The restriping of the westbound leg of the intersection to provide room so that right turn vehicles can be separated from through vehicles may be required. Right turn vehicles would share the bike lane. Right turn vehicles would still be controlled by the signal, and pedestrian crossings would not be affected. Paint a bike box at the front of the lane to provide bikes a place to wait at red lights may enhance the bicycling experience.*

- ◆ **Lawrence Expressway Southbound Ramp and Stevens Creek Boulevard (CMP, County)(#31):** *The addition of a second right-turn lane for the southbound leg of the intersection at the Lawrence Expressway Southbound Ramp and Stevens Creek Boulevard may be required. Both lanes would need to be controlled by the signal, and disallow right turns on red. Right-of-way acquisition may be required.*
- ◆ **Lawrence Expressway Northbound Ramp and Stevens Creek Boulevard (CMP, County) (#32):** *Redesign of the northbound leg of the intersection at the Lawrence Expressway Northbound Ramp and Stevens Creek Boulevard to provide one through-movement lane, and one exclusive right-turn lane may be required. Right-of-way acquisition would be required.*

The fees shall be assessed when there is new construction, an increase in square footage in an existing building, or the conversion of existing square footage to a more intensive use. The fees collected shall be applied toward circulation improvements and right-of-way acquisition. The fees shall be calculated by multiplying the proposed square footage, dwelling unit, or hotel room by the appropriate rate. Traffic mitigation fees shall be included with any other applicable fees payable at the time the building permit is issued. The City shall use the traffic mitigation fees to fund construction (or to recoup fees advanced to fund construction) of the transportation improvements identified above, among other things that at the time of potential future development may be warranted to mitigate traffic impacts.

H. Impact TRAF 2: Implementation of the Project would conflict with an applicable congestion management program, including, but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways.

The Final EIR finds that of the 41 intersections studied in the EIR traffic analysis, 21 are included in Santa Clara County’s Congestion Management Program (CMP). See Table 4.3-13, Draft EIR. The Project would result in significant impacts to 11 CMP intersections during at least one of the peak hours. Implementation of Mitigation Measure TRAF-1, set forth and incorporated above, would reduce these impacts, but not to a less-than-significant level.

Mitigation Measure:

Implement Mitigation Measure TRAF-1.

As described in the discussion of Impact TRAF-1, because many of the improvements in Mitigation Measure TRAF-1 are within the responsibility and jurisdiction of other agencies and not the City of Cupertino, these impacts would remain significant and unavoidable.

I. Impact TRAF-6: Implementation of the Project, in combination with past, present, and reasonably foreseeable projects, would result in additional cumulatively considerable impacts.

The Final EIR finds that the analysis of the Project, as described in the discussions of Impact TRAF-1 and Impact TRAF-2, addresses cumulative impacts to the transportation network in the city and its surroundings; accordingly, cumulative impacts would be the same as Project-specific impacts. Therefore, the cumulative impacts to the City's transportation network resulting from the Project would be significant and unavoidable.

Mitigation Measure:

Implement Mitigation Measure TRAF-1.

As discussed under TRAF-1, because many of the improvements in Mitigation Measure TRAF-1 are within the responsibility and jurisdiction of other agencies and not the City of Cupertino, this cumulative impact would remain significant and unavoidable.

VI. SIGNIFICANT ADVERSE IMPACTS IDENTIFIED IN THE FINAL EIR THAT ARE REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL BY MITIGATION MEASURES ADOPTED AND INCORPORATED INOT THE PROJECT

The Final EIR identifies the following significant impacts associated with the Project. It is hereby determined that the impacts addressed by these mitigation measures will be mitigated to a less than significant level or avoided by adopting and incorporating these mitigation measures conditions into the Project. Public Resources Code § 21081(a)(1). As explained in Section IX, below, the findings in this Section VI are based on the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

A. Impact AQ-4: Implementation of the Project would expose sensitive receptors to substantial concentrations of air pollution.

The Final EIR finds that the Project could result in locating sensitive receptors in proximity to major sources of air pollution or the siting of new sources of air pollution in proximity to sensitive receptors in the city. Nonresidential land uses that generate truck trips may generate substantial quantities of air pollutants within 1,000 feet of off-site sensitive receptors. In addition, proposed sensitive land uses in Cupertino may be within 1,000 feet of major sources of air pollutants, which would create a significant and unavoidable impact.

Implementation of the Mitigation Measures AQ-4a and AQ-4b, set forth below, which are hereby adopted and incorporated into the Project, would reduce this impact to a less-than-significant level.

Mitigation Measure AQ-4a:

Applicants for future non-residential land uses within the city that: 1) have the potential to generate 100 or more diesel truck trips per day or have 40 or more trucks with operating diesel-powered Transport Refrigeration Units (TRUs), and 2) are within 1,000 feet of a sensitive land use (e.g. residential, schools, hospitals, nursing homes), as measured from the property line of the Project to the property line of the nearest sensitive use, shall submit a health risk assessment (HRA) to the City of Cupertino prior to future discretionary Project approval. The HRA shall be prepared in accordance with policies and procedures of the State Office of Environmental Health Hazard Assessment and the Bay Area Air Quality Management District. If the HRA shows that the incremental cancer risk exceeds ten in one million (10E-06), PM_{2.5} concentrations exceed 0.3 µg/m³, or the appropriate noncancer hazard index exceeds 1.0, the applicant will be required to identify and demonstrate that Best Available Control Technologies for Toxicants (T-BACTs) are capable of reducing potential cancer and noncancer risks to an acceptable level, including appropriate enforcement mechanisms. T-BACTs may include but are not limited to:

- *Restricting idling on-site.*
- *Electrifying warehousing docks.*
- *Requiring use of newer equipment and/or vehicles.*
- *Restricting offsite truck travel through the creation of truck routes.*

T-BACTs identified in the HRA shall be identified as mitigation measures in the environmental document and/or incorporated into the site development plan as a component of the Project.

Mitigation Measure AQ-4b:

Applicants for residential and other sensitive land use projects (e.g. hospitals, nursing homes, day care centers) in Cupertino within 1,000 feet of a major sources of TACs (e.g. warehouses, industrial areas, freeways, and roadways with traffic volumes over 10,000 vehicle per day), as measured from the property line of the project to the property line of the source/edge of the nearest travel lane, shall submit a health risk assessment (HRA) to the City of Cupertino prior to future discretionary Project approval. The HRA shall be prepared in accordance with policies and procedures of the State Office of Environmental Health Hazard Assessment (OEHHA) and the Bay Area Air Quality Management District. The latest OEHHA guidelines shall be used for the analysis, including age sensitivity factors, breathing rates, and body weights appropriate for children age 0 to 16 years. If the HRA shows that the incremental cancer risk exceeds ten in one million (10E-06), PM_{2.5} concentrations exceed 0.3 µg/m³, or the appropriate noncancer hazard index exceeds 1.0, the applicant will be required to identify and demonstrate that mitigation measures are capable of reducing potential cancer and non-cancer risks to an acceptable level (i.e. below ten in one million or a hazard index of 1.0), including appropriate enforcement mechanisms. Measures to reduce risk may include but are not limited to:

- *Air intakes located away from high volume roadways and/or truck loading zones.*

- Heating, ventilation, and air conditioning systems of the buildings provided with appropriately sized Maximum Efficiency Rating Value (MERV) filters.

Mitigation measures identified in the HRA shall be identified as mitigation measures in the environmental document and/or incorporated into the site development plan as a component of the Project. The air intake design and MERV filter requirements shall be noted and/or reflected on all building plans submitted to the City and shall be verified by the City's Planning Division.

B. Impact BIO-1: Implementation of the Project would have a substantial adverse effect, either directly or through habitat modifications, on a plant or animal population, or essential habitat, defined as a candidate, sensitive or special-status species.

The Final EIR finds that some special-status bird species such as Cooper's hawk and white-tailed kite could utilize the remaining riparian corridors and heavily wooded areas for nesting, dispersal and other functions when they pass through urbanized areas. More common birds protected under MBTA may nest in trees and other landscaping on the Project Component locations. Given the remote potential for occurrence of nesting birds at one or more of the Project Component locations and possibility that nests could be inadvertently destroyed or nests abandoned as a result of construction activities, this would be considered a potentially significant impact.

Implementation of Mitigation Measure BIO-1, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure BIO-1:

Nests of raptors and other birds shall be protected when in active use, as required by the federal Migratory Bird Treaty Act and the California Department of Fish and Game Code. If construction activities and any required tree removal occur during the breeding season (February 1 and August 31), a qualified biologist shall be required to conduct surveys prior to tree removal or construction activities. Preconstruction surveys are not required for tree removal or construction activities outside the nesting period. If construction would occur during the nesting season (February 1 to August 31), preconstruction surveys shall be conducted no more than 14 days prior to the start of tree removal or construction. Preconstruction surveys shall be repeated at 14-day intervals until construction has been initiated in the area after which surveys can be stopped. Locations of active nests containing viable eggs or young birds shall be documented and protective measures implemented under the direction of the qualified biologist until the nests no longer contain eggs or young birds. Protective measures shall include establishment of clearly delineated exclusion zones (i.e. demarcated by identifiable fencing, such as orange construction fencing or equivalent) around each nest location as determined by a qualified biologist, taking into account the species of birds nesting, their tolerance for disturbance and proximity to existing development. In general, exclusion zones shall be a minimum

of 300 feet for raptors and 75 feet for passerines and other birds. The active nest within an exclusion zone shall be monitored on a weekly basis throughout the nesting season to identify signs of disturbance and confirm nesting status. The radius of an exclusion zone may be increased by the qualified biologist if project activities are determined to be adversely affecting the nesting birds. Exclusion zones may be reduced by the qualified biologist only in consultation with California Department of Fish and Wildlife. The protection measures shall remain in effect until the young have left the nest and are foraging independently or the nest is no longer active.

C. Impact BIO-6: Implementation of the Project, in combination with past, present, and reasonably foreseeable projects, would result in significant cumulative impacts with respect to biological resources.

The Final EIR finds that implementation of the Project could result in further conversion of existing natural habitats to urban and suburban conditions, limiting the existing habitat values of the surrounding area and potentially resulting in significant cumulative impacts with respect to biological resources.

With implementation of Mitigation Measure BIO-1, set forth and incorporated above, the Project would not make a cumulatively considerable contribution to this cumulative impact, and the impact would be less than significant.

Mitigation Measure:

Implement Mitigation Measure BIO-1.

D. Impact HAZ-4: Implementation of the Project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment.

The Final EIR finds that because hazardous materials are known to be present in soil, soil gas, and/or groundwater due to past land uses at certain sites that may be redeveloped as part of the Project, the direct contact, inhalation, or ingestion of hazardous materials could potentially cause adverse health effects to construction workers and future site users. The severity of health effects would depend on the contaminant(s), concentration, use of personal protective equipment during construction, and duration of exposure. The disturbance and release of hazardous materials during earthwork activities, if present, could pose a hazard to construction workers, nearby receptors, and the environment and impacts could be potentially significant.

Implementation of Mitigation Measures HAZ-4a and HAZ-4b, set forth below, which are hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure HAZ-4a:

Construction at the sites with known contamination shall be conducted under a project-specific Environmental Site Management Plan (ESMP) that is prepared in consultation with the Regional Water Quality Control Board (RWQCB) or the Department of Toxic Substances Control (DTSC), as appropriate. The purpose of the ESMP is to protect construction workers, the general public, the environment, and future site occupants from subsurface hazardous materials previously identified at the site and to address the possibility of encountering unknown contamination or hazards in the subsurface. The ESMP shall summarize soil and groundwater analytical data collected on the project site during past investigations; identify management options for excavated soil and groundwater, if contaminated media are encountered during deep excavations; and identify monitoring, irrigation, or other wells requiring proper abandonment in compliance with local, State, and federal laws, policies, and regulations.

The ESMP shall include measures for identifying, testing, and managing soil and groundwater suspected of or known to contain hazardous materials. The ESMP shall: 1) provide procedures for evaluating, handling, storing, testing, and disposing of soil and groundwater during project excavation and dewatering activities, respectively; 2) describe required worker health and safety provisions for all workers potentially exposed to hazardous materials in accordance with State and federal worker safety regulations; and 3) designate personnel responsible for implementation of the ESMP.

Mitigation Measure HAZ-4b:

For those sites with potential residual contamination in soil, gas, or groundwater that are planned for redevelopment with an overlying occupied building, a vapor intrusion assessment shall be performed by a licensed environmental professional. If the results of the vapor intrusion assessment indicate the potential for significant vapor intrusion into an occupied building, project design shall include vapor controls or source removal, as appropriate, in accordance with regulatory agency requirements. Soil vapor mitigations or controls could include vapor barriers, passive venting, and/or active venting. The vapor intrusion assessment and associated vapor controls or source removal can be incorporated into the ESMP (Mitigation Measure HAZ-4a).

- E. Impact HAZ-7: Implementation of the Project, in combination with past, present, and reasonably foreseeable projects, would result in less than significant cumulative impacts with respect to hazards and hazardous materials.**

The Final EIR takes into account growth projected by the Project within the Cupertino city boundary and Sphere of Influence (SOI), in combination with impacts from projected growth in the rest of Santa Clara County and the surrounding region, as forecast by the Association of Bay Area Governments (ABAG). Potential cumulative hazardous materials impacts could arise from a combination of the development of the Project together with the

regional growth in the immediate vicinity of the Project Study Area. As discussed under Impact HAZ-4, disturbance and release of hazardous materials during earthwork activities, if present, could pose a hazard to construction workers, nearby receptors, and the environment and impacts could be potentially significant.

With implementation of Mitigation Measures HAZ-4a and HAZ-4b, set forth and incorporated above, in conjunction with compliance with General Plan policies and strategies, other local, regional, State, and federal regulations, the Project would not make a cumulatively considerable contribution to this cumulative impact, and the impact would be less than significant.

Mitigation Measure:

Implement Mitigation Measures HAZ-4a and HAZ-4b.

- F. Impact UTIL-6: Implementation of the Project would result in a determination by the wastewater treatment provider, which serves, or may serve the project, that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.**

Buildout of the Project would have a significant impact if future projected demand exceeds the wastewater service capacity of the San Jose/Santa Clara Water Pollution Control Plan (SJ/SCWPCP) or the Sunnyvale Water Pollution Control Plan (SWPCP), or the Cupertino Sanitary District (CSD) or City of Sunnyvale collection systems.

Implementation of Mitigation Measures UTIL-6a, UTIL-6b, and UTIL-6c, set forth below, which are hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure UTIL-6a:

The City shall work with the Cupertino Sanitary District to increase the available citywide treatment and transmission capacity to 8.65 million gallons per day, or to a lesser threshold if studies justifying reduced wastewater generation rates are approved by CSD as described in Mitigation Measure UTIL-6c.

Mitigation Measure UTIL-6b:

The City shall work to establish a system in which a development monitoring and tracking system to tabulate cumulative increases in projected wastewater generation from approved projects for comparison to the Cupertino Sanitary District's treatment capacity threshold with San Jose/Santa Clara Water Pollution Control Plant is prepared and implemented. If it is anticipated that with approval of a development project the actual system discharge would exceed the contractual treatment

threshold, no building permits for such project shall be issued prior to increasing the available citywide contractual treatment and transmission capacity as described in Mitigation Measure UTIL-6a.

Mitigation Measure UTIL-6c:

The City shall work with the Cupertino Sanitary District to prepare a study to determine a more current estimate of the wastewater generation rates that reflect the actual development to be constructed as part of Project implementation. The study could include determining how the green/LEED certified buildings in the City reduce wastewater demands.

G. Impact UTIL-7: Implementation of the Project, in combination with past, present, and reasonably foreseeable projects, would not result in significant cumulative impacts with respect to wastewater treatment.

The Final EIR finds that buildout of the Project would generate a minor increase in the volume of wastewater delivered for treatment at SJ/SCWPCP and SWPCP, representing less than 1 percent of the available treatment capacity at the SJ/SCWPCP and SWPCP, and it would occur incrementally over a period of 26 years. Based on the recent trends of diminishing wastewater treatment demand and the projected population growth in the service areas, cumulative wastewater treatment demand over the Project buildout period is far below the excess capacity of the SJ/SCWPCP and SWPCP. Because the cumulative demand would not substantially impact the existing or planned capacity of the wastewater treatment systems, which have sufficient capacity for wastewater that would be produced by the Project, the construction of new wastewater treatment facilities would not be necessary.

With implementation of Mitigation Measures UTIL-6a, UTIL-6b and UTIL-6c, set forth and incorporated above, cumulative development combined with the Project would not exceed wastewater treatment requirements. Therefore, the Project would not make a cumulatively considerable contribution to this cumulative impact, and the impact would be less than significant.

Mitigation Measure:

Implement Mitigation Measures UTIL-6a, UTIL-6b, and UTIL-6c.

H. Impact UTIL-8: The Project would not be served by a landfill(s) with sufficient permitted capacity to accommodate the Project's solid waste disposal needs.

The Final EIR finds that anticipated rates of solid waste disposal would have a less-than-significant impact with regard to target disposal rates, and that the City would continue its current recycling ordinances and zero-waste policies. Nevertheless, the 2023 termination of

the agreement between the Newby Island Landfill facility, as well as that facility's estimated closure date in 2025, would result in insufficient solid waste disposal capacity at buildout of the Project, resulting in a significant impact.

Implementation of Mitigation Measure UTIL-8, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impacts to a less-than-significant level.

Mitigation Measure UTIL-8:

The City shall continue its current recycling ordinances and zero-waste policies in an effort to further increase its diversion rate and lower its per capita disposal rate. In addition, the City shall monitor solid waste generation volumes in relation to capacities at receiving landfill sites to ensure that sufficient capacity exists to accommodate future growth. The City shall seek new landfill sites to replace the Altamont and Newby Island landfills, at such time that these landfills are closed.

I. Impact UTIL-10: Implementation of the Project, in combination with past, present and reasonably foreseeable projects, would result in significant cumulative impacts with respect to solid waste.

The Final EIR finds that buildout of the Project will increase the quantity of solid waste for disposal. AB 939 established a goal for all California cities to provide at least 15 years of ongoing landfill capacity; however, growth from other cities in the region may exceed the growth that was taken into account when determining landfill capacity. Also, because the Newby Island Landfill facility, which currently takes approximately 92 percent of the City's solid waste, is expected to close in 2025, Cupertino may eventually experience insufficient landfill capacity to accommodate existing or increased population and employment levels. Although implementation of existing waste reduction programs and diversion requirements would reduce the potential for exceeding existing capacities of landfills, the potential lack of landfill capacity for disposal of solid waste would be a significant cumulative impact.

With implementation of Mitigation Measure UTIL-8, set forth and incorporated above, the Project would not make a cumulatively considerable contribution to this cumulative impact, and the impact would be less than significant.

Mitigation Measure

Implement Mitigation Measure UTIL-8.

VII. GROWTH INDUCING IMPACTS

An EIR is required to discuss growth inducing impacts, which consist of the ways in which the project could foster economic or population growth, or the construction of additional

housing, either directly or indirectly, in the surrounding environment. State CEQA Guidelines § 15126.2(d); Public Resources Code § 21100(b)(5). Direct growth inducement would result, for example, if a project involves the construction of substantial new housing that would support increased population in a community or establishes substantial new permanent employment opportunities. This additional population could, in turn, increase demands for public utilities, public services, roads, and other infrastructure. Indirect growth inducement would result if a project stimulates economic activity that requires physical development or removes an obstacle to growth and development (e.g., increasing infrastructure capacity that would enable new or additional development). It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment. State CEQA Guidelines § 15126.2(d). Section 6.3 of the Draft EIR analyzes the growth inducing impacts of the Project. As explained in Section IX, below, the findings in this Section VII are based on the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

Implementation of the Project would directly induce population, employment and economic growth by replenishing the commercial, residential, hotel, and office space allocation within some areas of the city. The Project would result in the following growth patterns based on the expected growth assumptions for the city boundary:

- Implementation of the Project to the year 2040 would result in increased office space development allocation of approximately 500,000 square feet for a total office allocation of 1,040,231 square feet. This would result in a total anticipated office space of approximately 11,470,005 square feet by 2040.⁹
- Implementation of the Project to the year 2040 would result in a commercial space development allocation of approximately 1,343,679 square feet, which is an increase of 642,266 square feet in the allocation pool but a net increase of 0 square feet. That is because all 642,266 square feet of increase allocation would come from demolition and rebuilding of existing commercial square footage (see footnote 5, above). This would result in a total anticipated commercial space of approximately 4,430,982 square feet by 2040.¹⁰
- Implementation of the Project to the year 2040 would result in increased hotel room development allocation of approximately 1,000 rooms for a total hotel room allocation of 1,339 rooms. This would result in a total anticipated hotel room inventory of approximately 2,429 rooms by 2040.¹¹

⁹ Existing built/approved office space was 8,929,774 square feet in 2013.

¹⁰ Existing built/approved commercial space was 3,729,569 square feet in 2013. With the remaining commercial allocation, commercial buildout by 2040 is estimated to be 4,430,982 square feet. Cupertino Community Development Department (October 31, 2014).

¹¹ Existing built/approved hotel rooms was 1,090 rooms in 2013.

State law requires the City to promote the production of housing to meet its Regional Housing Needs Allocation made by ABAG. The housing and commercial/ industrial growth in Cupertino would allow the City to address its regional fair-share housing obligations.

The Project is considered growth inducing because it encourages new growth in the urbanized areas of Cupertino. Development in these areas would consist of infill development on underutilized sites, sites that have been previously developed, and sites that are vacant and have been determined to be suitable for development. However, because infrastructure is largely in place and commercial or office growth would be required to comply with the City's General Plan, Zoning regulations and standards for public services and utilities; secondary or indirect effects associated with this growth do not represent a new significant environmental impact which has not already been addressed in the individual resource chapters of this EIR.

VIII. ALTERNATIVES

The Final EIR analyzed four alternatives, examining the environmental impacts and feasibility of each alternative, as well as the ability of the alternatives to meet project objectives. The project objectives are listed in Chapter 3 (Project Description) of the Draft EIR; the potentially significant environmental effects of the Project, including feasible mitigation measures identified to avoid these impacts, are analyzed in Chapter 4 (Environmental Evaluation) of the Draft EIR; and the alternatives are described in detail in Chapter 5 (Alternatives to the Proposed Project) of the Draft EIR.

Brief summaries of the alternatives are provided below. A brief discussion of the Environmentally Superior Alternative follows the summaries of the alternatives. As explained in Section IX, below, the findings in this Section VII are based on the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

A. The No Project Alternative

CEQA requires evaluation of the "no project" alternative. State CEQA Guidelines § 15126.6(e). Consistent with State CEQA Guidelines section 15126.6(e)(3)(A), the No Project Alternative assumes that growth and development would continue to occur under the provisions of the current 2000-2020 General Plan, including the development allocations for office and commercial space, and hotel and residential unit allocations. Thus, no new development potential beyond what is currently permitted in the 2000-2020 General Plan would occur.

As shown in Draft EIR Table 5-1, the No Project Alternative would allow for the following new development allocations:

- **Office allocation: 540,231 square feet** (no net increase from 2000-2020 General Plan)

- **Commercial allocation: 701,413 square feet** (no net increase from 2000-2020 General Plan)
- **Hotel allocation: 339 rooms** (no net increase from 2000-2020 General Plan)
- **Residential allocation: 1,895 units** (no net increase from 2000-2020 General Plan)

As discussed in Section 5.1.7 of the Draft EIR, the No Project Alternative would not achieve any of the City's project objectives, which are as follows, except that it would provide for the RHNA for the 20014-2022 planning period:

- Emphasize employment and a mix of economic development opportunities by replenishing, reallocating, and increasing city-wide office, commercial, and hotel, allocations in order to capture:
 - A share of the regional demand for office and hotel development, and
 - Retail sales tax leakage in the trade area.
- Address local needs and regional requirements for new housing, including affordable housing, in Cupertino by replenishing, re-allocating and increasing city-wide residential allocations to be consistent with 2040 Bay Area Plan projections to allow flexibility for the city when future state-mandated updates are required to the Housing Element.
- Update the Housing Element as required by State law.
- Creating opportunities for mixed-use development consistent with Regional Sustainable Communities Strategies for greenhouse gas emissions reductions as required by SB 375.
- Investing in improvement to adapt to climate change over time.
- Consider increased heights in key nodes and gateways, if proposed development provides retail development and benefits directly to the community.
- Update General Plan policies to implement multi-modal traffic standards as opposed to LOS thresholds currently identified. Balancing development objectives with transportation constraints and opportunities.
- Revitalize the Vallco Shopping District by adopting policies to support its redevelopment, so it becomes a cohesive, vibrant shopping and entertainment destination that serves both the region and the local community.

For the foregoing reasons, the No Project Alternative is hereby rejected as infeasible.

B. Land Use Alternative A

Land Use Alternative A identifies how growth would occur if the City largely continues the policies of the current 2005 General Plan, while making minor development allocation and boundary changes. The 2005 General Plan land use standards would continue to apply to Vallco Shopping Mall, and it would not be redeveloped in any substantial manner. Alternative A would increase city-wide office and hotel allocation but would not increase allocations for commercial and residential uses. No maximum height increases are proposed under this alternative.

As shown in Draft EIR Table 5-1, the Land Use Alternative A would allow for the following new development allocations:

- **Office allocation: 1,040,231 square feet** (net increase of 500,000 square feet from the 2000-2020 General Plan)
- **Commercial allocation: 701,413 square feet** (no net increase from the 2000-2020 General Plan)
- **Hotel allocation: 600 rooms** (net increase of 261 rooms from the 2000-2020 General Plan)
- **Residential: 1,895 units** (no net increase from the 2000-2020 General Plan)

As discussed in Section 5.2.8 of the Draft EIR, Alternative A would not achieve the project objectives concerning local needs and regional requirements for new housing, including affordable housing, in Cupertino, because it would not provide sufficient residential units to meet the City's Regional Housing Needs Allocation (RHNA) of 1,064 units minus 62, or 1,002 units. In order to fully comply with the RHNA, the City would need to provide a moderate surplus of 25% to 40% in addition to the 1,002 units or approximately 1,400 units. Alternative A only allows for a surplus of only eight units, however. Alternative A also would not increase the allocation of residential units to accommodate Plan Bay Area projections for residential growth by 2040 (4,421 units).

Alternative A fails to meet project objectives with regard to reallocating, replenishing and increasing city-wide office, commercial and hotel allocations for purposes of economic development, because Alternative A does not allow for any commercial growth beyond that allocated under the 2000-2020 General Plan and allows in insufficient amount of office and hotel growth. Further, Alternative A does not meet the project objective to consider increased heights in key Nodes and Gateways, because no maximum height increases are proposed under this alternative.

Alternative A also does not meet the City’s objective of creating mixed use development consistent with Plan Bay Area and SB 375, because it would not concentrate development in major transportation corridors to the same degree as Alternatives B and C. Alternative A does not envision a complete redevelopment for Vallco Shopping District that would involve adding office and residential uses as in Alternatives B and C. This would not completely meet the project objective to revitalize the Shopping District so it becomes a cohesive, vibrant shopping and entertainment destination that serves both the region and the local community.

For the foregoing reasons, Land Use Alternative A is hereby rejected as infeasible.

C. Land Use Alternative B

Land Use Alternative B identifies how the City can focus development along major mixed-use corridors in order to create more complete commercial, office and entertainment areas, and to address mid-term housing needs. It would increase development allocations for office, commercial and hotel land uses in order to better capture retail sales leakage and regional demand for office development. Alternative B also envisions the transformation of the Vallco Shopping Mall into a retail, employment, housing and entertainment destination. Alternative B would allow for revised height standards at key Gateways and Nodes within Special Areas along major transportation corridors. Alternative B also would increase residential allocations to the amount necessary to meet the City’s housing need of 1,002 units plus a moderate surplus of 25% to 40%, or approximately 1,250 to 1,400 units, but would increase the allocation of residential units to accommodate only 75 percent of Plan Bay Area projections for residential growth by 2040.

As shown in Draft EIR Table 5-1 and the Supplemental Text Revisions, the Land Use Alternative B would allow for the following new development allocations:

- **Office allocation: 2,540,231 square feet** (net increase of 2,000,000 square feet from the 2000-2020 General Plan)
- **Commercial allocation: 1,343,679 square feet** (net increase of 0 square feet from 2000-2020 General Plan)¹²
- **Hotel allocation: 839 rooms** (net increase of 500 rooms from the 2000-2020 General Plan)
- **Residential allocation: 3,316 units** (net increase of 1,421 units from the 2000-2020 General Plan)

¹² See footnote 5, above.

While Alternative B meets all of the project objectives, in comparison with the Planning Commission Recommendation, described in Section II.A, above, Alternative B would not reduce the amount of additional office development in the City sufficiently to further reduce the regional traffic impacts of creating jobs in Cupertino without commensurate, increased development of housing. Furthermore, as described in Section 5.3.8 of the Draft EIR, Alternative B would not go as far as Alternative C in meeting project objectives with regard to reallocating, replenishing and increasing city-wide commercial and hotel allocations for purposes of economic development, and replenishment of the residential allocation. Alternative B envisions that the Vallco Shopping District will be completely, but does not specifically allocate any development potential to that Special Area. Alternative B allows for 500 fewer hotel rooms and 1,105 fewer residential units than the Planning Commission Recommendation, however.

The City commissioned a Market Study¹³ which indicates that the City has a strong market for office, hotel room and residential development. An allocation of only 500 hotel rooms and only 75 percent of the Plan Bay Area projection for residential development by 2040 would not achieve the City's goal of capturing a share of the regional demand for hotel development or meeting the City's goals of providing fewer affordable housing options.

For the foregoing reasons, Land Use Alternative B is hereby rejected as infeasible.

D. Land Use Alternative C

Land Use Alternative C identifies a way to transform the Vallco Shopping Mall into a locally and regionally significant retail, employment, housing and entertainment destination, and account for a large portion of the City's RHNA. Similar to the Planning Commission Recommendation, Alternative C envisions that the Vallco Shopping District will be completely redeveloped. In addition, under Alternative C, the Vallco area would become the "downtown" of Cupertino, serving the mixed-use hub for residents, workers and the larger region. Alternative C would increase development allocations to levels higher than those that would be allowed under either Land Use Alternative A or Land Use Alternative B in order to fully capture retail sales leakage and regional demand for office and hotel development. Alternative C would allow for revised height standards at key Gateways and Nodes within Special Areas along major transportation corridors at heights greater than those allowed under Alternative B. The increases in heights and densities in key Nodes, Gateways and Sub-areas are consistent with the City's goals of concentrating development along the five mixed-use corridors. Alternative C also would increase residential allocations to the amount necessary to meet the City's housing need of 1,002 units plus a moderate surplus of 25% to 40%, or approximately 1,400 units, and would increase the allocation of residential units to accommodate 100 percent of Plan Bay Area projections for residential growth by 2040.

¹³ BAE Urban Economics, General Plan Amendment Market Study (February 13, 2014).

As shown in Draft EIR Table 5-1 and the Supplemental Text Revisions, the Land Use Alternative C (the “proposed Project” in the EIR) would allow for the following new development allocations:

- **Office allocations: 4,040,231 square feet** (net increase of 3,500,000 square feet from the 2000-2020 General Plan)
- **Commercial allocation: 1,343,679 square feet** (net increase of 0 square feet from the 2000-2020 General Plan)¹⁴
- **Hotel allocation: 1,339 rooms** (net increase of 1,000 rooms from the 2000-2020 General Plan)
- **Residential allocation: 4,421 units** (net increase of 2,526 units from the 2000-2020 General Plan)

While Land Use Alternative C would meet all of the project objectives, the combination of the office allocation in Alternative C together with the other land use allocations in Alternative C would not be as effective as the Planning Commission Recommendation in providing for new hotel space or as balanced as the Planning Commission Recommendation, which includes the lower office allocation in Alternative A, in achieving the project objective of creating a mix of economic development opportunities.

Furthermore, the environmental effects from the larger office allocation in Alternative C would be marginally greater than the environmental effects from the office allocation in the Planning Commission Recommendation (which has the same office allocation as Alternative A). That is because the Alternative C office allocation is 3.8 times greater than the office allocation in the Planning Commission Recommendation. Increased allocation to office development would mean more jobs and, as people move to Cupertino to fill those jobs, a higher population. For example, Draft EIR Table 5-2 projects a 70 percent greater increase in jobs and a 75 percent greater increase in population under Alternative C compared to the increases under Alternative B. The increased development and population growth resulting from the Alternative C office allocation would have greater effects on the environment than the office allocation component of the Planning Commission Recommendation and Alternative B. Alternative B would reduce air quality impacts, as described in the analysis of Impact AIR-1, because the Vehicle Miles Traveled (VMT) for Alternative B is lower and reduces the impact to less than significant. See Draft EIR Table 5.5. The VMT for the Planning Commission Recommendation would be similar to Alternative A, with some increase due to the increased hotel allocation. This is because the mix of development in the Planning Commission Recommendation, which includes the same office allocation as Alternative A, has a similar balance of development. In categories where all of the

¹⁴ See footnote 5, above.

alternatives were found to have significant and unavoidable impacts, namely air quality, noise, and traffic, Land Use C's office allocation would result in greater environmental impacts, as it represents the greatest amount of development, which would result in higher consumption of non-renewable resources, generate the greatest amount of waste and pollutants, and increase the demand of public facilities and infrastructure.

For the foregoing reasons, Land Use Alternative C is hereby rejected as infeasible.

E. Environmentally Superior Alternative

In addition to the discussion and comparison of impacts of the Planning Commission Recommendation and the Alternatives, Section 15126.6(e)(2) of the State CEQA Guidelines requires that an "environmentally superior" alternative be selected and the reasons for such a selection be disclosed. The environmentally superior alternative is the alternative that would be expected to create the least significant environmental effects. Identification of the environmentally superior alternative is an informational procedure and the alternative selected may not be the alternative that best meets the goals or needs of Cupertino.

As shown in Draft EIR Table 5-5, the impacts associated with each of the four land use scenarios analyzed in this EIR would essentially be the same. As previously stated, this is because the recommended mitigation measures would apply to all of the alternatives, and compliance with the General Plan policies designed to reduce environmental impacts would also apply to all future development in Cupertino. However, as shown in Draft EIR Table 5-5, for Land Use Alternative B air quality Impact AQ-1 (Conflict with or obstruct implementation of the applicable air quality plan) would be less than significant for Alternative B but would be significant and unavoidable for the other alternatives. That is because the mix of development in Alternative B would increase office square footage, but to all lesser extent than Alternative C, while at the same time increasing the residential allocation unlike Alternative A and the No Project Alternative.

While Alternative C represents the maximum extent of residential development anticipated by the Plan Bay Area for Cupertino by 2040, Alternative C's higher increase in office square footage (4,040,231 square feet compared to the lower office increase in Alternative B of 2,540,231 square feet), together with the total increase in residential allocation, does not reflect a balanced jobs-housing ratio that results in lower per capita VMT when compared to Alternative B. Under Alternative C, land uses allocations in the General Plan would generate 897,419 VMT per day (10.47 miles per service population per day in 2013). Based on the future estimates of VMT per person for Cupertino for year 2040, 1,264,271 VMT per day (10.94 miles per service population per day in 2040) would be generated in Cupertino. Accordingly, the daily VMT in the Project Study Area under Alternative C would increase at a slightly greater rate (40.9 percent) between 2013 and 2040 than would the service population of the Project Study Area (34.8 percent). In comparison, under Alternative B, based on the future estimates of VMT per person for Cupertino for year 2040, 1,097,596 VMT

per day (10.24 miles per service population per day in 2040) would be generated in the City. Under Alternative B, daily VMT in the Project Study Area would increase at a slower rate (22.3 percent) between 2013 and 2040 than would the service population of the Project Study Area (25.0 percent). When the VMT increase is less than or equal to the projected population increase, this represents a balanced jobs-housing ratio.

In identifying an Environmental Superior Alternative, the analysis in the EIR is based on the principle that less development would mean reduced effects on the environment. Each incremental increase in development allocations among the alternatives represents increased population and activity which would result in increased noise, air quality, greenhouse gas, traffic, and utilities impacts. Although a number of these impacts would be significant and unavoidable under every alternative, the severity of the significant and unavoidable impacts would vary according to the development allocations within a given alternative. For example, while Land Use Alternative B would reduce Air Quality Impact AQ-1, as described above in Section VIII.D, the No Project Alternative would be the environmentally superior alternative because it would not allow for new development to occur beyond what is currently planned for in the 2000-2020 General Plan, which would result in the least amount of development in the City and thereby reduce the consumption of renewable resources (e.g., lumber and water) and nonrenewable resources (e.g., fossil fuels, natural gas, and gasoline). Less development would place fewer demands on public service providers (which could require new facilities), would require fewer road, sewer, water and energy infrastructure improvements, and would generate less waste, which would overall reduce impacts on the environment.

In accordance with State CEQA Guidelines Section 15126.6(e)(2), if the environmentally superior alternative is the No Project alternative, the EIR shall also identify an environmentally superior alternative from among the other alternatives. Accordingly, the environmentally superior alternative would be Land Use Alternative A, because less development would occur compared to Land Use Alternative B, Land Use Alternative C, and the Planning Commission Recommendation. Under Land Use Alternative A, no new commercial space, hotel rooms or residential units would be permitted beyond the allocations in the current General Plan.

For the foregoing reasons, Alternative A is considered the environmentally superior alternative.

IX. INCORPORATION BY REFERENCE

These findings incorporate the text of the Final EIR for the Project, the Mitigation Monitoring and Reporting Program, City staff reports relating to the Project and other documents relating to public hearings on the Project, by reference, in their entirety. Without limitation, this incorporation is intended to elaborate on the scope and nature of mitigation measures, project and cumulative impacts, the basis for determining the significance of

impacts, the comparison of the alternatives to the Project, the determination of the environmentally superior alternative, and the reasons for approving the Project.

X. RECORD OF PROCEEDINGS

Various documents and other materials related to the Project constitute the record of proceedings upon which the City bases its findings and decisions contained herein. Those documents and materials are located in the offices of the custodian for the documents and materials, which is the City of Cupertino Community Development Department, Cupertino City Hall, 10300 Torre Avenue, Cupertino, CA 95014-3202.

XI. NO RECIRCULATION REQUIRED

State CEQA Guidelines Section 15088.5 requires a lead agency to recirculate an EIR for further review and comment when “significant new information” is added to the EIR after public notice is given of the availability of the Draft EIR but before certification. No significant new information was added to the Draft EIR as a result of the public comment process. The Final EIR responds to comments, and clarifies, amplifies and makes insignificant modifications to the Draft EIR. The Final EIR does not identify any new significant effects on the environment or a substantial increase in the severity of an environmental impact.

The EIR analyzes full buildout of 2040 growth for Cupertino as projected in Plan Bay Area. The Planning Commission Recommendation consists of the same commercial and hotel development allocations that were analyzed in the EIR for Alternative C, the same office allocation as the amount analyzed in the EIR for Alternative A, and no residential allocation.

The Housing Element sites in the Planning Commission Recommendation are nine of the 19 sites analyzed in the EIR. In addition, some development is reassigned among the sites resulting in fewer units than analyzed in the EIR on some sites and more on one other site, the maximum height limits are either the same as or reduced from Alternative C except at two locations where they are increased by a minor amount, and the maximum densities are either the same as or reduced from Alternative C except at two locations where they are increase by a minor amount.

Accordingly, most portions of the Planning Commission Recommendation were analyzed in the EIR, either as part of Alternative C or as part of Alternative A. The elimination of the residential allocation will not have a new or substantially more severe significant effect on the environment because residential development will be allowed at the locations, densities and intensities as provided for in the existing General Plan and Zoning Ordinance, as amended by the Project and analyzed in the EIR. The minor increases in maximum building heights at two locations and densities at one location will not have any new significant

effects on the environment or a substantial increase in the severity of an environmental impact for the reasons stated in Section II.A and II.B, above.

For the foregoing reasons, recirculation of the Final EIR is not required.

XII. STATEMENT OF OVERRIDING CONSIDERATIONS

As set forth above, the City has found that the Project will result in project and cumulative significant adverse environmental impacts related to air quality, noise, and traffic and transportation that cannot be avoided following adoption, incorporation into the Project, and implementation of mitigation measures described in the EIR. In addition, there are no feasible project alternatives that would mitigate or avoid all of the Project's significant environmental impacts. Section 15093(b) of the State CEQA Guidelines provides that when the decision of the public agency results in the occurrence of significant impacts that are not avoided or substantially lessened, the agency must state in writing the reasons to support its actions. See also Public Resources Code Section 21081(b). Having balanced the economic, legal, social, technological or other benefits of the Project, including region-wide or statewide environmental benefits, against its significant and unavoidable environmental impacts, the City finds that the Project benefits outweigh its unavoidable adverse environmental effects, and that the adverse environmental effects are therefore acceptable.

The following statement identifies the reasons why, in the City's judgment, specific benefits of the Project outweigh the significant and unavoidable effects. The substantial evidence supporting the benefits of the Project can be found in the preceding sections of these Findings, in the Project itself, and in the record of proceedings as defined in Section X, above. The City further finds that each of the project benefits discussed below is a separate and independent basis for these findings. The reasons set forth below are based on the Final EIR and other information in the administrative record.

- 1) The Vision Statement in the General Plan states that "Cupertino aspires to be a balanced community with quiet and attractive residential neighborhoods; exemplary parks and schools; accessible open space areas, hillsides and creeks; and a vibrant, mixed use 'Heart of the City.' Cupertino will be safe, friendly, healthy, connected, walkable, bikeable and inclusive for all residents and workers, with ample places and opportunities for people to interact, recreate, innovate and collaborate." In incorporating the office allocation from Land Use Alternative A and the commercial and hotel allocations from Land Use Alternative C, the Project provides the City with a balanced mix of economic development opportunities while seeking to lessen significant impacts by pursuing the highest possible levels of development.
- 2) The Project provides the City with the commercial development allocation it needs to increase sales and avoid retail leakage in the trade area, as recommended on page 50

of the General Plan Amendment Market Study (BAE Urban Economics, February 13, 2014), and as set forth in the project objectives.

- 3) The Project provides for economic growth by creating employment-related land uses. This will attract new businesses and allow existing businesses to stay and grow within the City, improve sales tax and property tax revenue to help the City maintain a healthy fiscal balance to provide its residents with high quality services.
- 4) The Project concentrates growth along the City's major transportation corridors and in the City's employment centers, which are areas that are within walking distance/bus distance of large employment areas. Encouraging development in existing urbanized areas results in fewer impacts from the construction of new infrastructure, maximizes use of existing impervious surfaces, provides multi-modal transportation opportunities, and reduces miles traveled, which translates into air quality benefits.
- 5) The Project concentrates growth at locations with existing uses and, as a result, potential future development under the Project would consist largely of either redevelopment of existing building, selective demolition of existing structures and replacement with new construction, or new infill development adjacent to existing uses, all of which would serve to lessen environmental impacts.
- 6) The Project policies concentrating growth along transportation corridors and in employment centers contributes to community goals of protecting the City's neighborhoods and connectivity.
- 7) The Project includes policies that encourage conservation of water and energy resources in conformance with the City's sustainability goals.
- 8) The Project is in conformance with the principles of planning sustainable communities by meeting both the present and future housing needs of the City, and fulfills the City Council's charge to prepare a Housing Element.
- 9) The Project is consistent with key planning documents, including Plan Bay Area, which is the Bay Area's Regional Transportation Plan (RTP)/Sustainable Community Strategy (SCS), as well as SB 375, the Sustainable Communities and Climate Protection Act.
- 10) The Project meets the City's Regional Housing Needs Allocation (RHNA) of 1,064 units, and provides a moderate surplus above the City's housing need of 1,002 units, or approximately 1,400 units.
- 11) The Project provides opportunities for increased building heights in key Nodes and Gateways.

- 12) The Project provides for revitalizing the Vallco Shopping Mall and transforming it into a locally and regionally significant retail, employment, and entertainment destination, which would become the “downtown” of Cupertino.
- 13) The Gateways and Nodes located within some of the Project’s Special Areas represent key locations in the City that, with the use of design elements, such as buildings, arches, fountains, banners, signage, special lighting, landscaping and public art, have the opportunity to create a memorable impression of Cupertino. These key locations are essential for providing residents, visitors, and workers an attractive, friendly, and comfortable place with inviting active pedestrian spaces and services.

XIII. SUMMARY

1. Based on the foregoing Findings and the information contained in the record, the City has made one or more of the following Findings with respect to each of the significant environmental effects of the Project:
 - a. Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effects identified in the Final EIR.
 - b. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other public agency.
 - c. Specific economic, legal, social, technological, or other considerations, make infeasible the mitigation measures or alternatives identified in the Final EIR that would otherwise avoid or substantially lessen the identified significant environmental effects of the Project.
2. Based on the foregoing Findings and the information contained in the record, the City determines that:
 - a. All significant effects on the environment due to the approval of the Project have been eliminated or substantially lessened where feasible.
 - b. Any remaining significant effects on the environment found to be unavoidable are acceptable due to the factors described in the Statement of Overriding Considerations, above.

635366.5

Mitigation Monitoring and Reporting Program

This Mitigation Monitoring and Reporting Program (MMRP) has been prepared for the General Plan Amendment, Housing Element Update and Associated Rezoning Project. The purpose of the MMRP is to ensure the implementation of mitigation measures identified as part of the environmental review for the proposed Project. The MMRP includes the following information:

- The full text of the mitigation measures;
- The party responsible for implementing the mitigation measures;
- The timing for implementation of the mitigation measure;
- The agency responsible for monitoring the implementation; and
- The monitoring action and frequency.

The City of Cupertino must adopt this MMRP, or an equally effective program, if it approves the proposed Project with the mitigation measures that were adopted or made conditions of project approval.

MITIGATION MONITORING AND REPORTING PROGRAM

TABLE 1 MITIGATION MONITORING AND REPORTING PROGRAM

| Mitigation Measures | Party Responsible for Implementation | Implementation Timing | Agency Responsible for Monitoring | Monitoring Action | Monitoring Frequency |
|--|--------------------------------------|--|--|-----------------------------|---|
| AIR QUALITY | | | | | |
| AQ-2a: As part of the City’s development approval process, the City shall require applicants for future development projects to comply with the current Bay Area Air Quality Management District’s basic control measures for reducing construction emissions of PM ₁₀ . | City of Cupertino | Prior to Construction During Construction | City of Cupertino Department of Public Works | Plan Review and Approval | During scheduled construction site inspections. |
| AQ-2b: As part of the City’s development approval process the City shall require applicants for future development projects that could generate emissions in excess of the Bay Area Air Quality Management District’s (BAAQMDs) current significance thresholds during construction, as determined by project-level environmental review, when applicable, to implement the current BAAQMD construction mitigation measures (e.g. Table 8-3 of the BAAQMD CEQA Guidelines) or any construction mitigation measures subsequently adopted by the BAAQMD. | City of Cupertino | Prior to Construction | City of Cupertino Department of Public Works | Plan Review and Approval | During scheduled construction site inspections. |
| AQ-4a: Applicants for future non-residential land uses within the city that: 1) have the potential to generate 100 or more diesel truck trips per day or have 40 or more trucks with operating diesel-powered Transport Refrigeration Units (TRUs), and 2) are within 1,000 feet of a sensitive land use (e.g. residential, schools, hospitals, nursing homes), as measured from the property line of the proposed Project to the property line of the nearest sensitive use, shall submit a health risk assessment (HRA) to the City of Cupertino prior to future discretionary Project approval. The HRA shall be prepared in accordance with policies and procedures of the State Office of Environmental Health Hazard Assessment and the Bay Area Air Quality Management District. If the HRA shows that the incremental cancer risk exceeds ten in one million (10E-06), PM _{2.5} concentrations exceed 0.3 µg/m ³ , or the appropriate noncancer hazard index exceeds 1.0, the | City of Cupertino | Prior to future project approval | City of Cupertino Department of Public Works | HRA Review and Approval | Once |

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| <p>applicant will be required to identify and demonstrate that Best Available Control Technologies for Toxics (T-BACTs) are capable of reducing potential cancer and noncancer risks to an acceptable level, including appropriate enforcement mechanisms. T-BACTs may include but are not limited to:</p> <ul style="list-style-type: none"> ▪ Restricting idling on-site. ▪ Electrifying warehousing docks. ▪ Requiring use of newer equipment and/or vehicles. ▪ Restricting offsite truck travel through the creation of truck routes. ▪ T-BACTs identified in the HRA shall be identified as mitigation measures in the environmental document and/or incorporated into the site development plan as a component of the proposed Project. | | | | | |
| <p>AQ-4b: Applicants for residential and other sensitive land use projects (e.g. hospitals, nursing homes, day care centers) in Cupertino within 1,000 feet of a major sources of TACs (e.g. warehouses, industrial areas, freeways, and roadways with traffic volumes over 10,000 vehicle per day), as measured from the property line of the project to the property line of the source/edge of the nearest travel lane, shall submit a health risk assessment (HRA) to the City of Cupertino prior to future discretionary Project approval. The HRA shall be prepared in accordance with policies and procedures of the State Office of Environmental Health Hazard Assessment (OEHHA) and the Bay Area Air Quality Management District. The latest OEHHA guidelines shall be used for the analysis, including age sensitivity factors, breathing rates, and body weights appropriate for children age 0 to 16 years. If the HRA shows that the incremental cancer risk exceeds ten in one million (10E-06), PM_{2.5} concentrations exceed 0.3 µg/m³, or the appropriate noncancer hazard index exceeds 1.0, the applicant will be required to identify and demonstrate that</p> | City of Cupertino | Prior to future project approval | City of Cupertino Department of Public Works | HRA review and approval | Once |

MITIGATION MONITORING AND REPORTING PROGRAM

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| <p>mitigation measures are capable of reducing potential cancer and non-cancer risks to an acceptable level (i.e. below ten in one million or a hazard index of 1.0), including appropriate enforcement mechanisms. Measures to reduce risk may include but are not limited to:</p> <ul style="list-style-type: none"> ▪ Air intakes located away from high volume roadways and/or truck loading zones. ▪ Heating, ventilation, and air conditioning systems of the buildings provided with appropriately sized Maximum Efficiency Rating Value (MERV) filters. <p>Mitigation measures identified in the HRA shall be identified as mitigation measures in the environmental document and/or incorporated into the site development plan as a component of the proposed Project. The air intake design and MERV filter requirements shall be noted and/or reflected on all building plans submitted to the City and shall be verified by the City’s Planning Division.</p> | City of Cupertino | Prior to Construction | California Department of Fish and Wildlife | Preconstruction Survey | Once |
| BIOLOGICAL RESOURCES | | | | | |
| <p>BIO-1: Nests of raptors and other birds shall be protected when in active use, as required by the federal Migratory Bird Treaty Act and the California Department of Fish and Game Code. If construction activities and any required tree removal occur during the breeding season (February 1 and August 31), a qualified biologist shall be required to conduct surveys prior to tree removal or construction activities. Preconstruction surveys are not required for tree removal or construction activities outside the nesting period. If construction would occur during the nesting season (February 1 to August 31), preconstruction surveys shall be conducted no more than 14 days prior to the start of tree removal or construction. Preconstruction surveys shall be repeated at 14-day intervals until construction has been initiated in the area after which</p> | | | | | |

MITIGATION MONITORING AND REPORTING PROGRAM

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| <p>surveys can be stopped. Locations of active nests containing viable eggs or young birds shall be documented and protective measures implemented under the direction of the qualified biologist until the nests no longer contain eggs or young birds. Protective measures shall include establishment of clearly delineated exclusion zones (i.e. demarcated by identifiable fencing, such as orange construction fencing or equivalent) around each nest location as determined by a qualified biologist, taking into account the species of birds nesting, their tolerance for disturbance and proximity to existing development. In general, exclusion zones shall be a minimum of 300 feet for raptors and 75 feet for passerines and other birds. The active nest within an exclusion zone shall be monitored on a weekly basis throughout the nesting season to identify signs of disturbance and confirm nesting status. The radius of an exclusion zone may be increased by the qualified biologist if project activities are determined to be adversely affecting the nesting birds. Exclusion zones may be reduced by the qualified biologist only in consultation with California Department of Fish and Wildlife. The protection measures shall remain in effect until the young have left the nest and are foraging independently or the nest is no longer active.</p> | | | | | |
| HAZARDS AND HAZARDOUS MATERIALS | | | | | |
| <p>HAZ-4a: Construction at the sites with known contamination shall be conducted under a project-specific Environmental Site Management Plan (ESMP) that is prepared in consultation with the Regional Water Quality Control Board (RWQCB) or the Department of Toxic Substances Control (DTSC), as appropriate. The purpose of the ESMP is to protect construction workers, the general public, the environment, and future site occupants from subsurface hazardous materials previously identified at the site and to address the</p> | City of Cupertino | Prior to Construction | City of Cupertino Department of Public Works | Environmental Site Management Plan | Once |

MITIGATION MONITORING AND REPORTING PROGRAM

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| <p>possibility of encountering unknown contamination or hazards in the subsurface. The ESMP shall summarize soil and groundwater analytical data collected on the project site during past investigations; identify management options for excavated soil and groundwater, if contaminated media are encountered during deep excavations; and identify monitoring, irrigation, or other wells requiring proper abandonment in compliance with local, State, and federal laws, policies, and regulations.</p> | | | | | |
| <p>The ESMP shall include measures for identifying, testing, and managing soil and groundwater suspected of or known to contain hazardous materials. The ESMP shall: 1) provide procedures for evaluating, handling, storing, testing, and disposing of soil and groundwater during project excavation and dewatering activities, respectively; 2) describe required worker health and safety provisions for all workers potentially exposed to hazardous materials in accordance with State and federal worker safety regulations; and 3) designate personnel responsible for implementation of the ESMP.</p> | | | | | |
| <p>HAZ-4b: For those sites with potential residual contamination in soil, gas, or groundwater that are planned for redevelopment with an overlying occupied building, a vapor intrusion assessment shall be performed by a licensed environmental professional. If the results of the vapor intrusion assessment indicate the potential for significant vapor intrusion into an occupied building, project design shall include vapor controls or source removal, as appropriate, in accordance with regulatory agency requirements. Soil vapor mitigations or controls could include vapor barriers, passive venting, and/or active venting. The vapor intrusion assessment and associated vapor controls or source removal can be incorporated into the ESMP (Mitigation Measure HAZ-4a).</p> | City of Cupertino | Prior to redevelopment | City of Cupertino Department of Public Works | Vapor Intrusion Assessment | |

MITIGATION MONITORING AND REPORTING PROGRAM

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| TRANSPORTATION AND TRAFFIC | | | | | |
| <p>TRAF-1: The City of Cupertino shall commit to preparing and implementing a Transportation Mitigation Fee Program to guarantee funding for roadway and infrastructure improvements that are necessary to mitigate impacts from future projects based on the then current City standards. As part of the preparation of the Transportation Mitigation Fee Program, the City shall also commit to preparing a "nexus" study that will serve as the basis for requiring development impact fees under AB 1600 legislation, as codified by California Code Government Section 66000 et seq., to support implementation of the proposed Project. The established procedures under AB 1600 require that a "reasonable relationship" or nexus exist between the transportation improvements and facilities required to mitigate the transportation impacts of new development pursuant to the proposed Project. The following examples of transportation improvements and facilities would reduce impacts to acceptable level of service standards and these, among other improvements, including multimodal improvements that reduce automobile trips and relieve congestion, could be included in the development impact fees nexus study:</p> <ul style="list-style-type: none"> ▪ SR 85 Northbound Ramps and Stevens Creek Boulevard (#2): An exclusive left-turn lane for the northbound leg of the intersection (freeway off-ramp) at the intersection of SR 85 and Stevens Creek Boulevard would result in one left-turn lane, one all-movement lane, and one right turn lane. The additional lane could be added within the existing Caltrans right-of-way. ▪ Stelling Road and Stevens Creek Boulevard (#3): The addition of a second exclusive left-turn lane for the eastbound leg of the intersection from Stevens Creek Boulevard to northbound Stelling Road, which could be | City of Cupertino | Upon adoption of proposed Project | City of Cupertino Department of Public Works | Transportation Mitigation Fee Program | Once |

MITIGATION MONITORING AND REPORTING PROGRAM

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| <p>accomplished by reworking the median. Right turns would share the bike lane.</p> <ul style="list-style-type: none"> ▪ Sunnyvale-Saratoga Road/De Anza Boulevard and Homestead Road (#5): Widen De Anza Boulevard to four lanes in each direction or the installation of triple left-turn lanes. ▪ De Anza Boulevard and I-280 Northbound Ramp (#6): Restriping of De Anza Boulevard in the southbound direction to provide room for right turn vehicles to be separated from through traffic may be required. The bike lane would be maintained, and right turns would occur from the bike lane. The right turns would continue to be controlled by the signal and would need to yield to pedestrians. ▪ De Anza Boulevard and Stevens Creek Boulevard (#8): Restripe westbound Stevens Creek Boulevard to provide room for right turn vehicles to be separated from through vehicles may be required. The right turn vehicles will share the bike lane and will still be controlled by the traffic signal. Paint a bike box at the front of the lane to provide bikes a place to wait at red lights. The pedestrian crossings will not be affected may enhance the bicycling experience. ▪ De Anza Boulevard and McClellan Road/Pacifica Drive (#9): Realign the intersection that is currently offset resulting in inefficient signal timing such that the McClellan Road and Pacifica Drive legs are across from each other may be required. In addition, double left turn lanes may be required to be added to De Anza Boulevard with sections of double lanes on McClellan Road and Pacifica Drive to receive the double left turn lanes. These improvements will require the acquisition of right-of-way and demolition of existing commercial buildings. However, some existing right-of-way could be abandoned, which would reduce | | | | | |

MITIGATION MONITORING AND REPORTING PROGRAM

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| <p>the net right-of-way take.</p> <ul style="list-style-type: none"> <p>Wolfe Road and Homestead Road (#16): The addition of a third southbound through lane to the southbound approach of the intersection of Wolfe Road and Homestead Road may be required, as well as the addition of a southbound exclusive right-turn lane. Three southbound receiving lanes on the south side of the intersection currently exist. An additional westbound through lane for a total of three through-movement lanes, an additional receiving lane on Homestead westbound to receive the additional through lane, as well as the addition of a westbound exclusive right-turn lane may be required. This will require widening Homestead Road. An additional eastbound through lane for a total of three through-movement lanes, an additional receiving lane on Homestead eastbound to receive the additional through lane, as well as the addition of an eastbound exclusive left-turn lane for a total of two left-turn lanes may be required. These improvements will require the acquisition of right-of-way and demolition of parking areas.</p> <p>Wolfe Road and I-280 Northbound Ramp (#18): The Apple Campus 2 project will be adding a third northbound lane starting at the northbound on ramp. This third lane will need to be extended farther south to effectively serve the additional northbound traffic due to the General Plan development. This could require widening the Wolfe Road overcrossing. Right-of-way acquisition may be required. In accordance with Caltrans procedures, a Project Study Report (PSR) will need to be prepared. The PSR will look at all interchange improvement options, which may include widening the overcrossing and may include redesign of the interchange to go from a partial cloverleaf design to a diamond design. This could help</p> | | | | | |

MITIGATION MONITORING AND REPORTING PROGRAM

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| <p>with heavy volumes in the right lane, which contributes to the level-of-service deficiency.</p> <ul style="list-style-type: none"> ▪ Wolfe Road and I-280 Southbound Ramp (#19): An additional through lane for a total of three through-movement lanes for the northbound leg of the intersection at the Wolfe Road and I-280 Southbound Ramp may be required. This additional northbound through lane would require widening to the freeway overcrossing. In addition to widening the overcrossing, the City may wish to pursue a redesign of the interchange to go from a partial cloverleaf design to a diamond design. This could help with the problem of heavy volume in the right lane, which contributes to the level of service deficiency. ▪ Wolfe Road/Miller Avenue and Stevens Creek Boulevard (#21): The restriping of the westbound leg of the intersection to provide room so that right turn vehicles can be separated from through vehicles may be required. Right turn vehicles would share the bike lane. Right turn vehicles would still be controlled by the signal, and pedestrian crossings would not be affected. Paint a bike box at the front of the lane to provide bikes a place to wait at red lights may enhance the bicycling experience. ▪ North Tantau Avenue/Quail Avenue and Homestead Road (#24): Restriping of the southbound leg of the intersection (Quail Avenue) to provide a separate left turn lane may be required. This will require the removal of on-street parking near the intersection. The level-of-service calculations show that with implementation of these improvements, the intersection would operate at an acceptable LOS D. ▪ Tantau Avenue and Stevens Creek Boulevard (#27): The addition of a separate left-turn lane to northbound Tantau Avenue may be required. Right-of-way acquisition and demolition of existing commercial buildings would be | | | | | |

MITIGATION MONITORING AND REPORTING PROGRAM

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| Mitigation Measures | Party Responsible for Implementation | Implementation Timing | Agency Responsible for Monitoring | Monitoring Action | Monitoring Frequency |
|--|--------------------------------------|-----------------------|-----------------------------------|-------------------|----------------------|
| <p>required.</p> <ul style="list-style-type: none"> ▪ Stevens Creek Boulevard and Agilent Technologies Driveway (#30): The restriping of the westbound leg of the intersection to provide room so that right turn vehicles can be separated from through vehicles may be required. Right turn vehicles would share the bike lane. Right turn vehicles would still be controlled by the signal, and pedestrian crossings would not be affected. Paint a bike box at the front of the lane to provide bikes a place to wait at red lights may enhance the bicycling experience. ▪ Lawrence Expressway Southbound Ramp and Stevens Creek Boulevard (CMP, County)(#31): The addition of a second right-turn lane for the southbound leg of the intersection at the Lawrence Expressway Southbound Ramp and Stevens Creek Boulevard may be required. Both lanes would need to be controlled by the signal, and disallow right turns on red. Right-of-way acquisition may be required. ▪ Lawrence Expressway Northbound Ramp and Stevens Creek Boulevard (CMP, County) (#32): Redesign of the northbound leg of the intersection at the Lawrence Expressway Northbound Ramp and Stevens Creek Boulevard to provide one through-movement lane, and one exclusive right-turn lane may be required. Right-of-way acquisition would be required. <p>The fees shall be assessed when there is new construction, an increase in square footage in an existing building, or the conversion of existing square footage to a more intensive use. The fees collected shall be applied toward circulation improvements and right-of-way acquisition. The fees shall be calculated by multiplying the proposed square footage, dwelling unit, or hotel room by the appropriate rate.</p> | | | | | |

MITIGATION MONITORING AND REPORTING PROGRAM

TABLE 1 MITIGATION MONITORING AND REPORTING PROGRAM

| Mitigation Measures | Party Responsible for Implementation | Implementation Timing | Agency Responsible for Monitoring | Monitoring Action | Monitoring Frequency |
|--|--------------------------------------|-----------------------------------|--|--|---------------------------|
| <p>Transportation mitigation fees shall be included with any other applicable fees payable at the time the building permit is issued. The City shall use the transportation mitigation fees to fund construction (or to recoup fees advanced to fund construction) of the transportation improvements identified above, among other things that at the time of potential future development may be warranted to mitigate transportation impacts.</p> | | | | | |
| UTILITIES AND SERVICE SYSTEMS | | | | | |
| <p>UTIL-6a: The City shall work with the Cupertino Sanitary District to increase the available citywide treatment and transmission capacity to 8.65 million gallons per day, or to a lesser threshold if studies justifying reduced wastewater generation rates are approved by CSD as described in Mitigation Measure UTIL-6c.</p> | City of Cupertino | Upon Adoption of proposed Project | City of Cupertino Department of Public Works | Increase treatment and transmission capacity | Once |
| <p>UTIL-6b: The City shall work to establish a system in which a development monitoring and tracking system to tabulate cumulative increases in projected wastewater generation from approved projects for comparison to the Cupertino Sanitary District’s treatment capacity threshold with San Jose/Santa Clara Water Pollution Control Plant is prepared and implemented. If it is anticipated that with approval of a development project the actual system discharge would exceed the contractual treatment threshold, no building permits for such project shall be issued prior to increasing the available citywide contractual treatment and transmission capacity as described in Mitigation Measure UTIL-6a.</p> | City of Cupertino | Upon Adoption of proposed Project | City of Cupertino Department of Public Works | No building permits issued for projects anticipated to exceed CSD treatment capacity | Once per approved project |

MITIGATION MONITORING AND REPORTING PROGRAM

TABLE 1 MITIGATION MONITORING AND REPORTING PROGRAM

| Mitigation Measures | Party Responsible for Implementation | Implementation Timing | Agency Responsible for Monitoring | Monitoring Action | Monitoring Frequency |
|--|--------------------------------------|---------------------------------------|--|---|----------------------|
| <p>UTIL-6c: The City shall work with the Cupertino Sanitary District to prepare a study to determine a more current estimate of the wastewater generation rates that reflect the actual development to be constructed as part of Project implementation. The study could include determining how the green/LEED certified buildings in the City reduce wastewater demands.</p> | City of Cupertino | Upon Adoption of the proposed Project | City of Cupertino Department of Public Works | Study of Wastewater Generation Rates | Once |
| <p>UTIL-8: The City shall continue its current recycling ordinances and zero-waste policies in an effort to further increase its diversion rate and lower its per capita disposal rate. In addition, the City shall monitor solid waste generation volumes in relation to capacities at receiving landfill sites to ensure that sufficient capacity exists to accommodate future growth. The City shall seek new landfill sites to replace the Altamont and Newby Island landfills, at such time that these landfills are closed.</p> | City of Cupertino | Ongoing | City of Cupertino Department of Public Works | Secure new landfill options prior to close of Altamont and Newby Island landfills | Ongoing |

Appendix

City Attorney's Ballot Title and Summary for Proposed Initiative Submitted on March 3, 2016
"Measure D"

RECEIVED

MAR 18 2016

CUPERTINO CITY CLERK

CITY ATTORNEY'S BALLOT TITLE AND SUMMARY FOR PROPOSED INITIATIVE
SUBMITTED ON MARCH 3, 2016

TITLE: Initiative adopting the Vallco Town Center Specific Plan to (1) provide that the Vallco Shopping District Special Area ("Area") contains a mixture of residential, office, retail, civic and education uses; (2) require any development to fund or provide community benefits such as transit, schools, a green roof, and recycled water; and (3) grant the property owner initial entitlements to develop in accordance with the Initiative and establish a process for future approvals; and making related amendments to Cupertino's General Plan and Municipal Code.

SUMMARY: The Initiative involves the property designated in Cupertino's General Plan (Community Vision 2015 – 2040) as the Vallco Shopping District Special Area. Fifty-one acres of the 58-acre property are currently occupied by the Vallco Shopping Mall. The General Plan envisions redevelopment of the Area as a mixed-use project, sets forth development allocations, goals, policies and strategies, and requires adoption of a specific plan prior to any development.

The Initiative states that it implements and fulfills the requirements of the General Plan and the vision of the community by approving the Vallco Town Center Specific Plan ("Specific Plan") establishing a mix of retail, dining, entertainment, recreation, offices, housing, hotel, education, civic, public open space, and amenities. The Initiative includes associated amendments to the General Plan and City of Cupertino Municipal Code.

The Initiative:

(1) States that it would entitle the property owners to develop the Area in accordance with the Specific Plan, exempt the Area from provisions of the Municipal Code not provided in the Specific Plan, and establish process for future approvals;

(2) Adopts a Specific Plan establishing development features for the Area including:

- (a) 389 residential units (minimum 20% senior apartments), which may be increased through a Conditional Use Permit process up to the General Plan allocations if there are no significant and unavoidable impacts beyond those identified in the General Plan Environmental Impact Report;
- (b) 2,000,000 square feet ("sf") of office space (minimum of 100,000 sf of incubator space for businesses);
- (c) 640,000 sf of commercial space (regional retail, entertainment, and personal service);
- (d) 100,000 (minimum 50,000) sf of public/civic space;
- (e) Two Town Centers (3-acre minimum);

- (f) 30 acres minimum of Community Park and Nature Area or “green roof” (3.8 miles minimum to be publicly accessible trails), with drought tolerant landscaping and recycled water infrastructure;
- (g) 9,060 parking spaces below, above, and at grade level;
- (h) 80 feet (maximum) building height west of Wolfe Road and 95 feet (maximum) building height east of Wolfe Road, scaled to minimize impacts on residential; and
- (i) 191 hotel rooms (in addition to a previously approved hotel).

(3) Requires any development, other than on two sites proposed for hotels, to fund community benefits which may be incorporated into a development agreement, including transportation improvements (\$30 million for I-280, a free shuttle, transit center, and bike/pedestrian trails), 5,000 square feet of charitable civic space, and no less than 10 times what is legally required for schools (approximately \$40 million);

(4) Changes standards for “parcelization” (division of the property into smaller parcels);
and

(5) States that, until January 1, 2027, its provisions may only be amended or repealed by the voters.

Traffic Studies

San Jose Envision 2040 General Plan TIA for the DEIR:

<http://www.sanjoseca.gov/DocumentCenter/View/2198>

- The broad-brush program-level traffic study shows 73% of Cupertino's lane miles are impacted by San Jose's GP. Stevens Creek Blvd. will be deficient.
- San Jose indicates they altered their policy to no longer driver comfort and convenience, yet this is not holding up to CEQA scrutiny due to other concerns such as greenhouse gas emissions.

adjacent jurisdiction are attributable to San Jose. The 25 percent threshold represents what would be a noticeable change in traffic by San José General Plan.

**TABLE 15
 ADJACENT JURISDICTION IMPACTS SUMMARY
 (BASED ON AM PEAK 4-HOUR PERIOD VOLUMES)**

| City | Existing Conditions | | | Proposed General Plan Update | | |
|----------------------------------|--|--|---|---|--|---|
| | Total Lane Miles with Deficient V/C Ratio ¹ | Impacted Lane Miles (San Jose traffic ≥ 10% of volume) | Percent of Impacted Lane Miles Affected | Total Lane Miles with Deficient V/C Ratio | Impacted Lane Miles (San Jose traffic ≥ 10% of volume) | Percent of Impacted Lane Miles Affected |
| Campbell | 0.13 | 0.13 | 100 | 0.42 | 0.42 | 100 |
| Cupertino | 0.67 | 0.67 | 100 | 7.52 | 5.45 | 73 |
| Gilroy | 0.00 | 0.00 | 0 | 1.65 | 1.65 | 100 |
| Los Altos | 0.78 | 0.78 | 100 | 2.52 | 2.52 | 100 |
| Los Altos Hills | 0.17 | 0.02 | 14 | 3.61 | 3.00 | 83 |
| Los Gatos | 0.12 | 0.12 | 100 | 0.90 | 0.90 | 100 |
| Milpitas | 0.73 | 0.73 | 100 | 22.17 | 22.17 | 100 |
| Monte Sereno | 0.00 | 0.00 | 0 | 0.00 | 0.00 | 0 |
| Morgan Hill | 0.00 | 0.00 | 0 | 1.97 | 1.97 | 100 |
| Mountain View | 0.72 | 0.65 | 90 | 11.76 | 10.83 | 92 |
| Palo Alto | 0.48 | 0.16 | 33 | 7.58 | 4.76 | 63 |
| Santa Clara | 0.17 | 0.17 | 100 | 1.95 | 1.95 | 100 |
| Saratoga | 1.26 | 1.26 | 100 | 5.71 | 5.71 | 100 |
| Sunnyvale | 0.00 | 0.00 | 0 | 1.45 | 1.42 | 98 |
| Caltrans Facilities ² | 5,093.26 | 4,391.72 | 86 | 4,951.58 | 4,584.04 | 93 |
| Santa Clara County Facilities | 3.01 | 3.01 | 100 | 21.33 | 21.33 | 100 |

Notes: Impacts are identified in **bold** text.
 1 Lane miles of less than 0.5 were rounded to 0. For evaluating significant impacts, if impacted lane miles attributable to the City are less than 0.5, impacts are considered *less-than-significant*.
 2 Includes all Caltrans facilities within Santa Clara County.
 Source: Fehr & Peers, 2010.

The following roadways were analyzed to determine impacts presented in **Table 15**. CMP system roadways are identified in *italicized* text. Minor arterials were also analyzed to determine impacts presented in **Table 15**; however, they are not specifically identified below.

- **Campbell:** *Hamilton Avenue*, Campbell Avenue, Winchester Boulevard
- **Cupertino:** Homestead Road, Foothill Boulevard, Bubb Road, *Stevens Creek Boulevard*, Pruneridge Avenue, North Wolfe Road, *De Anza Boulevard*, Stelling Road
- **Gilroy:** Monterey Street, Leavesley Road, Hecker Pass Highway, East 10th Street, Monterey Street, East Luchessa Avenue

**TABLE 14
 TRANSIT PRIORITY CORRIDOR IMPACT SUMMARY**

| Roadway Segment | Cross Street | Cross Street | Distance (Miles) | AM Peak Hour Travel Speed (MPH) | |
|-----------------------------------|-------------------|------------------|------------------|---------------------------------|----------------------------------|
| | | | | Existing Conditions | Proposed General Plan Conditions |
| Second St. | San Carlos St. | St. James St. | 0.6 | 11.5 | 11.4 |
| Alum Rock Ave. | Capitol Ave. | US 101 | 3.4 | 20.0 | 12.9 |
| Camden Ave. | SR 17 | Meridian Ave. | 5.2 | 24.0 | 18.0 |
| Capitol Ave. | S. Milpitas Blvd. | Capital Expwy. | 7.6 | 24.1 | 17.5 |
| Hillsdale Ave./ Capitol Expwy. | Capitol Ave. | Meridian Ave. | 19.8 | 28.6 | 23.8 |
| E. Santa Clara St. | US 101 | Delmas Ave. | 4.6 | 20.4 | 16.2 |
| Meridian Ave. | Park Ave. | Blossom Hill Rd. | 12.2 | 25.5 | 19.6 |
| Monterey Rd. | Keyes St. | Metcalf Rd. | 18.2 | 24.6 | 17.0 |
| First St. | CA 237 | Keyes St. | 17.2 | 22.6 | 13.4 |
| San Carlos St. | Bascom Ave. | SR 87 | 4.2 | 24.3 | 19.7 |
| Stevens Creek Blvd. | Bascom Ave. | Tantau Ave. | 8.2 | 23.1 | 16.8 |
| Tasman Dr. | Lick Mill Blvd. | McCarthy Ln. | 5.0 | 24.3 | 9.5 |
| The Alameda | Alameda Wy. | Delmas Ave. | 4.2 | 22.6 | 14.2 |
| W. San Carlos St. | SR 87 | Second St. | 1.3 | 19.9 | 17.5 |

Note: The values shown have been rounded for presentation purposes.
 Source: Fehr & Peers, 2010.

g. Adjacent Jurisdictions

Operations of adjacent jurisdiction roadway segments outside the City of San José boundaries were reviewed to determine the potential impacts of the proposed General Plan Update. **Table 15** summarizes these results.

Given changes in land use, trip patterns, and behavior between the two scenarios, vehicular traffic on roadway segments within several jurisdictions is projected to increase with the proposed General Plan Update land uses as compared to existing conditions.

A roadway segment within adjacent jurisdictions is considered to be deficient if the future volume-to-capacity (V/C) ratio is 1.0 or greater during the AM peak 4-hour period in the year 2035. Given the large population and employment projected to reside in the region, and the complex travel patterns created by the large population and employment numbers, only a portion of trips on any roadway segment in adjacent jurisdictions are expected to have originated from a resident or job within City of San José. Therefore, a deficient roadway segment in adjacent jurisdictions is attributed to City of San José General Plan when the trips from the City are 10 (ten) percent or more on the deficient segment. The impact to an adjacent jurisdiction is considered significant when 25 percent or more of total deficient lane miles in that

Adjacent Jurisdiction Impacts

Impact TRANS-4. Motor vehicle traffic and congestion resulting from implementation of the proposed General Plan Update would increase on roadway segments outside of the City of San Jose. (Significant)

Roadways within adjacent jurisdictions are considered to be deficient if the volume to capacity (V/C) ratio under proposed General Plan Update conditions is 1.0 or greater, and is considered an impact when the trips from the City are 10 (ten) percent or more of the total traffic on these roadways. The impact is considered significant when the impacted roadway lane miles are 25 percent of the deficient lane miles.

With implementation of the proposed General Plan Update, 15 adjacent jurisdictions would have impacts on greater than one lane mile of roadways. These impacts are the aggregate of the major roadways within the adjacent jurisdiction boundaries of Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Mountain View, Palo Alto, Saratoga, Sunnyvale, Milpitas, Morgan Hill, Santa Clara, Caltrans facilities, and Santa Clara County facilities.

The traditional response to mitigate significant traffic-related impacts, or increases in automobile trips on street segments, is to increase roadway capacity by providing additional lanes or facilities. In Santa Clara County, widening roads to provide additional travel lanes is no longer feasible in most cases because available right-of-way is already constrained and utilized by other land uses or transportation facilities. Dedication of additional land to paved roadways decreases landscaping, eliminates street trees/bus stops/bicycle lanes, reduces sidewalk widths, increases intersection sizes, and moves vehicular traffic (with associated noise and pollution) closer to residences and businesses.

The proposed General Plan Update recognizes and acknowledges that there will be increased levels of congestion resulting from new development, both within San Jose and elsewhere in the Bay Area. This reflects a change in policy for the City to acknowledge that transportation planning based solely on roadway traffic operations (i.e. analysis based on traffic level of service and volume to capacity ratios), which considers only driver comfort and convenience, is not desirable since it fails to acknowledge other users of the circulation system and other community values. In evaluating the roadway system, an impact to adjacent roadways may be desired when balanced against other community values related to resource protection, social equity, economic development, and consideration of pedestrians, bicyclists, and transit users.

Widening a road to achieve a lower volume to capacity ratio results in higher expenditure of infrastructure dollars for wider roadways that do not necessarily serve all users of the circulation system. Roadway widening also provides capacity that is excess for the majority of the day outside the peak periods. Furthermore wider roadways, in general, are inconsistent with goals promoting a more livable city, cause greater impacts to biological resources and discourage roadway use by pedestrians and bicyclists. In addition, mitigating impacts to affected roadway segments can have high infrastructure costs.

The proposed General Plan update contains several policies and actions that seek to reduce automobile travel. They include TR 1.1 through TR-1.9, TR 2.1 through 2.11, TR-3.1 through 3.4, TR-4.1 through 4.4, and TR-8.1 through 8.4. Implementation of these policies and actions would help reduce the magnitude of traffic impacts on adjacent jurisdictions.

The proposed General Plan update also includes an implementing action to encourage coordination with other jurisdictions:

- CR-1.8 **Interagency Participation and Coordination.** Actively coordinate with regional transportation, land use planning, and transit agencies to ensure development and maintenance of a transportation network with complementary land uses that encourage travel by bicycle, walking, and transit, and ensure regional greenhouse gas emission standards are met

Based on the considerations above, no mitigation measures are feasible to reduce adjacent jurisdiction impacts to a less than significant level. With adoption of the new policies and implementing actions contained in the General Plan Update, this impact would be reduced but could remain significant. Therefore, impacts to adjacent jurisdictions would remain **significant and unavoidable**.

City of Cupertino General Plan 2040 EIR

See Appendix G: Transportation and Traffic Data:

Cupertino presents that 11 of 16 intersections would operate at unacceptable level of service due to the proposed project. 9 out of 16 intersections are outside of Cupertino jurisdiction.

Jennifer Griffin expressed her concern that the vacation of Finch Avenue would be determined before an EIR is completed or permits for Main Street have been pulled. She said that she felt Main Street and the vacation of Finch Avenue should be separate items.

Director of Public Works Timm Borden said that the vacation would not be approved until Main Street is approved and that Council is only setting May 1 as the date for a public hearing to coincide with the hearing regarding Main Street.

Wong moved and Mahoney seconded to adopt Resolution No. 12-029 as amended with the correct hearing date of May 1. The motion carried unanimously.

SECOND READING OF ORDINANCES - None

PUBLIC HEARINGS - None

ORDINANCES AND ACTION ITEMS

13. Subject: Annual Status report of the General Plan and Housing Element
Recommended Action: Approve for submission to the California Department of Housing & Community Development (HCD) by April 1, 2012
Description: Review of the General Plan progress and program implementation as required by State Law

Community Development Director Aarti Shrivastava reviewed the staff report.

Jennifer Griffin said that developments such as Main Street, Biltmore, Rose Bowl, Apple, and the IHOP development are coming up. She noted that the General Plan says the City can't approve additional housing if road intersections can't maintain above a D grade level of service. She said she is concerned that Stevens Creek Blvd. will take the brunt of the traffic with these new developments. She urged Council to take a look at this when approving the projects.

Shrivastava explained that the General Plan does talk about maintaining a level of service D for all intersections. She said that this will be looked at during the environmental review of the projects. She noted that the City will review and get a chance to provide comments regarding the IHOP development, but since it's in a different city, they can only comment. She said that staff would make sure that none of Cupertino's intersections would be impacted above level service D when the projects are approved.

Wong moved and Mahoney seconded to approve the submission of the General Plan and Housing Element annual status report. The motion carried unanimously.

TRANSPORTATION AND TRAFFIC

Five (5) of the sixteen (16) intersections that would operate at an unacceptable level of service for at least one peak hour under the proposed Project were also predicted to operate at an unacceptable level of service under the No Project scenario.

The intersections that would operate at an unacceptable level of service are bolded and underlined in Table 4.13-13. All other study intersections would continue to operate at acceptable levels of service under the proposed Project conditions. The LOS calculation sheets are included in Appendix G, Transportation and Traffic Data, of this Draft EIR.

TABLE 4.13-13 PROPOSED PROJECT INTERSECTION LEVELS OF SERVICE TABLE

| # | Intersection | LOS Standard | Peak Hour | No Project | | Proposed Project | | | |
|----|---|--------------|-----------|-------------|-----------|------------------|----------|---------------------|-----------------------|
| | | | | Avg. Delay | LOS | Avg. Delay | LOS | Change in Crit. V/C | Change in Crit. Delay |
| 1 | SR 85 SB Ramps and Stevens Creek Blvd. ^a | D | AM | 29.2 | C | 31.9 | C | 0.127 | 4.6 |
| | | | PM | 29.1 | C | 32.2 | C- | 0.103 | 4.4 |
| 2 | SR 85 NB Ramps and Stevens Creek Blvd. ^a | D | AM | 51.1 | D- | 65.1 | E | 0.084 | 25.3 |
| | | | PM | 20.9 | C+ | 21.5 | C+ | 0.110 | 2.2 |
| 3 | Stelling Rd. and Stevens Creek Blvd. ^a | E+ | AM | 46.2 | D | 47.7 | D | 0.050 | -0.7 |
| | | | PM | 52.9 | D- | 88.2 | F | 0.240 | 71.7 |
| 4 | Sunnyvale-Saratoga Rd. and Fremont Ave. ^a | E | AM | 42.8 | D | 44.5 | D | 0.054 | 3.1 |
| | | | PM | 52.5 | D- | 63.0 | E | 0.075 | 17.6 |
| 5 | Sunnyvale-Saratoga Rd./De Anza Blvd. and Homestead Rd. ^a | D | AM | 51.2 | D- | 101.5 | F | 0.273 | 88.4 |
| | | | PM | 66.1 | E | 181.4 | F | 0.486 | 214.8 |
| 6 | De Anza Blvd. and I-280 NB Ramp ^a | D | AM | 46.4 | D | 100.0 | F | 0.393 | 170.6 |
| | | | PM | 71.7 | E | 162.2 | F | 0.623 | 274.1 |
| 7 | De Anza Blvd. and I-280 SB Ramp ^a | D | AM | 47.0 | D | 110.9 | F | 0.345 | 142.6 |
| | | | PM | 35.3 | D+ | 99.9 | F | 0.550 | 237.3 |
| 8 | De Anza Blvd. and Stevens Creek Blvd. ^a | E+ | AM | 45.8 | D | 53.6 | D- | 0.079 | 10.8 |
| | | | PM | 76.2 | E- | 160.4 | F | 0.445 | 188.9 |
| 9 | De Anza Blvd. and McClellan Rd./Pacifica Dr. | D | AM | 33.0 | C- | 39.3 | D | 0.138 | 9.3 |
| | | | PM | 70.7 | E | 108.8 | F | 0.153 | 57.3 |
| 10 | De Anza Blvd. and Bollinger Rd. ^a | E+ | AM | 44.0 | D | 51.4 | D- | 0.067 | 10.7 |
| | | | PM | 25.1 | C | 22.6 | C+ | 0.029 | -1.3 |
| 11 | De Anza Blvd. and SR 85 NB Ramp ^a | D | AM | 32.9 | C- | 37.6 | D+ | 0.099 | 5.9 |
| | | | PM | 16.4 | B | 27.8 | C | 0.130 | 18.2 |
| 12 | De Anza Blvd. and SR 85 SB Ramp ^a | D | AM | 23.9 | C | 26.2 | C | 0.063 | 3.6 |
| | | | PM | 22.2 | C+ | 29.5 | C | 0.148 | 13.7 |
| 13 | Blaney Ave. and Homestead Rd. | D | AM | 34.9 | C- | 52.9 | D- | 0.205 | 26.5 |
| | | | PM | 16.4 | B | 25.0 | C | 0.187 | 10.7 |
| 14 | Wolfe Rd. and El Camino Real (SR 82) ^b | E | AM | 47.6 | D | 48.0 | D | 0.016 | 0.7 |
| | | | PM | 51.8 | D- | 53.2 | D- | 0.027 | 1.4 |
| 15 | Wolfe Rd. and Fremont Ave. ^c | E | AM | 45.8 | D | 47.4 | D | 0.045 | -1.5 |
| | | | PM | 51.8 | D- | 59.3 | E+ | 0.060 | 7.1 |

The impacts are primarily on the east side of Cupertino compounding the effects of Apple Park when it fully occupies with 14,200 employees.

i. Multiple projects including 239 acre “City Place” in Santa Clara, Valley Fair Expansion, Google in Mountain View and Diridon Station have added tens of thousands of employees which were not studied nor anticipated in the EIR.

San Jose's Envision 2040 EIR showed they would impact 73% of vehicle lane miles in Cupertino. This was not studied in the Cupertino General Plan 2040 EIR.

County) (#32): Redesign of the northbound leg of the intersection at the Lawrence Expressway Northbound Ramp and Stevens Creek Boulevard to provide one through-movement lane, and one exclusive right-turn lane may be required. Right-of-way acquisition would be required.

The fees shall be assessed when there is new construction, an increase in square footage in an existing building, or the conversion of existing square footage to a more intensive use. The fees collected shall be applied toward circulation improvements and right-of-way acquisition. The fees shall be calculated by multiplying the proposed square footage, dwelling unit, or hotel room by the appropriate rate. Traffic mitigation fees shall be included with any other applicable fees payable at the time the building permit is issued. The City shall use the traffic mitigation fees to fund construction (or to recoup fees advanced to fund construction) of the transportation improvements identified above, among other things that at the time of potential future development may be warranted to mitigate traffic impacts.

While implementation of Mitigation Measure TRAF-1 would secure a funding mechanism for future roadway and infrastructure improvements that are necessary to mitigate impacts from future projects based on then current standards, impacts would remain *significant and unavoidable*, because the City cannot guarantee improvements at these intersections at this time. This is in part because the nexus study has yet to be prepared and because some of the impacted intersections are under the jurisdictions of the Cities of Sunnyvale and Santa Clara and Caltrans. Specifically, the following intersections are outside the jurisdiction of Cupertino:

TRANSPORTATION AND TRAFFIC

- SR 85 Northbound Ramps and Stevens Creek Boulevard (#2)
- De Anza Boulevard and I-280 Northbound Ramp (#6)
- Wolfe Road and Homestead Road (#16)
- Wolfe Road and I-280 Northbound Ramp (#18)
- Wolfe Road and I-280 Southbound Ramp (#19)
- North Tantau Avenue/Quail Avenue and Homestead Road (#24)
- Stevens Creek Boulevard and Agilent Technologies Driveway (#30)
- Lawrence Expressway Southbound Ramp and Stevens Creek Boulevard (CMP, County)(#31)
- Lawrence Expressway Northbound Ramp and Stevens Creek Boulevard (CMP, County) (#32)

However, the City will continue to cooperate with these jurisdictions to identify improvements that would reduce or minimize the impacts to intersections and roadways as a result of implementation of future development projects in Cupertino.

Significance With Mitigation: Significant and Unavoidable.

Letters to and from City and Developer

Page 1

From: "Reed Moulds" <rmoulds@shpco.com>
To: "Aarti Shrivastava" <AartiS@cupertino.org>
Date: 12/23/2013 3:43:34 PM
Subject: Fwd: Height

This is one of our preferred office architects. He is doing our Netflix HQ expansion as well as our Stanford RP project. He is active in the valley and in the city. As you can see, he suggests 159.5' all in below.

However, if I reduce the upper floors to 14' (as Jay Paul did) and use his shorter notion of a penthouse (13') I am down to 155'. Of course, 9.5' of that penthouse is mechanical and elevator overrun screening, so the 3.5' parapet really is what gives the appearance as the building's max height. So, if we don't have to include the rooftop elements in the height calc, we can live with 145.5' and up.

Of course 159.5' gives us the greatest flexibility for interesting design and tenant desired qualities.

Begin forwarded message:

From: Bob Giannini <bgiannini@form4inc.com>
Date: December 23, 2013 at 10:17:01 AM PST
To: Reed Moulds <rmoulds@shpco.com>
Subject: Re: Height

Hi Reed: Floors in a building like that can go anywhere from 13'-6" floor to floor, to 14'-6". You can get about a 9'-6" floor in 13'-6" which some developers are OK with (like Hines), but most like at least 10'.

So for your estimate we assume this: 16' first floor (to give the building a good base proportion, and to accommodate some higher uses on the ground floor), then 14'-6" upper floors, plus a 3.5 foot parapet, or 13' for a penthouse.

So: $16 + 9 \times 14.5 + 13 = 159' - 6"$

Thanks

Bob Giannini, AIA
President
Form4 Architecture, Inc.
126 Post Street, 3rd floor
San Francisco, Ca, 94108
415 254 7515

On Dec 20, 2013, at 3:27 PM, Reed Moulds <rmoulds@shpco.com> wrote:

Bob, a seemingly random question for you for which I am hoping you can provide a quick answer.

If we asked you to design a first class office building in 10 stories, how tall would it be (at parapet and then all-in with rooftop components)?

Reed Moulds
Managing Director
Sand Hill Property Company
203 Redwood Shores Parkway, Suite 200
Redwood City, CA 94065
650-344-1500 x110

October 13, 2014

Via Overnight Delivery and E-Mail

Chair Brophy and Members of the Planning Commission
Cupertino City Hall
10300 Torre Avenue
Cupertino, CA 95014-3202

Re: General Plan Amendment: Office Allocation for Vallco Shopping District

Dear Chair Brophy and Members of the Planning Commission:

I am writing on behalf of Sand Hill Property Company (“Sand Hill”) regarding the treatment of the Vallco Shopping District (“Vallco”) in the General Plan Amendment. Sand Hill is in the midst of acquiring the Vallco parcels for potential redevelopment, so we are keenly interested in working with the City of Cupertino (“City”) to develop a feasible plan that can benefit all stakeholders. I am writing to request that the Planning Commission recommends to the City Council that the General Plan include an office allocation for Vallco of 2,000,000 square feet and the height limits set out in “Alternative C,” as analyzed in the draft General Plan’s environmental review. Without this specific office allocation, as well as the necessary retail and housing components, there will not be adequate critical mass to make it possible for Sand Hill, or any other prospective developer, to successfully redevelop Vallco.

Vallco presents a unique opportunity for redevelopment and revitalization that is unmatched in the City of Cupertino. The site sits at a prime location in the City, yet for many reasons, it has long been neglected and numerous redevelopment efforts were either abandoned or have failed. Sand Hill has the financial capacity and proven track record with such projects and is poised to bring to the City what its citizens have long yearned for: a dynamic downtown where the community can live, work and play. Sand Hill plans to completely transform the current derelict site by redeveloping it with a vibrant, sustainable mixed-use neighborhood. Our plan envisions a balanced mix of 600–700 residential units, approximately 600,000 square feet of retail, a full service hotel, and 2,000,000 square feet of office space. The overarching vision is to create a pedestrian oriented “town center” consistent with the General Plan vision that will have synergies between the uses and nearby projects, such as Main Street.

sf-3467260

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The benefits to the City of such a project go well beyond creating a sense of place. With 600,000 square feet, the retail component of the project would be the same size as Santana Row and would generate millions in sales tax revenues way in excess of what is being collected today. Property taxes would also increase significantly, perhaps by 800%, given the billion-dollar plus investment Sand Hill is prepared to make in the City of Cupertino. In addition, we recognize that in order to obtain increased height limits for Vallco under Alternative C, projects must comply with the new General Plan's community benefits program. Although our specific project plans are still developing, the community benefits we anticipate providing include ground floor retail components and [transit improvements and amenities, space for public entities, senior housing, construction of a new, or expansion to, a community facility/community gathering place, creation or dedication of new or expanded park, cash in-lieu contribution for such community benefits]. We would also be amenable to exploring, with other property developers, the potential of providing a community shuttle program in order to provide transportation between employment and community centers. As required by the General Plan, these community benefits will be equivalent to at least 15 percent in value of the parcel attributed to the increase in height.

The opportunity to transform the Vallco site is now. Sand Hill has a real plan, the capabilities to implement it, and the history of working closely with the City and the community. Prior attempts at Vallco redevelopment have all run into the same problem: full ownership of the site is needed for a successful project, and the current split and passive ownership structure has made parcel assemblage extremely difficult. After nearly three years of intensive negotiations with the various Vallco ownership entities, Sand Hill is now in the process of completing purchases for the entire mall. Single ownership will remove the key barrier to redevelopment that has hampered the site for decades. However, in order to close on the Vallco parcels, Sand Hill needs assurance now that it can build a project that is financially viable. At present, the development allocation recommended in the Staff Report precludes such a project, and thus, a feasible redevelopment of the property. In particular, the Staff Report's recommendations to limit office to 1,000,000 square feet and heights to 75 feet (west of Wolfe Road) and 90 feet (east of Wolfe Road) does not work for our plan, or any plan for that matter.

Redevelopment of Vallco is a substantial undertaking. It entails demolition of approximately 1.2 million square feet of existing buildings and construction of an entire new downtown over 50 acres. The General Plan's vision for a redeveloped Vallco is ambitious: a "town center" layout, a newly configured street grid, an expanded Wolfe Road bridge of I-280 to accommodate a bikeable and walkable "boulevard," a new town square and plazas interspersed throughout. The General Plan calls for high-quality architecture and materials befitting a gateway site. Sand Hill shares this vision, but such elements are all very costly. While retail uses are critical for completing the overall vision, such uses do not support the type of amenities we and the City want to provide. In order for complete redevelopment to

Chair Brophy and Members of the Planning Commission
October 13, 2014
Page Three

be financially feasible, the project must include 2,000,000 square feet of office already studied in the EIR. Further, in order to provide this office square footage, while also respecting the neighborhoods to the west, increased height must be allowed, including up to 160 feet on the east side of Wolfe Road.

For these reasons, we respectfully request that the Planning Commission recommend to the City Council that the General Plan allocate to the Vallco Shopping District:

- 2,000,000 square feet of office space;
- Include the site in the Housing Element, including at least 600 units of housing;
- 600,000 square feet of retail; and
- Heights analyzed in "Alternative C" be permitted (i.e., up to 85 feet west of Wolfe Road and up to 160 feet east of Wolfe Road, with community benefits).

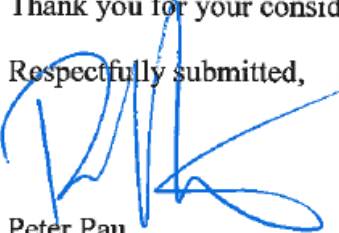
* * * * *

Sand Hill is proud of what it has done in the City of Cupertino. We have partnered with the City and the community on a number of successful commercial, retail and residential projects since the 1990's. As with those prior projects, we view Vallco as a long-term investment. We are a local owner and take pride in our commitment to the community and the City. Main Street is now under construction and will open as a new gathering place in 2015-2016. We look forward to continued collaboration with the City and community in the redevelopment of Vallco.

Sand Hill hopes it can build on its previous successes and realize a long-term community vision for a revitalized Vallco. The development team and funding is in place to move forward now. However, we want to be clear with the Planning Commission and City Council that without the necessary office, residential and retail allocations outlined above, we will not be in a position to redevelop Vallco and it will likely continue to languish for decades to come.

Thank you for your consideration.

Respectfully submitted,



Peter Pau
Principal and Founder

Apple Comments on DEIR to General Amendment:

COMMENT LETTER # B16



July 31, 2014

Piu Ghosh
Senior Planner
City of Cupertino
10300 Torre Avenue
Cupertino, CA 95014

Re: Apple Comments on DEIR for General Plan Amendment

Dear Piu:

This letter sets forth Apple's comments on the Draft Environmental Impact Report ("EIR") prepared for the General Plan Amendment, Housing Element Update, and associated Rezoning Project (collectively, the "General Plan Amendment").

Apple has a strong interest in the City's future growth and development. We are investing billions of dollars to remain in our hometown. As a general matter, Apple supports the increases in office and hotel development allocations in the General Plan Amendment. The positive impact of Apple Campus 2 on the area is already apparent. We believe Apple Campus 2 and Apple's continued presence in the area will continue to drive demand for new office space and generate additional visitors to the area. We support the City's efforts to accommodate economic development and reasonable growth.

We also value our good relations with The Irvine Company. We have worked cooperatively on a number of initiatives. We understand The Irvine Company's desire to update and densify the Hamptons, and we are not opposed to reasonable development on that site.

However, we have grave concerns about the dramatic increases in density and height the General Plan Amendment would allow at the Hamptons. Such increases are unprecedented in Cupertino. The impact of these increases on the unique privacy and security needs of Apple Campus 2, which the City has acknowledged in the EIR for the campus, have not been considered. We also have concerns about the impact buildings of this height will have on view corridors, sunlight and emission of light and glare. ***For the reasons outlined below, we respectfully request that the updated General Plan maintain the longstanding height limit of 60 feet for the Hamptons site, for all structures located within 50 feet of the parcel line abutting Apple Campus 2 or***

B16-01

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Pruneridge. The height limit should remain at 60 feet for the remainder of the Hamptons site, unless the City makes special findings that an increased height, up to 75 feet, would not infringe on the privacy and security needs of Apple Campus 2, nor unreasonably impact view corridors or sunlight, or create light or glare trespass. We also request that setbacks, transitions, landscaping, or other mitigations be imposed, unless the City makes the special findings specified above.

B16-01
cont.

1. The Proposed Height Increase and Elimination of Setbacks for the Hamptons Site Threatens the Security of Apple Campus 2

As we have discussed extensively in the past, the key purpose of Apple Campus 2 is to provide a single, unified and secure campus where Apple will invent future generations of Apple products. The Apple Campus 2 Environmental Impact Report ("AC2 EIR") acknowledges that security is one of the Project's two "primary objectives": "[a]chiev[ing] the security and privacy required for the invention of new products by eliminating any public access through the site, and protecting the perimeters against unauthorized persons." AC 2 DEIR, page 63. The AC2 EIR followed this imperative in its analysis. For example, it concluded that the Mobility and Park alternative, which would have placed a public trail along the southern portion of the site, was such a threat to security that it was not even studied. According to the AC2 EIR, "[a] public trail traversing the project site and Calabazas Creek would conflict with Apple's safety and security needs" and even security measures would be insufficient "because Apple is under intense scrutiny." AC 2 DEIR, page 626. Likewise, the Pruneridge Open alternative was rejected because it posed too much of a security threat.

B16-02

Placing 85-foot residential towers immediately adjacent to Apple Campus 2 poses the same security concerns as a trail through the site. A penthouse at that height along the perimeter of the campus would provide a direct view into the activities and patterns of behavior at the campus. Even allowing lower heights with no setbacks, transitions or landscaping jeopardizes the privacy and security of Apple Campus 2. It's inconsistent with the AC2 EIR's acknowledgment of Apple's security and privacy needs to permit a building envelope that would breach those needs. The only way to remedy the issue is to limit heights and impose setbacks, transitions, landscaping or other mitigations, and require special findings that security and privacy at Apple Campus 2 will not be compromised if the City approves a larger building envelope at the Hamptons site.

2. Apple Designed the Apple Campus 2 Project Assuming Compliance with Existing General Plan Policies

While Apple's goals for the campus are hugely ambitious, Apple carefully stayed within the existing General Plan development standards, and went to great lengths to respect our neighbors. None of the buildings exceed 60 feet, even though taller buildings would have been a logical choice. The parking garage is setback from the Hamptons and

B16-03

screened from view. Other setbacks were greatly increased over the previously existing condition. Where our campus comes closest to residential neighbors – along the eastern boundary adjacent to Santa Clara – great attention has been paid to ensure that our neighbors' privacy is protected and impacts minimized. We made these investments at a considerable cost.

Our multi-billion dollar investment was based on the good faith understanding that adjacent land uses would not be dramatically changed to the detriment of our campus. We recognize that land use policies may evolve, but we never anticipated a wholesale rewrite of the rules targeted solely for our most immediate neighbor, which would more than triple the permitted density and increase height limits by more than 40%.

3. The General Plan Amendment Proposes a Dramatic Increase in Density and Height at the Hamptons Site

The Hamptons site currently is developed with 342 apartment units, built at a density of approximately 27 units/acre and at a height of about 45 feet. This is already considered high density in Cupertino. The General Plan Amendment proposes to dramatically increase the permitted density to 110 units/acre, which would allow up to 1,368 units, a 300% increase and over 1,000 new units. While the General Plan Amendment states that the "realistic" yield is 1,162 units, which would be an increase of 820, for EIR purposes the maximum, not the "realistic", density should be analyzed. Further, by taking advantage of the State Density Bonus Law, a project could exceed even this higher limit, and require the City to waive development standards, such as height, to achieve the desired density. Government Code § 65915. The result would be to take control of development on this site out of the City's hands.

Currently, the greatest density allowed anywhere in the City is 35 units/acre; the proposal would allow over three times that density on this single site. The Hamptons site is the only site in the City proposed for such a dramatic increase. The next densest sites under the new General Plan would allow only 40 units/acre and most multi-family residential sites are proposed at 25 to 35 units/acre. In addition to density, the General Plan Amendment would allow residential towers of up to 85 feet at the Hamptons, an increase of more than 40% over the current 60 foot height limit. Further, unlike other areas in the City where a "bonus" height requires inclusion of a retail component and "community benefits," neither are required for the Hamptons.

Finally, the General Plan Amendment appears to abandon longstanding setback requirements, and where setbacks may be required, they must account only for impacts to residential uses. For example, the current General Plan includes setback ratios in the Vallco area, including a 1:1 slope line drawn from the Wolfe Road curb line. General Plan, Figure 2-D. According to the EIR Appendix I, it appears the General Plan Amendment would delete the setback ratios, and instead require unspecified "appropriate setbacks" to promote active uses along street frontage and "minimize potential conflict with adjacent

B16-03
cont.

B16-04

low-density single-family neighborhoods." Appendix I, Revised Policy 2-15. It appears that setbacks would be determined during the project entitlement process, yet there is no General Plan language that requires any consideration of impacts to or privacy concerns of adjacent commercial uses. There is nothing currently in the General Plan to prevent approval of an 85 foot residential tower that immediately abuts Apple Campus 2.

B16-04
cont.

The General Plan Amendment needs to better balance the desire for increased density at the Hamptons with Apple's security needs and rational planning. These needs are well documented in the AC2 EIR and in City findings for the campus, and must be respected.

4. The General Plan Amendment EIR Should Acknowledge the Environmental Impacts of the Increased Height and Density

Greatly increasing height, and eliminating setbacks at The Hamptons would result in adverse environmental impacts. In addition to amending the General Plan to limit height, as described above, we also request that the EIR impose setbacks, transitions, landscaping and other mitigations to reduce the environmental impacts of tall structures. The following discusses areas of the EIR where this should be addressed.

In the discussion of AES-2 (impacts to scenic resources), the EIR notes that as part of the Architecture and Site Approval process, the City "could" require "suitable setbacks for buildings along the public rights-of-way and appropriate buffers and/or height transitions adjacent to low-density residential development." EIR, at 4.1-30. However, the General Plan does not mention the Hamptons' nearest neighbor, Apple, the party most likely to be impacted by the Hamptons' development. Moreover, the EIR appears to rely on the *potential* for setbacks as the basis for its less than significant conclusion. Without an actual setback requirement, the EIR should assume that residential buildings will be built to the maximum height on the parcel lines. For the EIR to rely on setbacks as mitigating the impact, it should in fact require setbacks. We request that the General Plan either include policy language requiring adequate setbacks, to protect Apple's privacy and security needs, view corridors and sunlight, and eliminate light and glare trespass, or add such requirements as mitigation.

B16-05

As for the analysis of impacts to Apple Campus 2 in particular, the EIR is conclusory when it simply states that "the taller heights may marginally impede views of the Santa Cruz mountains for the users of the Apple Campus." EIR, at 4.1-30. There is no data or analysis to support this statement. The EIR contains no visual simulation, shade and shadow study, lighting study, or the like. We request that the City prepare a visual simulation and shade and shadow study and analyze the impacts of light and glare from the Hamptons, assuming a project built within the maximum envelope permitted. We believe these will show that 85-foot towers along the parcel lines would have significant impacts, which could be mitigated by reasonable measures.

B16-06

Impact AES-3 is also conclusory. It states in a single sentence that the prior analysis in the EIR showed that future development in the North Vallco Park Special Area, as well as in several other large portions of the City, would not result in a substantial change to the existing visual character or its surroundings. However, the prior analysis did not look at this question. The discussion in AES-2, which is the only portion of the chapter with any substance, looked at impacts to scenic resources, not changes to the existing visual character or surroundings. These are distinct questions. We believe there will be a dramatic change in the existing visual character and surroundings. In order to build out the Hamptons site at the proposed density of 110 units/acre, the buildings must grow taller, must be closer together and must move closer to the lot lines. To fully appreciate the extent of the change to the existing visual character, we request that the City prepare visual simulations.

B16-07

We also note that the General Plan Amendment proposes to delete existing Policy 2-14, Strategy 6, View Preservation. That Strategy requires that the City “[d]evelop and implement a policy to encourage developers to limit building heights in order to preserve hillside views throughout the City.” Deletion of Policy 2-14, Strategy 6 paves the way for allowing taller buildings that impede hillside views, but the EIR fails to even mention the deletion. The EIR should be revised to either delete, or to acknowledge and study, the impact of this very significant policy change. Further, although the EIR recognizes that the impact of shade and shadow “is an important environmental issue,” it contains no analysis of such impacts. EIR, at 4.1-21. When describing this issue, the EIR identifies certain land uses as being “shadow-sensitive” because they have “expectations for direct sunlight and warmth from the sun.” EIR, at 4.1-21. The list of such sensitive uses includes private enterprises, such as outdoor restaurants. However, it fails to recognize that corporate campuses, such as Apple Campus 2, may similarly be “shadow-sensitive” and have an expectation of sunlight. One of the signature features of Apple Campus 2 is its extensive outdoor space. This space is designed to invite employees to interact in a relaxed, park-like setting. Creating this open space comes at an enormous cost, particularly the elimination of impervious spaces for surface parking by constructing high cost underground and structured parking. The value of that investment and the healthy lifestyle amenity to Apple employees would be threatened by new residential towers casting long shadows across this key campus feature. Apple’s expectation of sunlight clearly warrants at least the same attention as an outdoor restaurant, and the EIR should address this potential impact.

B16-08

B16-09

Likewise, the EIR doesn’t mention the light and glare trespass resulting from residential towers within this building envelope. We were very careful to avoid any light or glare trespass from Apple Campus 2 (see *Apple Campus 2 Project Environmental Impact Report Lighting Technical Report*, October 29, 2012, by Arup and AC2 EIR, Section V.B.2.b.(4)). We request the City to study this topic in connection with the proposed building envelope.

5. Apple Requests Additional Changes and Corrections to the General Plan Amendment

B16-10

Below are minor additional changes that we request be made to the General Plan Amendment and the EIR:

- Remove Pruneridge. The EIR acknowledges that Pruneridge has been vacated for Apple Campus 2, but it remains depicted in all figures. The General Plan and its figures should reflect the vacation of Pruneridge and the amendment to the General Plan's Circulation Element effected as part of the Apple Campus 2 approvals.
- Acknowledge the Development Agreement. A key entitlement for Apple Campus 2 is the Development Agreement, which vested Apple's right to build out the campus under the policies, plans and regulations that were in place at the time of the Development Agreement, including the General Plan. This General Plan Amendment should acknowledge that, so long as the Development Agreement is in place, the prior General Plan policies apply to Apple Campus 2. We note that the current General Plan takes this approach with respect to Hewlett-Packard's development agreement.
- Clarify "Major Employer." We believe the entities that qualify for the "major employer" pool of development allocations should be clarified. First, we note that Appendix I mistranscribes the existing General Plan language. Policy 2-44 describes "major employers" as those "companies with sales offices and corporate headquarters in Cupertino," but EIR Appendix I shows this as companies with "sales offices or corporate headquarters." This needs to be corrected. However, we think the definition could be further clarified. The purpose of the "major employer" category is to encourage large, established companies to stay and grow in Cupertino. We believe that only requiring a sales office and corporate headquarters is too broad.
- Assumption for Hamptons. Table 3-5 indicates a net increase of 528 units within the North Vallco Special Area, but elsewhere the EIR states that redevelopment of The Hamptons will result in a net increase of 820 units. The full density anticipated in the EIR should be assumed. Further, we were unable to determine in the traffic section how many units were assumed at that site. Please clarify this issue.
- I-280 Northbound Ramp Improvements. It appears that the EIR does not assume some of the improvements Apple is making to the Wolfe Road and I-280 northbound ramp. We believe this accounts for the discrepancy between the finding in the AC2 EIR that with mitigation, that intersection would operate at LOS B (see MM TRANS-5, pg. 404) and the finding in the General Plan Amendment EIR that the same intersection would operate at LOS F in the "no project" scenario. In particular, the Transportation Impact Analysis for Apple Campus 2 assumed widening the northbound Wolfe approach to three lanes (see AC2 TIA, pg. 3-10, Intersection #21, Wolfe Road and I-280 NB Ramps providing data for Cumulative

B16-10
cont.

B16-11

B16-12

plus Project conditions, for both AM and PM traffic), but the General Plan Amendment EIR assumed only two lanes for this approach (see EIR, Appendix G, pg. 231-76). Apple is, in fact, constructing this third northbound approach lane, so it should be assumed.

B16-12
cont.

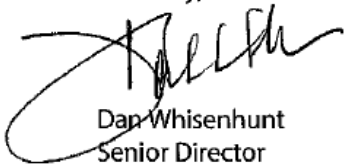
- Bridge Widening Should Not be Assumed. Mitigation Measure TRAF-1 commits the City to preparing and implementing a Traffic Mitigation Fee Program and then identifies several improvements that would mitigate the impacts. EIR, at 4.13-53. Several of these improvements are ambitious, particularly the potential for widening the Wolfe Road overcrossing. These very substantial improvements have not been studied. Please clarify in the text of the EIR that there may be other solutions available and that any mitigation measures will be identified and fully studied when preparing the Fee Program. There should be no assumption at this point that the bridge may need to be widened.

B16-13

Apple has made an unprecedented investment in Cupertino and the decision to do so was based on certain understandings about our neighborhood. We respectfully request that the City continue to collaborate with Apple and The Irvine Company to identify appropriate development standards for the Hamptons site, including 60-foot height limits along the property lines, reasonable setbacks, transitions, landscaping or other mitigations, and findings that any structure will not breach the privacy and security needs of Apple Campus 2, and that the impacts of any project on view corridors, sunlight, and emission of light and glare will be thoroughly studied and adverse impacts mitigated.

B16-14

Sincerely,



Dan Whisenhunt
Senior Director
Real Estate & Development
Apple

cc: Mayor and City Council of Cupertino
David Brandt, City Manager
Aarti Shrivastava, Director of Community Development

Future Noise Contours

FUTURE NOISE CONTOURS

Ensuring that future land use and infrastructure decisions consider the potential adverse impacts of noise is a key concern for the City of Cupertino. **Figure D-2** identifies future noise contours within the city, and in combination with the policies included in the Health and Safety Element, will be used to help reduce future noise impacts.

FIGURE D-2
FUTURE NOISE CONTOURS

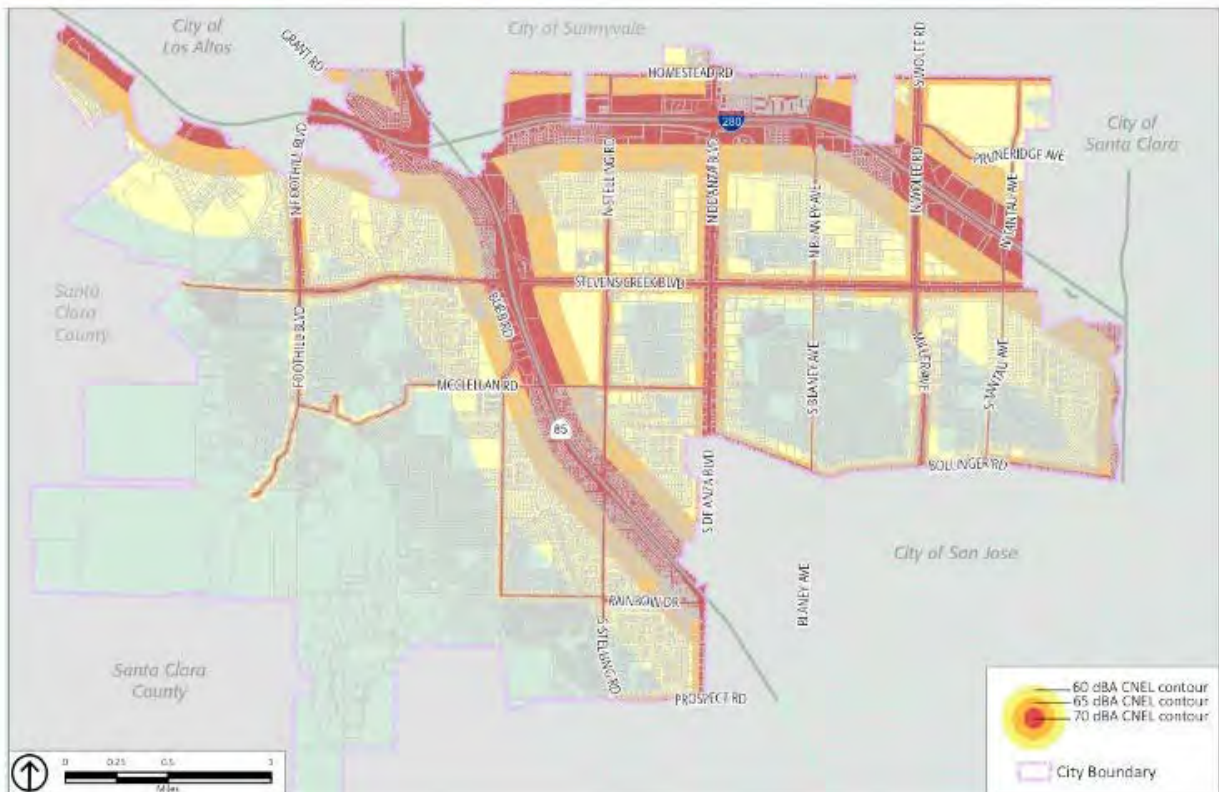


Table V.J-9: City of Cupertino Noise and Land Use Compatibility Standards

| Land Use Category | Community Noise Exposure in Decibels (CNEL) or Day/Night Average Noise Level in Decibels (Ldn) | | | | | |
|---|---|----|----|---|----|----|
| | 55 | 60 | 65 | 70 | 75 | 80 |
| Residential – Low Density (Single-Family, Duplex, Mobile Homes) | | | | | | |
| Residential – Multi-Family | | | | | | |
| Transient Lodging (Motels, Hotels) | | | | | | |
| Schools, Libraries, Churches, Hospitals, Nursing Homes | | | | | | |
| Auditoriums, Concert Halls, Amphitheaters | | | | | | |
| Sports Arena, Outdoor Spectator Sports | | | | | | |
| Playgrounds, Neighborhood Parks | | | | | | |
| Golf Courses, Riding Stables, Water Recreation, Cemeteries | | | | | | |
| Office Buildings, Business Commercial and Professional Centers | | | | | | |
| Industrial, Manufacturing, Utilities, Agriculture | | | | | | |
| | NORMALLY ACCEPTABLE Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements. | | | NORMALLY UNACCEPTABLE New construction or development should generally be discouraged. If new construction or development does proceed, a detailed analysis of the noise reduction requirements must be made and needed noise insulation features included in the design. | | |
| | CONDITIONALLY ACCEPTABLE New construction or development should be undertaken only after a detailed analysis of the noise reduction requirements is made and needed noise reduction features included in the design. Conventional construction, but with windows closed and fresh air supply systems or air conditioning will normally suffice. | | | CLEARLY UNACCEPTABLE New construction or development should generally not be undertaken. | | |

Source: Cupertino, City of, 2005. *Cupertino General Plan 2000 – 2020*. Figure 6-L. November 15.

Connection between Cal/EPA Strategic Vision Goals and Goals in ARB's Strategic Plan

| Cal/EPA Vision Goals ARB Strategic Plan Goals | Goal 1 Clean Air | Goal 2 Clean River, Lake, Estuary, and Marine Waters | Goal 3 Clean Drinking Water | Goal 4 Communities Free from Toxic Risk | Goal 5 Reduce or Eliminate Disproportionate Pollution Impacts | Goal 6 Efficient Use of Natural Resources | Goal 7 Continuous Improvement | Goal 8 Efficient and Effective Cal/EPA |
|---|----------------------------|--|---------------------------------------|---|---|---|---|--|
| Goal 1 New Strategies to Effectively Reduce Air Pollution | X | X | X | X | X | | X | X |
| Goal 2 Environmental Justice Principles | X | | | X | X | | X | X |
| Goal 3 Zero-Emission Technologies | X | X | X | X | X | X | X | X |
| Goal 4 Effective Compliance Assistance and Enforcement | X | X | X | X | X | | X | X |
| Goal 5 Sound Understanding of Health Effects | X | | | | | | X | X |
| Goal 6 Sound Technical Tools | X | X | | | | | X | X |
| Goal 7 Recognize ARB's Employee's Strengths | | | | | | | X | X |

Comments for Vallco Shopping District Specific Plan Environmental Impact Report NOP File Number EA- 2017-05

Contents

| | |
|--|----|
| Potential to Cease EIR Mid-Stream:..... | 2 |
| Similarity of “Proposed Project” to Failed Ballot Initiative Measure D, Nov. 8, 2016 Should Disqualify It | 3 |
| General Plan Directive to Create a Vallco Shopping District Specific Plan: | 3 |
| Insufficient and Conflicting Information Presented in NOP EIR Scoping Meeting, with Infeasible “Proposed Project” due to Inconsistency with General Plan & Initiative Vote Results | 19 |
| Proposed Project and Project Alternatives:..... | 20 |
| Proposed Project: | 20 |
| Alternatives to Project: | 22 |
| Occupied/Re-tenanted Mall is Not “No Project” | 23 |
| Alternative B is Not Consistent with the General Plan..... | 23 |
| Alternative C is Insufficiently Described – May be inconsistent | 24 |
| Conclusions:..... | 24 |
| Table of Proposed Project and Alternatives: | 25 |
| Comments For Environmental Impact Report Given Proposed Project and Alternatives A-D ... | 26 |

Potential to Cease EIR Mid-Stream:

The EIR scoping meeting provided inadequate and conflicting information with an infeasible “Proposed Project” and infeasible alternatives.

According to [“CEQA Does Not Apply to Project Disapproval, Even if the EIR is Underway,”](#) by [Abbott & Kindermann](#) Leslie Z. Walker, on September 22, 2009, the EIR process may be stopped mid-stream:

According to [Las Lomas Land Co., LLC v. City of Los Angeles](#) (Sept. 17, 2009, B213637) ___ Cal.App.4th ___, the long standing rule that CEQA does not apply to projects rejected or disapproved by a public agency, allows a public agency to reject a project before completing or considering the EIR. In *Las Lomas*, the Court of Appeals for the Second Appellate District made clear that a city may stop environmental review mid-stream and reject a project without awaiting the completion of a final EIR. While this holding may avoid wasting time and money on an EIR for a dead-on-arrival project, it will also make it harder for projects to stay in play until the entire environmental document is complete.

The article continues:

One of the City’s council members opposed the project and asked the City to cease its work on it. The City attorney advised the council members that the City was required to continue processing and completing the EIR. Nonetheless, the objecting council member introduced a motion to suspend the environmental review process until the city council made “a policy decision” to resume the process. The city council ultimately approved a modified motion which also called for the City to cease work on the proposed project.

Should the City Council find reason to cease the EIR, such as the “Proposed Project” being inconsistent with the General Plan (explained on the following pages), or that in light of its’ similarity to failed Cupertino ballot Measure D: The Vallico Initiative November 8, 2016, there is precedent as demonstrated above, to do so.

Similarity of “Proposed Project” to Failed Ballot Initiative Measure D, Nov. 8, 2016 Should Disqualify It

The Vallco Measure D Initiative is described in the following: [CITY ATTORNEY'S BALLOT TITLE AND SUMMARY FOR PROPOSED INITIATIVE SUBMITTED ON MARCH 3, 2016](#) and would consist of:

- 2,000,000 SF office
- 640,000 SF retail
- 191 additional hotel rooms, bringing the site total to 339 hotel rooms
- 389 residential units with a Conditional Use Permit bringing the total to 800 residential units

The [November 8, 2016 Election results for Measure D](#) were 55% No. Advertising for the initiative obscured the office and focused on the retail portions. The actual square footage percentages for the Measure D Initiative were:

- 56% office
- 22% residential
- 16% retail
- 6% hotel

Notice these above percentages result in 84% non-retail uses and would be a majority office park. The “Proposed Project” for the EIR has less retail (600,000 SF) and other uses the same as Measure D.

The EIR process is not intended to be a disregard of the city’s General Plan to “try out” alternative concepts which have no consistency with the General Plan. This creates a great deal of confusion and distrust.

General Plan Directive to Create a Vallco Shopping District Specific Plan:

This section amasses the multiple sections of the General Plan which reference the Vallco Shopping District and describe what it is planned to become.

Refer to: [Cupertino General Plan Vision 2040](#):

In Chapter 2 of the Cupertino General Plan Vision 2040: Planning Areas: Vallco Shopping District is described as: “...Cupertino’s most significant commercial center...” and that “...Reinvestment is needed...so that this **commercial center** is more competitive and better serves the community.” It is referred to as a “shopping district”, not an office park, or a residential community. Following is the actual page from the General Plan describing Vallco Shopping District:

VALLCO SHOPPING DISTRICT

CONTEXT

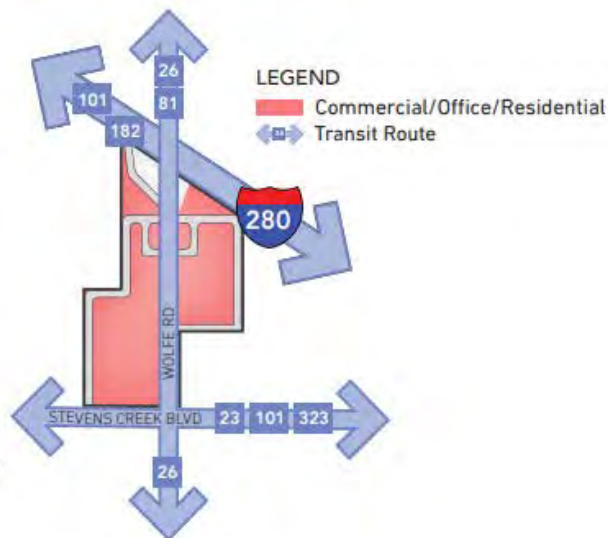
The Vallco Shopping District Special Area encompasses Cupertino's most significant commercial center, formerly known as the Vallco Fashion Park. This Special Area is located between Interstate 280 and Stevens Creek Boulevard in the eastern part of the city. The North Blaney neighborhood, an established single-family area, is adjacent on the west side of the Vallco Shopping District. Wolfe Road bisects the area in a north-south direction, and divides Vallco Shopping District into distinct subareas: Vallco Shopping District Gateway West and Vallco Shopping District Gateway East. In recent years there has been some façade improvement to the Vallco Fashion Mall; however, there has been no major reinvestment in the mall for decades. Reinvestment is needed to upgrade or replace older buildings and make other improvements so that this commercial center is more competitive and better serves the community. Currently, the major tenants of the mall include a movie theater, bowling alley and three national retailers. The Vallco Shopping District is identified as a separate Special Area given its prominence as a regional commercial destination and its importance to future planning/redevelopment efforts expected over the life of the General Plan.



VISION

The Vallco Shopping District will continue to function as a major regional and community destination. The City envisions this area as a new mixed-use "town center" and gateway for Cupertino. It will include an interconnected street grid network of bicycle and pedestrian-friendly streets, more pedestrian-oriented buildings with active uses lining Stevens Creek Boulevard and Wolfe Road, and publicly-accessible parks and plazas that support the pedestrian-oriented feel of the revitalized area. New development in the Vallco Shopping District should be required to provide buffers between adjacent single-family neighborhoods in the form of boundary walls, setbacks, landscaping or building transitions.

VALLCO SHOPPING DISTRICT SPECIAL AREA DIAGRAM



PA-8

Figure 1

Vallco Shopping District is further described in the [General Plan Vision 2040 Land Use Element](#) through goals, policies, and strategies:

GOAL LU-19 Create a distinct and memorable mixed-use "town center" that is a regional destination and a focal point for the community

VALLCO SHOPPING DISTRICT SPECIAL AREA The City envisions a complete redevelopment of the existing Vallco Fashion Mall into a vibrant mixed-use "town center" that is a focal point for regional visitors and the community. This new Vallco Shopping District **will become a destination for shopping, dining and entertainment in the Santa Clara Valley.**

POLICY LU-19.1: SPECIFIC PLAN Create a **Vallco Shopping District Specific Plan** prior to any development on the site that lays out the land uses, design standards and guidelines, and infrastructure improvements required. The Specific Plan will be based on the following strategies:

STRATEGIES: LU-19.1.1: Master Developer. Redevelopment will require a master developer in order to remove the obstacles to the development of a cohesive district with the highest levels of urban design.

LU-19.1.2: Parcel Assembly. Parcel assembly and a plan for complete redevelopment of the site is required prior to adding residential and office uses. Parcelization is highly discouraged in order to preserve the site for redevelopment in the future.

LU-19.1.3: Complete Redevelopment. The "town center" plan should be based on complete redevelopment of the site in order to ensure that the site can be planned to carry out the community vision.

LU-19.1.4: Land Use. The following uses are allowed on the site (see Figure LU-2 for residential densities and criteria):

1. Retail: High-performing retail, restaurant and entertainment uses. **Maintain a minimum** of 600,000 square feet of retail that provide a good source of sales tax for the City. Entertainment uses may be included but shall consist of no more than 30 percent of retail uses.
2. Hotel: **Encourage** a business class hotel with conference center and active uses including main entrances, lobbies, retail and restaurants on the ground floor.

3. Residential: **Allow** residential on upper floors with retail and active uses on the ground floor. Encourage a mix of units for young professionals, couples and/or active seniors who like to live in an active “town center” environment.

4. Office: **Encourage** high-quality office space arranged in a pedestrian-oriented street grid with active uses on the ground floor, publicly-accessible streets and plazas/green space.

| Table LU-1: Citywide Development Allocation Between 2014-2040 | | | | | | | | | | | | |
|---|-----------------------------|------------------|----------------|-----------------------------|-------------------|------------------|-----------------------------|--------------|------------|-----------------------------|---------------|--------------|
| | commercial (s.f.) | | | office (s.f.) | | | hotel (rooms) | | | residential (units) | | |
| | current built (Oct 7, 2014) | buildout | available | current built (Oct 7, 2014) | buildout | available | current built (Oct 7, 2014) | buildout | available | current built (Oct 7, 2014) | buildout | available |
| Heart of the City | 1,351,730 | 214,5000 | 793,270 | 2,447,500 | 2,444,613 | 17,113 | 404 | 526 | 122 | 1,336 | 1,805 | 469 |
| Vallco Shopping District** | 1,207,774 | 120,7774 | - | - | 2,000,000 | 2,000,000 | 148 | 339 | 191 | - | 389 | 389 |
| Homestead | 291,408 | 291,408 | - | 69,550 | 69,550 | - | 126 | 126 | - | 600 | 750 | 150 |
| N. De Anza | 56,708 | 56,708 | - | 2,081,021 | 2,081,021 | - | 126 | 126 | - | 49 | 146 | 97 |
| N. Vallco | 133,147 | 133,147 | - | 3,069,676 | 3,069,676 | - | 123 | 123 | - | 554 | 1154 | 600 |
| S. De Anza | 352,283 | 352,283 | - | 130,708 | 130,708 | - | 315 | 315 | - | 6 | 6 | - |
| Bubb | - | - | - | 444,753 | 444,753 | - | - | - | - | - | - | - |
| Monta Vista Village | 94,051 | 99,698 | 5,647 | 443,140 | 456,735 | 13,595 | - | - | - | 828 | 878 | 50 |
| Other | 144,964 | 144,964 | - | 119,896 | 119,896 | - | - | - | - | 18,039 | 18,166 | 127 |
| Major Employers | - | - | - | 109,935 | 633,053 | 523,118 | - | - | - | - | - | - |
| Citywide | 3,632,065 | 4,430,982 | 798,917 | 8,916,179 | 11,470,005 | 2,553,826 | 1,116 | 1,429 | 313 | 21,412 | 23,294 | 1,882 |

** Buildout totals for Office and Residential allocation within the Vallco Shopping District are contingent upon a Specific Plan being adopted for this area by May 31, 2018. If a Specific Plan is not adopted by that date, City will consider the removal of the Office and Residential allocations for Vallco Shopping District. See the Housing Element (Chapter 4) for additional information and requirements within the Vallco Shopping District.

Figure 2 - “General Plan Table LU-1”

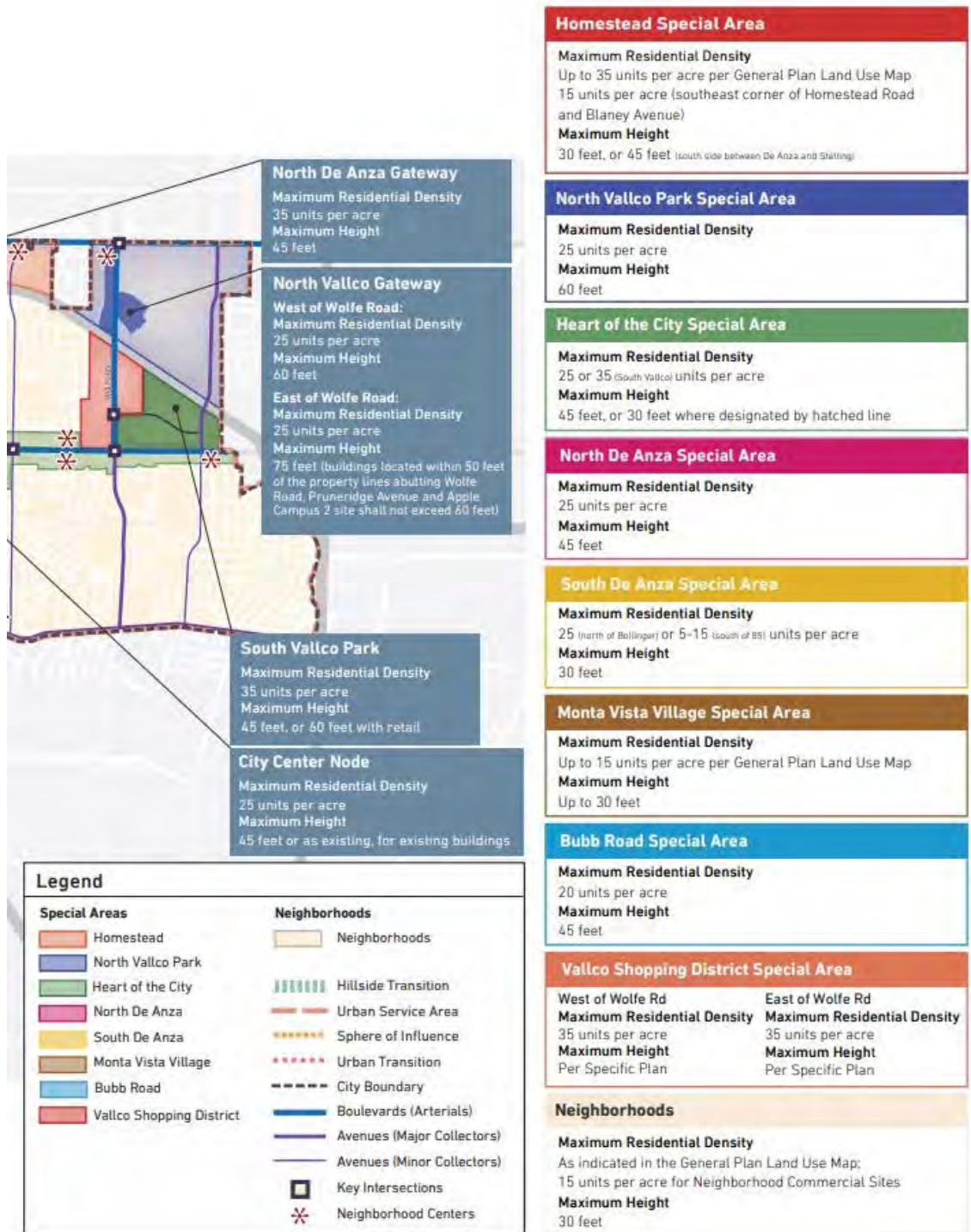


Figure 3 – “General Plan Figure LU-2”

General Plan Housing Element p H-21

“Priority Housing Sites: As part of the Housing Element update, the City has identified five priority sites under Scenario A (see Table HE-5) for residential development over the next eight years. The General Plan and zoning designations allow the densities shown in Table HE-5 for all sites except the Vallco Shopping District site (Site A2). The redevelopment of Vallco Shopping District will involve significant planning and community input. A specific plan will be required to implement a comprehensive strategy for a retail/office/residential mixed use development. The project applicant would be required to work closely with the community and the City to bring forth a specific plan that meets the community’s needs, with the anticipated adoption and rezoning to occur within three years of the adoption of the 2014-2022 Housing Element (by May 31, 2018). The specific plan would permit 389 units by right at a minimum density of 20 units per acre. If the specific plan and rezoning are not adopted within three years of Housing Element adoption (by May 31, 2018), the City will schedule hearings consistent with Government Code Section 65863 to consider removing Vallco as a priority housing site under Scenario A, to be replaced by sites identified in Scenario B (see detailed discussion and sites listing of “Scenario B” in Appendix B - Housing Element Technical Appendix). As part of the adoption of Scenario B, the City intends to add two additional sites to the inventory: Glenbrook Apartments and Homestead Lanes, along with increased number of permitted units on The Hamptons and The Oaks sites. Applicable zoning is in place for Glenbrook Apartments; however the Homestead Lanes site would need to be rezoned at that time to permit residential uses. Any rezoning required will allow residential uses by right at a minimum density of 20 units per acre.”

SITE A2 (VALLCO SHOPPING DISTRICT):

“The site is designated Regional Shopping/Office/Residential in the General Plan and zoned Planned Development with Regional Shopping and Commercial (P[Regional Shopping and P[CG]). Strategy HE-1.3.1 provides that the City will **adopt a Specific Plan for the Vallco site by May 31, 2018 that would permit 389 units by right at a minimum density of 20 units per acre. The zoning for the site would be modified as part of the Specific Plan process to allow residential uses as part of a mixed-use development at a maximum density of 35 units per acre. If the Specific Plan is not adopted, the City will schedule hearings consistent with Government Code Section 65863 to consider removing Vallco Shopping District as a Priority Housing Site and replacing it with the sites shown in Scenario B.**”

5.5. RESIDENTIAL SITES INVENTORY - SCENARIO B As noted above, one particular site identified in Scenario A will involve substantial coordination for redevelopment (Vallco Shopping District, Site A2). Due to the magnitude of the project, the **City has established a contingency plan to meet the RHNA if a Specific Plan is not adopted by May 31, 2018. This contingency plan (referred to here as Scenario B and shown on Figure B-8), involves the City removing Vallco Shopping District, adding more priority sites to the inventory, and also increasing the density/allowable units on other priority sites.** Four of the sites discussed in Scenario A above are also included in Scenario B, with some modifications to density and realistic capacity on two of these sites. Two additional sites are added to the inventory, one of which was included in the 2007-2014 Housing Element sites inventory.

**FIGURE HE-1
HOUSING ELEMENT: SITES TO
MEET THE RHNA**

Priority Housing Element Sites: Scenario A

Applicable if Vallco Specific Plan is adopted by May 31, 2018
 If Vallco Specific Plan is not adopted by May 31, 2018, the designated Priority Housing Element Sites will be as shown in General Plan Appendix B, Section 5.5: Residential Sites Inventory - Scenario B.

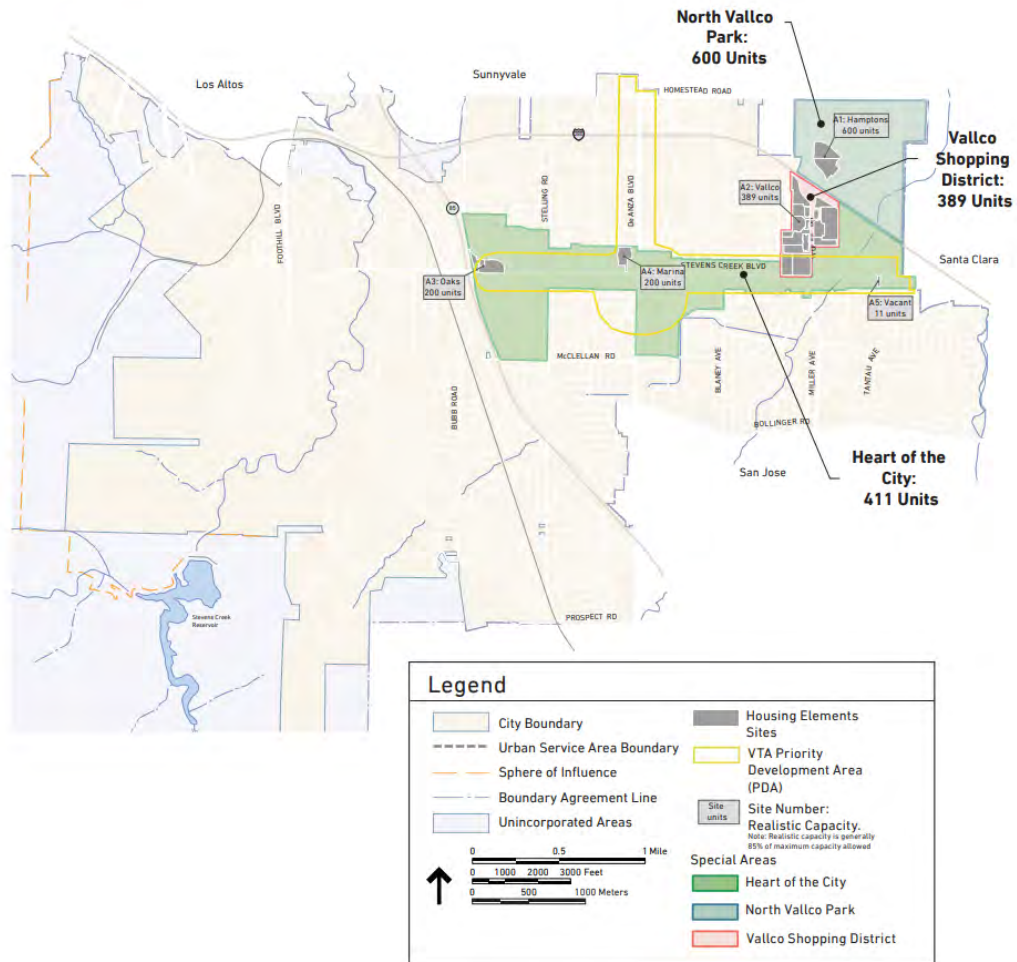


Figure 4 – “General Plan Figure HE-1”

“Figure HE-1 indicates the available residential development opportunity sites to meet and exceed the identified regional housing need pursuant to the RHNA. The opportunity sites can accommodate infill development of up to 1,400 residential units on properties zoned for densities of 20 dwelling units to the acre or more. The potential sites inventory is organized by geographic area and in particular, by mixed use corridors. As shown in Table HE-5, sites identified to meet the near-term development potential lie within the North Vallco Park Special Area, the Heart of the City Special Area, and the Vallco Shopping District Special Area. One particular site will involve substantial coordination for redevelopment (Vallco Shopping District, Site A2). Due to the magnitude of the project, the City has established a contingency plan to meet the RHNA if a Specific Plan is not approved within three years of Housing Element adoption. This contingency plan (called Scenario B and discussed further in General Plan Appendix B), would involve the City removing Vallco Shopping District, adding more priority sites to the inventory, and also increasing the density/allowable units on other priority sites.”

“DETERMINATION OF REALISTIC CAPACITY Sites inventory capacity must account for development standards such as building height restrictions, minimum setbacks, and maximum lot coverage, as well as the potential for non-residential uses in mixed-use areas. A survey of recent developments (Table 5.2) indicates that recent multi-family residential projects have built to between 82 percent and 99.5 percent of the maximum allowable density. To ensure that the sites inventory provides a “realistic capacity” for each site, estimates for maximum developable units on each site are conservatively reduced by 15 percent.”

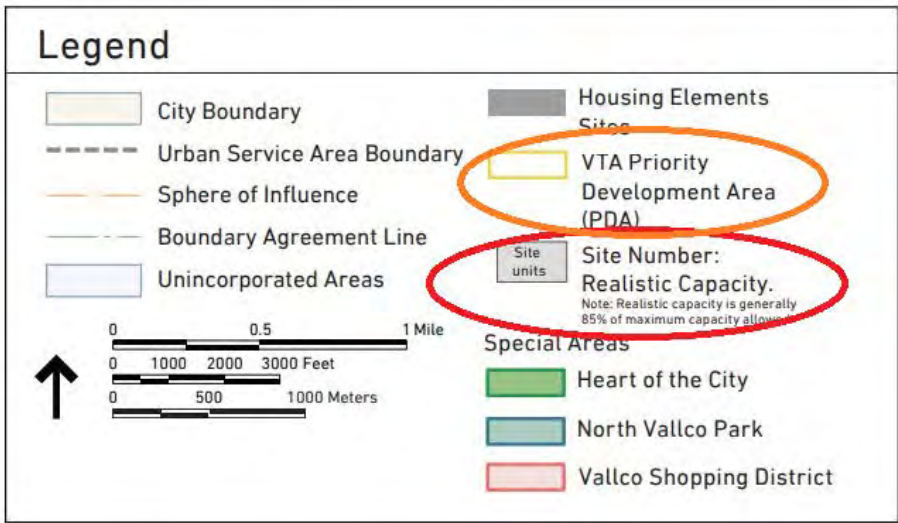
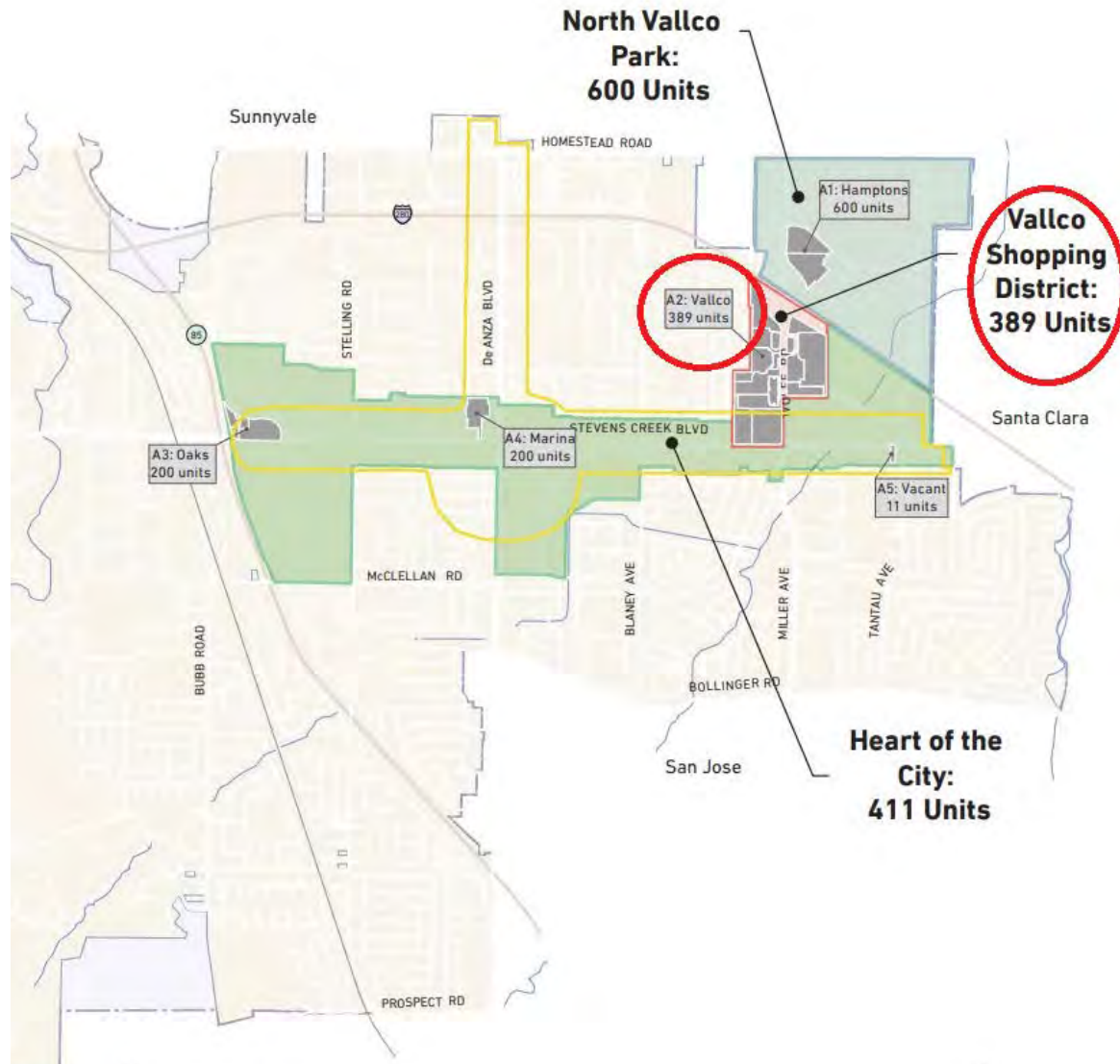


Figure 5 – “General Plan Figure HE-1 Zoomed in”

**FIGURE B-7
PRIORITY HOUSING ELEMENT SITES
SCENARIO A**

Applicable if Vallco Specific Plan is adopted by May 31, 2018
 If Vallco Specific Plan is not adopted by May 31, 2018, the designated Priority Housing Element Sites will be as shown in General Plan Appendix B, Section 5.5: Residential Sites Inventory - Scenario B.

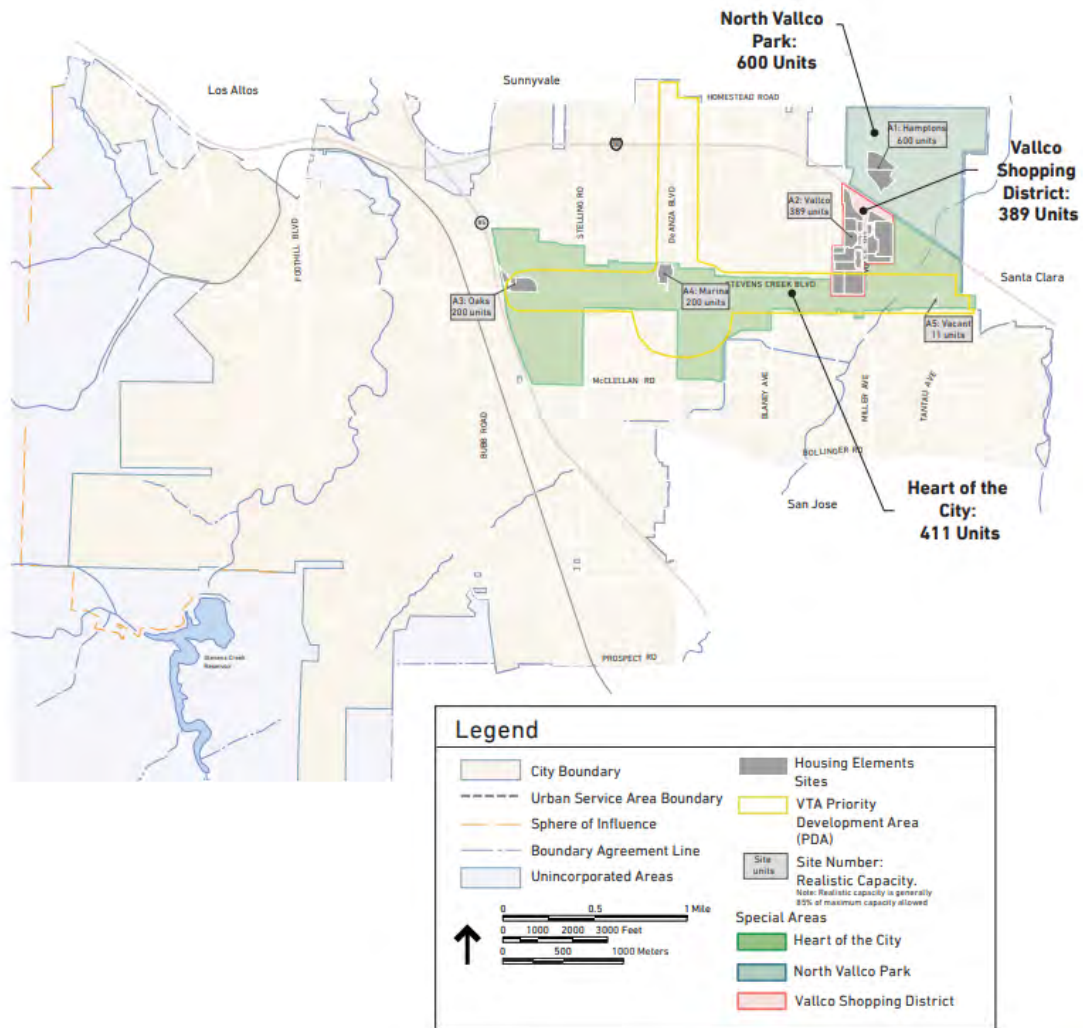
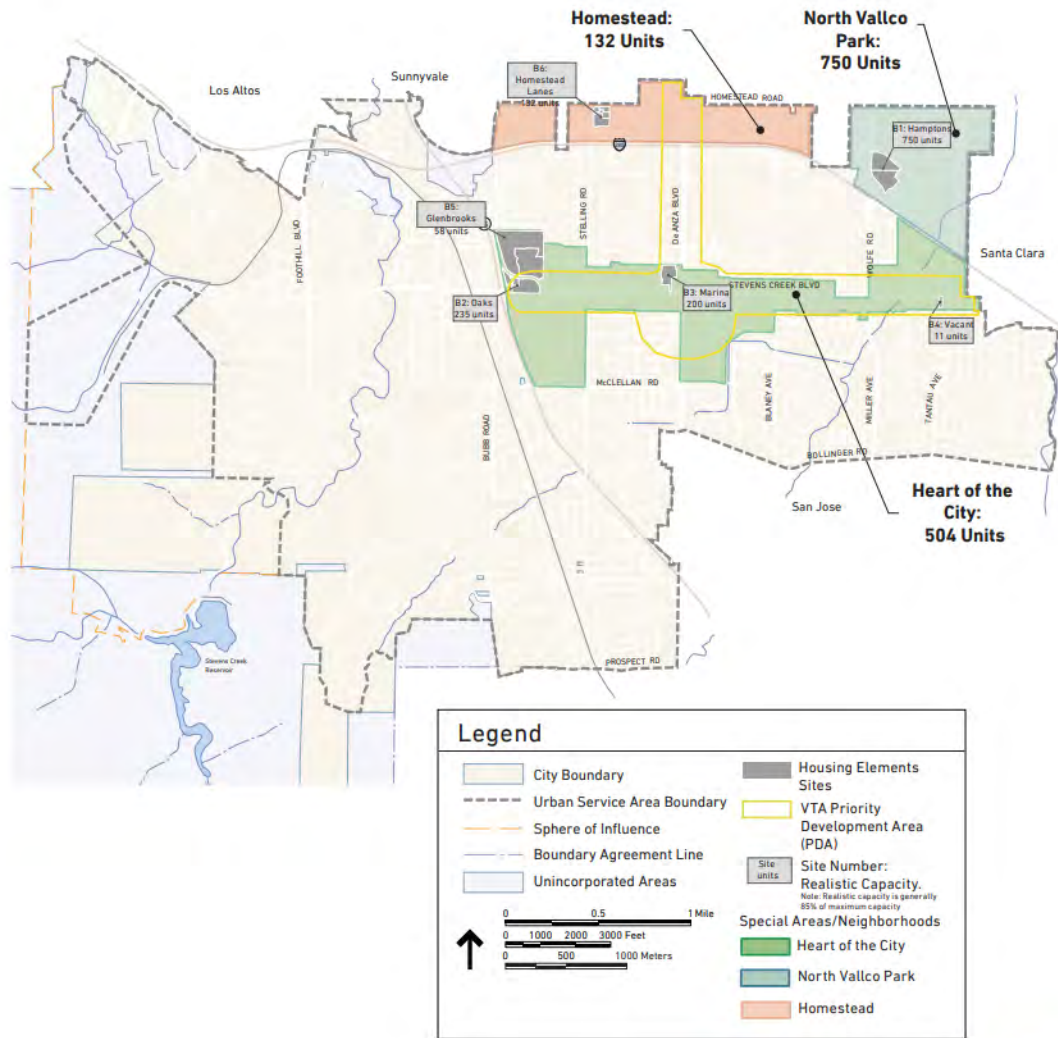


Figure 6 – “General Plan Figure B-7: Priority Housing Element Sites Scenario A”

**FIGURE B-8
PRIORITY HOUSING ELEMENT SITES
SCENARIO B**

Applicable if Vallco Specific Plan is not adopted by May 31, 2018.



B-123

Figure 7 – “General Plan Figure B-8 Priority Housing Element Sites Scenario B”

| Table 5.3: Summary of Priority Housing Sites - Scenario A | | | | | |
|---|---|-------------------|-------|----------------------------|---------------------|
| Site | Adopted General Plan/Zoning | Max Density (DUA) | Acres | Realistic Capacity (units) | Affordability Level |
| Site A1 (The Hamptons) | High Density P(Res) | 85 | 12.44 | 600 | Very Low/Low |
| Site A2 (Vallco Shopping District) | RS/O/R P(Regional Shopping) & P(CG) (a) | 35 | 58.7 | 389 | Very Low/Low |
| Site A3 (The Oaks Shopping Center) | C/R P(CG, Res) | 30 | 7.9 | 200 | Very Low/Low |
| Site A4 (Marina Plaza) | C/O/R P(CG, Res) | 35 | 6.86 | 200 | Very Low/Low |
| Site A5 (Barry Swenson) | C/O/R P(CG, Res) | 25 | 0.55 | 11 | Very Low/Low |
| Total | | | 86.51 | 1,400 | |

Notes:
 (a) Zoning to be determined by Specific Plan to allow residential uses.
 (b) Realistic capacity for Sites A1, A3, A4 and A5 reduces the maximum developable units by 15 percent. Realistic capacity for Site A2 is the amount allocated to the site in the Housing Element; a specific plan will be required for Site A2 prior to any new development.
 (c) Identified capacity of sites that allow development densities of at least 20 units per acre are credited toward the lower-income RHNA based on State law. Pursuant to Government Code Section 65583.2(c)(3)(B), local governments may utilize "default" density standards to provide evidence that "appropriate zoning" is in place to support the development of housing for very-low and low-income households. The default density standard for Cupertino and other suburban jurisdictions in Santa Clara County is 20 dwelling units per acre (DUA) or more.
 (d) Residential capacity for Site A1 reflects the net increase in units.
 Source: City of Cupertino, 2014.

Figure 8 – “General Plan Table 5.3: Summary of Priority Housing Sites – Scenario A”

Notice that Figures B-7 and HE-1, Table LU-1, Table HE-5 show Vallco Shopping District with 389 units and the Legend of both clearly state that the Site Number is Realistic Capacity with the note: “Realistic capacity is generally 85% of maximum capacity”. That would mean that 389 units is 85% of Vallco Shopping District’s maximum, which would be 457.6 units.

Current zoning does not allow residential uses at Vallco, and as shown above, and would need to be modified: **“The zoning for the site would be modified as part of the Specific Plan process to allow residential uses as part of a mixed-use development...”** p 116 General Plan

Appendix B Housing Element Technical Report:
<http://www.cupertino.org/home/showdocument?id=12717>

Table HE-5: Summary of PRIORITY HOUSING ELEMENT SITES To Meet the RHNA - Scenario A

| Site | Adopted General Plan/ Adopted Zoning | Special Area | Max Density (DUA) | Max Height | Realistic Capacity (units) |
|---------------------------------------|---|--------------------------------|-------------------------|--|----------------------------------|
| Site A1 (The Hamptons) | High Density P(Res) | North Vallco Park | 85 | 75 ft; or 60 ft in certain locations ¹ ; | 600 net |
| Site A2 (Vallco Shopping District) | RS/O/R P(Regional Shopping) & P(CG) | Vallco Shopping District | 35 | height to be determined in Vallco Shopping District Specific Plan | 389 |
| Site A3 (The Oaks Shopping Center) | C/R P(CG, Res) | Heart of the City | 30 | 45 ft | 200 |
| Site A4 (Marina Plaza) | C/O/R P(CG, Res) | Heart of the City | 35 | 45 ft | 200 |
| Site A5 (Barry Swenson) | C/O/R P(CG, Res) | Heart of the City | 25 | 45 ft | 11 |
| Total | | | | | 1,400 |

Notes: Zoning for Site A2 (Vallco) will be determined by Specific Plan to allow residential uses. Site A1 (Hamptons) height limit of 60 feet is applicable for buildings located within 50 feet of property lines abutting Wolfe Rd, Pruneridge Ave. & Apple Campus 2 site. Site A2 (Vallco) height will be determined by Specific Plan. For more detail on height limits, see Land Use and Community Design Element, Figure LU-2.

Figure 9 – “General Plan Table HE-%: Summary of Priority Housing Element Sites to Meet the RHNA – Scenartio A”

| Table 5.5: Summary of Priority Housing Sites - SCENARIO B | | | | | | |
|---|----------------------------|--------------------------|-------------------|--------------|----------------------------|---------------------|
| Site | Special Area/ Neighborhood | General Plan/Zoning | Max Density (DUA) | Acres | Realistic Capacity (units) | Affordability Level |
| Site B1 (Hamptons) | North Vallco Park | High Density P(Res) | 99(a) | 12.44 | 750 | Very Low/Low |
| Site B2 (The Oaks Shopping Center) | Heart of the City | C/R P(CG, Res) | 35 (b) | 7.9 | 235 | Very Low/Low |
| Site B3 (Marina Plaza) | Heart of the City | C/O/R P(CG, Res) | 35 | 6.86 | 200 | Very Low/Low |
| Site B4 (Barry Swenson) | Heart of the City | C/O/R P(CG, Res) | 25 | 0.55 | 11 | Very Low/Low |
| Site B5 (Glenbrook Apartments) | Heart of the City | Medium Density R3(10-20) | 20 | 31.3 | 58 | Very Low/Low |
| Site B6 (Homestead Lanes and Adjacency) | Homestead | C/R (c) P(CG, Res) (c) | 35 (c) | 5.1 | 132 | Very Low/Low |
| Total | | | | 64.24 | 1,386 | |
| Site B6 (Carl Berg property) | North De Anza | O//C/R P(CG, ML, Res) | 25 | 7.98 | 169 | Very Low/Low |
| Total | | | | 87.31 | 1318 | |

Notes:

- (a) A General Plan Amendment and zoning change will be necessary to allow the increase in density from 85 to 99 units per acre on Site B1.
- (b) A General Plan Amendment and zoning change will be necessary to allow the increase in density from 30 to 35 units per acre on Site B2.
- (c) A General Plan Amendment and zoning change will be necessary to allow residential uses at 35 units per acre on Site B6. Existing zoning for Site B6 is P(Rec, Enter).
- (d) Realistic capacity reduces the maximum developable units by 15 percent on Sites B1, B2, B3, B4, and B6. Realistic capacity of Site B5 is (d)reduced by 46 percent due to existing site constraints.
- (e) Identified capacity of sites that allow development densities of at least 20 units per acre are credited toward the lower-income RHNA based on State law. Pursuant to Government Code Section 65583.2(c)(3)(B), local governments may utilize "default" density standards to provide evidence that "appropriate zoning" is in place to support the development of housing for very-low and low-income households. The default density standard for Cupertino and other suburban jurisdictions in Santa Clara County is 20 dwelling units per acre (DUA) or more.
- (f) Realistic capacity for sites B1 and B5 represent net new units.

Source: City of Cupertino, 2014

Figure 10– “Table 5.5: Summary of Priority Housing Sites – Scenario B”

Scenario B more equitably spreads housing across the city and results in some positive consequences and emergency shelter potentials. There also appears to be a RHNA surplus of +384 generated by this Scenario alternative.

| Table 5.6: Comparison of Sites and RHNA - Scenario B | | | |
|--|-------|----------------|-------------------------|
| Income Category | Sites | Remaining RHNA | Surplus/ Shortfall(+/-) |
| Extremely Low and Very Low | 1,386 | 356 | |
| Low | -- | 207 | |
| Moderate | -- | 196 | |
| Above Moderate | -- | 243 | |
| Total | 1,386 | 1,002 | +384 |

Source: City of Cupertino, 2014

As discussed in the Needs Assessment, the 2013 Santa Clara County Homeless Survey identified 112 homeless individuals on the streets and in emergency shelters, transitional housing, and domestic violence shelters in the city of Cupertino. The homeless facilities in Cupertino have a capacity to house 20 individuals. As a result, there is a need to accommodate at least 92 more homeless individuals in the City.

There are several underutilized parcels within the BQ zone that could accommodate a permanent emergency shelter that serves 92 or more individuals. In particular, a number of churches in BQ zones own more land than they currently use. Surplus lands owned by churches include large parking lots and recreational spaces like fields and tennis courts. There are at least five parcels with approximately 154,000 square feet of vacant land in the BQ zone that could accommodate a permanent emergency shelter. These sites range from 19,000 square feet to 50,000 square feet, with an average lot size of 31,000 square feet. Parcels of this size would be able to accommodate a permanent emergency shelter that meets the needs of Cupertino.

Those parcels with surplus land area in the BQ zone are primarily located on or near Cupertino's main arterial corridors, providing for easy access to public transportation and essential services. In total, 12 bus lines and 131

Figure 11 – Scenario B, the Alternative

Insufficient and Conflicting Information Presented in NOP EIR Scoping Meeting, with Infeasible “Proposed Project” due to Inconsistency with General Plan & Initiative Vote Results

Consistency Requirement with the General Plan

The Specific Plan must be consistent with the General Plan by law.

[Ca GC 65450-65457:](#)

(b) The specific plan shall include a statement of the relationship of the specific plan to the general plan.

http://www.opr.ca.gov/docs/specific_plans.pdf

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65451.&lawCode=GOV

A project that is inconsistent with an applicable General Plan or subsidiary land use plan may not be approved without an amendment to the Plan or a variance. See Gov't Code § 65860. Where a project conflicts with even a single general plan policy, its approval may be reversed. *San Bernardino County Audubon Society, Inc. v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 753; *Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors of El Dorado County* (1998) 62 Cal.App.4th 1334, 1341. Consistency demands that a project both "further the objectives and policies of the general plan and not obstruct their attainment." *Families*, 62 Cal.App.4th at 1336; see *Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 378. Accordingly, where a project opponent alleges that a project conflicts with plan policies, a court need not find an "outright conflict." *Napa Citizens* at 379. "The proper question is whether development of the [project] is compatible with and will not frustrate the General Plan's goals and policies ... without definite affirmative commitments to mitigate the adverse effect or effects." *Id.*

Proposed Project and Project Alternatives:

A resident of Cupertino spoke to the Fehr + Peers representative during the EIR Scoping Meeting February 22, 2018 regarding the ‘housing heavy’ option and was told that option would have “*around 4,000 units.*” During the slide show presentation the following slides were shown for the project and the alternatives:

Proposed Project:

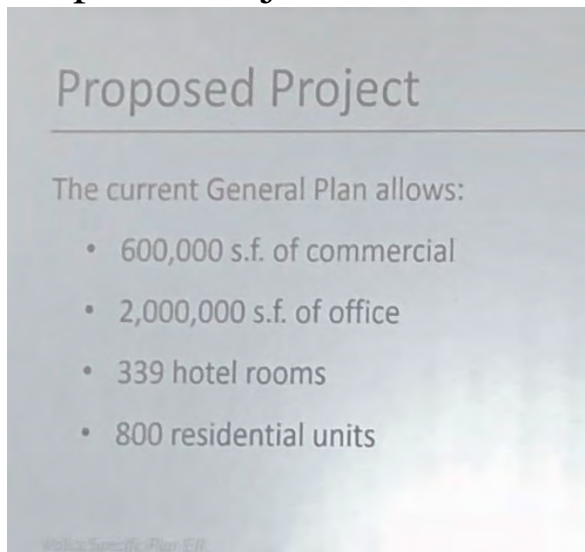


Figure 12

Figure 2

During the presentation, recorded here: https://youtu.be/kb89Oh1WU_0 The “Proposed Project”, Figure 12, was listed as:

Proposed Project:

- 600,000 S.F. of commercial
- 2,000,000 SF office
- 339 hotel rooms
- 800 residential units

The General Plan refers to Vallco Shopping District as: "... a vibrant mixed-use "town center" that is a focal point for regional visitors and the community. This new Vallco Shopping District will become a destination for shopping, dining and entertainment in the Santa Clara Valley."

The Square footage amounts would result in primarily office, then residential, then commercial, then hotel: 2,000,000 SF, approximately 961,622 SF (using the Measure D Initiative Square Footage for then proposed 800 units as listed in the "Vallco Specific Plan Initiative Environmental Assessment," 600,000 SF retail, and approximately 500,000 SF hotel. The hotel total is approximate due to part of the hotel allotment being currently under construction at Hyatt House and 277,332 SF of hotel was mentioned in the Vallco Specific Plan Initiative Environmental Assessment for the remaining 191 hotel rooms available in the allotments.

The "Proposed Project" would result in an even smaller percentage of retail than the failed Measure D percentage: 16%.

There appears to be no City Council support for 2 million SF of office at Vallco. As stated earlier, the EIR may be stopped, and the reason to stop it would be that it is both inconsistent with the General Plan, and has insufficient support from the city leaders or the community.

Retail has definite requiring language regarding Vallco. None of the other parts have more than "encourage". Residential says "allow". The Land use portion language is not solidly stating anything is required except for retail. Following this logic, having the 2 Million SF office allotment is inconsistent with the GP language because building that would cause the site to be an office destination with some retail.

The GP EIR studied 600,000 SF retail, 2 Million SF office, 800 residential units, and 339 hotel rooms. The adopted Scenario A in the GP has 389 units. 35 DU/Ac was not an allotment but a density maximum for the 389 units on the site in those parts of the mixed use area which would allow housing. Alternative Scenario B has no housing at Vallco. The Housing Element supports that Vallco could have 389 units, and refers to those unit quantities as "realistic capacity" in Table HE-5 (above).

The General Plan adopted "Scenario A" allotments for Vallco and stated that it would fall to Scenario B should a Specific Plan not be adopted by May 31, 2018.

As shown in the above section "General Plan Directive to Create a Vallco Shopping District Specific Plan", Vallco was never shown in any portion of the General Plan having more than 339 residential units.

A reasonable person ("reasonable person" from: http://www.opr.ca.gov/docs/specific_plans.pdf) would conclude that Vallco was never intended to be a heavy housing site and the General Plan provided Scenario B with other sites available for housing with **zero housing at Vallco**. The Vallco site was described in the General Plan as: "... a vibrant mixed-use "town center" that is a focal point for regional visitors and the community. This new Vallco Shopping District will become a destination for shopping, dining and entertainment in the Santa Clara Valley." While the Vallco owner may wish for something else, that would have to follow a different process such as a General Plan Amendment.

The goals, policies, and strategies to achieve this vision in the General Plan Land Use section support residential as subordinate to other uses.

Additionally, the 2 million SF of office completely *frustrates* the General Plan Housing Element Goal of providing adequate housing by generating an excess of employment. 2 million SF of office space would result in 1 employee per 300 SF or 6,667 new employees which far exceeds the number of residential units being studied. This is a project adjacent to 14,200 employees expected at Apple Park which has no onsite housing and 942 residential units planned in an expanded Hamptons complex, increased that complex by 600 residential units. This explains why there is scant support for 2 million SF of office at Vallco.

While Sand Hill requested that a much denser housing option be studied at Vallco, and that a mix between Measure D and a housing heavy option also be studied, neither of these options are consistent with the General Plan nor do they lessen the impacts of the “Proposed Project” which is a CEQA requirement.

Attempting to include a reallocation of allotments in and among other sites is beyond the scope of a Vallco Specific Plan and the General Plan. When office or any other allotment is pulled from the General Plan and placed in the city "pool" it results in an alteration of the General Plan. These options were not studied in the General Plan EIR.

Alternatives to Project:

“The California Environmental Quality Act (CEQA), Section 15126.6, requires an Environmental Impact Report (EIR) to describe a reasonable range of alternatives to a Project or to the location of a Project which **could feasibly attain its basic objectives but would avoid or substantially lessen any of the significant effects of the project**, and evaluate the comparative merits of the alternatives.”

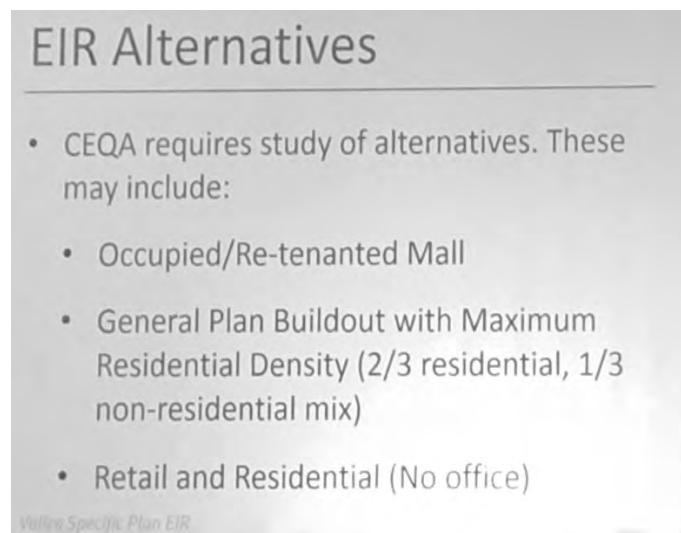


Figure 13

The EIR Alternatives were listed as:

- Occupied Re-Tenanted Mall
- General Plan Buildout with Maximum Residential Density (2/3 residential, 1/3 non-residential mix)
- Retail and Residential (No office)

Occupied/Re-tenanted Mall is Not “No Project”

CEQA alternatives require the “no project” alternative:

“NO PROJECT ALTERNATIVE CEQA Guidelines section 15126.6(e) requires that an EIR evaluate a “No Project” alternative. The purpose of this alternative is to “allow decision-makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project.” This alternative analysis compares the environmental effects of the project site remaining in its existing condition against environmental effects that would occur if the proposed project were approved.”

The mall has been gradually closed by the owners over the past few years, most recently announcing the departure of AMC theaters. The occupancy rate of the mall in 2014 was 66% according to Appendix 7 Table 2 City of Cupertino 9212 Report for Vallco Specific Plan ‘Measure D’ and had taxable sales of \$99,060,000 based on actual performance. AMC will close in March, 2018. (Traffic analysis must occur after their departure.)

A “re-tenanted mall” would be an alternative apart from and substantially different to “no project” since the mall has been largely shuttered and the owner has allowed other uses: automobile dealership car storage, Genentech and other shuttle bus commuter parking and transit pickup on the site, with Bay Club gym, Bowlmor lanes, the ice rink, Dynasty restaurant, and new remodeling of the Food Court for Fremont Union High School District classroom use either remaining or upcoming. These conditions are “no project”, not a re-tenanted mall. A re-tenanted mall would be a fourth alternative to project.

Alternative B is Not Consistent with the General Plan

The second alternative on the EIR Alternatives Slide, Figure 2, “Alternative B” was described as “General Plan Buildout with Maximum Residential density (2/3 residential, 1/3 non-residential mix)” At 8:48 in the recording, linked above, it was stated that the residential *‘may have approximately 2,600 to 2,640 residential units in addition to office and retail and hotel space’*. This alternative is inconsistent with the General Plan.

Vallco Shopping District in no part of the General Plan was ever described as a housing complex nor were housing totals ever in any vicinity of these amounts. The General Plan consistently shows 389 residential units as the realistic capacity any only by inference could a higher capacity

of 457.6 residential units be determined. When I attended the meeting, I did not hear the residential densities spoken and only learned of them through a news blog. In no mailings were these quantities given, and they are not listed on the city website. This is insufficient information describing the project since the slide shows no proposed sizes or any information as to what the non-residential mix could possibly have in it. Given the abundance of office at Apple Park (3.7 million SF with expected 14,200 employees), the variations in “the mix” can cause huge environmental impacts.

A reasonable person would find this proposed alternative ‘housing heavy’ option not consistent with the general plan.

Alternative C is Insufficiently Described – May be inconsistent

Lastly, the third alternative was listed as “Retail and Residential (No office).” This alternative, “Alternative C,” had no quantity either on the slide or spoken about for either retail or residential and omits the hotel room and office allotments from the General Plan.

This proposed alternative ‘retail and residential’ is described too insufficiently to determine if it could potentially avoid or substantially lessen any of the significant negative effects of the “Proposed Project”, or not.

Conclusions:

1. The “Proposed Project” does not appear to be consistent with the General Plan because it is an office park with over 84% non-retail use when the project is detailed as the “Vallco Shopping District.”
2. The “Proposed Project” frustrates the General Plan goal to balance employment with housing by providing a gross excess of jobs to housing.
3. Cupertino Ballot Measure D, a similar proposal to “Proposed Project”, was placed before voters and was rejected 55%. This project, with the high office square footage has scant support and would likely be rejected by City Council.
4. “No Project” would be a fourth alternative, Occupied/Re-tenanted mall is not the same as “No Project”
5. Alternative B, with conflicting 2,600-4,000 residential units, is inconstant with the General Plan.
6. Alternative C is too insufficiently described to determine if is consistent with the General Plan. Portions of the mixed uses were eliminated, which seems inconsistent.
7. For the above reasons, the EIR process must be halted for a replacement “Proposed Project” which is consistent with the General Plan.

Table of Proposed Project and Alternatives:

| Alternative | Retail | Office | Residential | Hotel |
|--|--|--|---|--|
| Proposed Project | 600,000 SF | 2,000,000 SF | 800 units | 339 hotel rooms |
| Alternative A: Occupied/ Re-tenanted mall | 1,207,774 SF | (25% of total Allowed in retail) | 0 units | 148 hotel rooms (Hyatt House) |
| Alternative B: (2/3 residential, 1/3 non- residential mix) | Unknown. General Plan states 600,000 SF Min. | Unknown. General Plan states no minimum | Unclear: 2,600- 4,000 units. General Plan shows realistic capacity: 389 units. | 148 min.-339 maximum hotel rooms |
| Alternative C: Retail and Residential (no office) | No amount stated: General Plan states 600,000 SF minimum, 30% maximum may be entertainment. Buildout amount is 1,207,774 SF, (assumed maximum) | 0 office | No amount stated, General Plan realistic capacity: 389 units | 148 min.-339 maximum hotel rooms |
| Alternative D: No Project (CEQA Requirement) | Approximately 400,000 SF currently occupied out of 1,207,774 SF total | 0 office | 0 units | 148 hotel rooms (Hyatt House) |

Comments For Environmental Impact Report Given Proposed Project and Alternatives A-D

I. Proposed Project EIR Topics and Problems

a. Proposed Project is inconsistent with the General Plan.

- i. Proposed Project is not a “...destination for shopping, dining, and entertainment...” as described in the [General Plan Land Use and Community Design Element](#). The site is not described as being for a “Major Employer” under the “Major Employer” definition.
- ii. Proposed Project frustrates the [General Plan Housing Element](#) Goals and policies to provide adequate housing by creating over 6,667 new jobs and providing 800 residential units.
- iii. EIR Proposed Projects must be consistent with the General Plan. Infeasibility is a measurement of consistency. Measure D, with 640,000 SF retail, 2,000,000 SF office, 800 residential units, and 339 hotel rooms was opposed by 55% in the November 8, 2016 vote. This Proposed Project has inadequate support for the office quantity. The EIR should be stopped for a replacement “Proposed Project” consistent with the General Plan and feasible.

b. Proposed Project will cause significant and unavoidable impacts to traffic. See General Plan 2040 EIR, excerpts are included in the Appendix, Traffic Studies section. The impacts are primarily on the east side of Cupertino compounding the effects of Apple Park when it fully occupies with 14,200 employees.

- i. Multiple projects including 239 acre “City Place” in Santa Clara, Valley Fair Expansion, Google in Mountain View and Diridon Station have added tens of thousands of employees which were not studied nor anticipated in the EIR. The EIR for “City Place” indicates impacts into the Cupertino area and must be reviewed for the current “Proposed Project” EIR
- ii. San Jose’s Envision 2040 EIR showed they would impact 73% of vehicle lane miles in Cupertino. This was not studied in the Cupertino General Plan 2040 EIR and must be included in the “Proposed Project” EIR.
- iii. Stevens Creek Urban Village has been approved. See Appendix “Stevens Creek Urban Village Overview” for details and overlap of that project and impacts on Cupertino
 1. Existing Conditions: 1,624 dwelling units, 1.6 million SF commercial space, the city of San Jose assumed 5,281 current jobs.
 2. Proposed increases: 3,860 dwelling units which could end up with an actual wide range of outcomes because NONE of their land use definitions have definite housing requirements and their General Plan had MAXIMUM housing not minimum. Stevens Creek Urban Village (“SCUV”) was to be a commercial area primarily, born out of the Great Recession need for jobs. Jobs: 4,500 jobs.

3. Stevens Creek Urban Village is approximately 3 miles long and is only the South Side of Stevens Creek Boulevard
4. Students would need to be relocated from Cupertino High School which is at capacity. The bus line currently has a simple east-west route for these students currently in the SCUUV area. Traffic impacts due to relocation, air quality impacts from students in routes requiring a bus change or now needing to drive must be studied along with students displaced by the “Proposed Project”
- iv. Impacts of Apple Park’s bus service must be included. The parking shortfall in Apple Park will require an approximate 3,500 employee increase in ridership over the 1,600 employee riders which were last reported using the private shuttle system. 10% of Apple employees live in Cupertino according to their DEIR for Apple Campus 2.
- v. Various different percentages of uses must be studied separately with a comparison chart of expected traffic daily trips. For instance, expect a maximum amount of restaurants like Main Street Cupertino, which is about 65% restaurants. A gym, movie theater, bowling alley, regulation size hockey rink (tournament potential), wedding banquet hall, all generate different amounts of traffic. The previous Environment Study for Measure D lumped all uses under “retail” which results in a low total. This would be unacceptable.
- vi. Baseline Counts: baseline counts for the project have definite requirements under CEQA. The previous Environmental Study for Measure D calculated assumed baseline traffic generated using an assumed mall occupancy of 83% which was not true at the time of the study. AMC has a departure date in March 2018. Tube counts for baseline could be needed after they close because that is the new “No Project” condition. Any disallowed uses at the mall should not be included in current traffic counts but removed.
- vii. Traffic impacts from student generation in “Proposed Project” must be studied. “Butcher’s Corner’s” project at Wolfe Rd. and El Camino Boulevard in Sunnyvale has units with 5 bedrooms. Main Street Cupertino has one bedroom units over 1,750 SF. Student generation rates from large apartments would be very high and will need to hold up to scrutiny.
 - a. [Part H. District Student Yield Factor \(To be completed by school districts only.\)](#) Report the district’s Student Yield Factor as defined in Section 1859.2, if different than the statewide average Student Yield Factors. The statewide average Student Yield Factors are as follows:
 - b. Elementary School District 0.5 students per dwelling unit
 High School District 0.2 students per dwelling unit
 Unified School District 0.7

students per dwelling unit Should the district wish to use its own Student Yield Factor, **a copy of the district's study that justifies the Student Yield Factor** must be submitted with this form. Please see the General Information section for additional instructions.

- c. Cupertino Union School District's report of student generation rates do not hold up to scrutiny because low student apartments, and those near heavy current or future construction were selected: projecting the Hills at Vallco (same 800 units as "Proposed Project"):
 - i. Elementary (K-5): 0.19
 - ii. Middle (6-8): 0.09
 - iii. High School (FUHSD): 0.06
 - iv. New SGRs must be calculated using the Gateway/Archstone Apartments and even apartments along Stevens Creek Boulevard in the SCUUV area which better reflect student generation potentials, particularly if low income housing is offered making the apartments very attractive to families.
- d. SB 50 allows for various impacts to be studied from a development which impacts schools. The application of SB 50 is explained by attorneys retained by the city here:
 - i. <https://cupertino.legistar.com/View.ashx?M=F&ID=3388406&GUID=EC84D162-9D05-4EF3-8EFC-BDC6CC2B517C>
 - ii. "Therefore, a lead agency may consider, in an EIR, among other factors the following impacts potentially caused by school expansion or construction:
 1. traffic impacts associated with more students traveling to school;
 2. dust and noise from construction of new or expanded school facilities;
 3. effects of construction of additional school facilities (temporary or permanent) on wildlife at the construction site
 4. effects of construction of additional school facilities on air quality;
 5. other "indirect effects" as defined by CEQA Guidelines § 15258 (a)(2)

(growth-inducing effects, changes in pattern of land use and population density, related effects on air and water and other natural systems). See *Chawanakee Unified School District*, 196 Cal. App. 4th at 1029.

- c. Proposed Project has no height limits which can cause multiple effects, 160' is the assumed height. See Appendix, "Letters to and from City and Developer".
 - i. Study shadows in a methodology equally stringent to Berkeley's Shadow study requirements. Times to study are based on sunrise and sunset, not 9am, 4 pm for example. Any rooftop amenities will be shown in the shadows including any rooftop landscaping or air conditioning. Renderings showing the site line blockage from the structures obstructing views from across the I-280 of the surrounding hills must be presented. Shadows cast onto the surrounding neighborhoods, likely shadows during evenings within the project. Temperature drops expected relative to non shaded areas.
 - ii. Hyatt House hotel had a planned in-ground pool which may have months without sunlight due to "Proposed Project" shadows.
 - iii. Apple Park issues in their comment letter to City, regarding the DEIR for the General Plan, in Appendix, must be addressed for the "Proposed Project":
 - 1. Shadow sensitive areas
 - 2. Light intrusion and glare
 - 3. Preserve hillside views
 - 4. Privacy and security needs (due to heights allowing a view in to the buildings)
 - 5. Having suitable setbacks and buffers
 - 6. Protect neighbor's privacy
 - 7. "Placing 85-foot residential towers immediately adjacent to Apple Campus 2 poses the same security concerns as a trail through the site." (Then surely a 160' Vallco campus would result in the same security concern.)
- d. Proposed Project will have impacts to air quality
 - i. CEQA Article 9, Section 15125(d) allows us to ask that the EIR cover any inconsistencies between the Vallco Specific Plan and these plans.:
 - 1. <https://www.arb.ca.gov/planning/plan01/planjan02.pdf>
 - 2. https://www.arb.ca.gov/cc/scopingplan/scoping_plan_2017.pdf
 - 3. http://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-_proposed-final-cap-vol-1-pdf.pdf?la=en
 - 4. Cover any inconsistencies between these above plans. CEQA Article 9, Section 15125(d): (d) *The EIR shall discuss any*

inconsistencies between the proposed project and applicable general plans and regional plans. Such regional plans include, but are not limited to, the applicable air quality attainment or maintenance plan or State Implementation Plan, area-wide waste treatment and water quality control plans, regional transportation plans, regional housing allocation plans, habitat conservation plans, natural community conservation plans and regional land use plans for the protection of the Coastal Zone, Lake Tahoe Basin, San Francisco Bay, and Santa Monica Mountain

5. The above discrepancies could include, among other things:
 - a. Environmental Justice Principles (placing low income renters or seniors next to a freeway)
 - b. Sound Understanding of Health Effects
 - c. Reduce or Eliminate Disproportionate Pollution Impacts – this project concentrates them, along with Apple Park, Main Street Cupertino, Hyatt House to one part of Cupertino disproportionately.
 - d. Clean Air
 - e. Clean Water
 - f. Communities free from Toxic risk.
6. Impacts to Air Quality were discussed in the General Plan Amendment process:
 - a. Significant unavoidable impacts start on I-13.
 - i. “Impact AQ-1: Implementation of the Project would conflict with or obstruct implementation of the applicable air quality plan. The Final EIR finds that while the Project would support the primary goals of the 2010 Bay Area Clean Air Plan, the buildout of the Project would conflict with the BAAQMD Bay Area Clean Air Plan goal for community-wide VMT to increase at a slower rate compared to population and employment growth. The rate of growth in VMT would exceed the rate of population and employment growth, resulting in a substantial increase in regional criteria air pollutant emissions in Cupertino. **There are no mitigation measures to reduce this impact to a less-than-significant level.** Policies and development standards in the Project would lessen the impact, but due to the level of growth forecast in the city and the programmatic nature of the Project, the impact would be significant and unavoidable.”

- ii. <https://cupertino.legistar.com/View.ashx?M=F&ID=3388394&GUID=40D6F528-734D-4726-A2F9-A91F34952C3E>
 - iii. The GHG lawsuit in San Jose should be reviewed for applicability in Cupertino. Air Quality GHG Writ of Mandate must be adhered to regarding San Jose's Envision 2040 EIR:
[https://d3n8a8pro7vhmx.cloudfront.net/cleanenergy/pages/22/attachments/original/1426349313/Order Re Petition for Writ of Mandate.pdf?1426349313](https://d3n8a8pro7vhmx.cloudfront.net/cleanenergy/pages/22/attachments/original/1426349313/Order_Re_Petition_for_Writ_of_Mandate.pdf?1426349313) "CCEC has argued (and the City did not dispute the calculations) that if present emissions data is compared to that allowed by the proposed General Plan update as required by Guidelines § 15064.4, GHG emissions will increase by 2.7 MNT or 36 percent by 2020 (from the approximate 2008 figure of 7.6 to the estimated 10.3). This is "substantially different information" that was not provided to the public. This failure to provide relevant information was prejudicial as the failure **"deprived the public and decision makers of substantial relevant information about the project's likely adverse impacts."** Smart Rail, supra, at 463." "That said, given that the failure to state the "present" GHG emissions affects the Project baseline and all comparisons and determinations made using the baseline, and the City's stated intention to tier other projects off this defective EIR, a limited order may not be possible."
- b. Impacts to air quality due to placement of the project on a major east-west corridor in Silicon Valley: the I-280.
 Project will significantly slow the freeway increasing air pollution to homes which would have been in areas without stopped traffic. The I-280 pm SB traffic is stopping further and further west. Air pollution generated from slowed and stopped traffic is much higher than that of free flowing traffic. The impacts of the difference in traffic speeds must be analyzed to determine the increases above baseline to be expected.
 - c. Social Justice: The existing location of Vallco adjacent to the I-280 places project occupants within 1000' of a freeway with over 200,000 vehicles per day. If residents with an economic level below that of the average in

Cupertino are expected to live at Vallco, that would be a social justice issue. In essence placing poorer residents in harms' way intentionally. The negative effects of air pollution have been long known. It is also known that poorer people tend to have less adequate health care. Asthmatics from lower economic levels tend to end up in the emergency room and have longer hospital stays than those patients with higher levels of care. Santa Clara County has 257,000 asthmatics and asthma [costs the state of California \\$11.3 billion annually](#).

- ii. Proposed Project may trap the dispersal of freeway pollution. If the 'green roof' concept returns, it will exacerbate the dispersion of the freeway line source pollution. This would not make the site acceptable for community use or for placing low income renters which is a social justice issue.
 - iii. The green roof will need approximately 168,000 CY of soil which will need to be hauled up to areas 60'-160' up and soil will get blown to the adjacent residences.
 - iv. Old construction like Vallco will likely have asbestos, lead, vermin, unaccounted for petroleum products leakage. When these are excavated the surrounding areas will have particulate matter blown their way. The interiors should be properly demolished to contain any asbestos or other carcinogens.
- e. Proposed Project Impacts to Water usage
- i. The Water Supply Assessment, WSA, report for the Hills at Vallco assumed only 20% restaurant use while the same developer has approximately 65% restaurants at their Main Street Cupertino project. Water use for restaurants is 10 TIMES that of retail. The new WSA report must take into account the likelihood of more than 50% restaurants in their water consumption calculations and base the calculations on predictions which hold up to scrutiny.
 - ii. Existing water usage must be recalculated to account for the current gym, Dynasty restaurant, ice rink, bowling alley, upcoming FUHSD occupancy, departed AMC, and whatever uses are current. The previous WSA report can not be resubmitted without an update.
 - iii. The WSA made the assumption that no toilets or faucets had been updated from old and therefore made no reduction in their flow calculations. Then reduced all proposed amounts by 25%. When the various water using parts of the mall had been remodeled over the years all of the outdated plumbing would have had to be updated to code.
 - 1. Assumptions made in WSA: "For example, old toilets often exceed 2 gallons per flush. Later toilets use 1.6 gallons per flush. The latest water efficient toilets use only 0.6 gallons per flush. Depending on the reference toilet, the latest toilets achieve 62.5% to 70% reduction in

water use. In residential dwelling units, new dishwashers will be installed which use less water than older conventional machines, which use between 7 and 14 gallons per wash load. New water efficient dishwashers use between 4.5 and 7 gallons per wash load. Using an average of 10.5 gallons for conventional machines and 5.75 gallons for new water efficient machines results in an average savings of 4.75 gallons per load or a reduction of 45%. Showers with restricted flow heads have an average flow rate of 2.0 gallons per minute (gpm) versus conventional shower head flows of 2.5 gpm or a 20% reduction. Washing machines 18 years or older used 40 gallons per standard load versus new machines using only 13 gallons per load or a reduction of 67.5%.”

2. “Total Proposed Project estimated average daily potable water use: 597,486 gpd” – See WSD in Appendix: California SB 610 Water Supply Assessment.
 3. The WSS for Main Street Cupertino would have been incorrect because the restaurants were underreported.
- iv. Impacts to air quality from potable water treatment must be calculated for such a substantial water demand. Water treatment generates air pollution.
 - v. Impacts to air quality from recycled water treatment demand must be calculated. Wastewater treatment generates air pollution.
 - vi. Lack of recycled water supply. Tertiary treated water from the Donald Somers plant is currently insufficient. Impacts related to the need to expand the plant will include air quality impacts as well. There is not enough capacity at the Donald Somers plant to supply the Vallco “Hills” project. Should the same green roof be added to the project, there would need to be a dual water system on the roof. This is due to the need to flush the recycled water out to keep certain plants healthy. The water use from the dual roof system needs to be addressed in coordination with the arborist report for the green roof irrigation system. The roof irrigation system may need an auxiliary pump system to irrigate gardens 140-160’ in the air.
 - vii. Effects of wind and tilting the green roof towards the sun must be taken into account along with increased water needs establishing the 30 acre garden.
- f. Noise from project, project demolition, and project construction
 - i. Sound walls must be constructed to reduce noise. Unacceptable noise levels from construction were already determined from the Environmental Study for Measure D.
 - ii. Noise was inadequately studied for the interior of the project. Particularly from a social justice perspective, it is unacceptable to place low income renters in a high noise area. Likewise, seniors, and children, should not be placed in high noise areas.
 - iii. Should the roof park be part of the project, a large scale model should be built to address both noise and odors from multiple restaurants trapped under the roof. Parks are not acceptable land uses next to a freeway.

- iv. Extreme amounts of soil cut which would take several months of diesel trucks hauling the entire hill behind the JC Penney to more than two stories below the sidewalk grade on Wolfe is not environmentally sound (removing all topsoil). Here is an excerpt from the 9212 Report for Vallco Measure D:
 1. It is anticipated that approximately 2.2 million cubic yards of soil would be excavated for the proposed below-ground garages and most of the excavated soil would be hauled off-site. The applicant anticipates that the soiled hauled off-site would be used at another construction site **within 20 miles of the project site**. Some of the soil excavated is proposed to be used on the green roof and at-grade landscaped areas. It is estimated that 168,000 cubic yards of soil would need to be imported to the site.
 2. My neighbor broke her hip bicycling on Tantau because all of the spilled clay soil became unpassably slick. Her husband could barely walk on the street to come help her. That was with that project “balancing cut and fill on site” and simply needing to move soil across the street. How much air pollution would 5 months of diesel truck traffic generate? How much soil will be spilled onto the I-280 and other streets? What will the economic cost of shutting down lanes for non-stop street sweeping be? How will the trucks return to the site?
- g. Green Roof Violates city policies for parkland and may become a city financial burden and a dangerous trap for air pollution. Should the 30 acre green roof return here are some of the issues:
 - i. Common sense tells us that removing 1.2 million SF of Vallco mall and excavating up to 41’ of soil across 50 acres is not an environmentally friendly act. Unlike Apple Campus 2’s design to increase permeable surfaces, decrease their footprint, and use 100% renewable energy, Vallco plans to excavate and entomb the site in concrete.
 - ii. The 30 acre roof garden is tilted toward the sun for the hottest time of the day (afternoon). That roof soars to 160,’ the max parapet on 19,800 Wolfe Road is 61’ by comparison. It will be windy. The wind and sun (tilting it towards the sun rather than to the north) will result in higher water consumption which needs to be taken into account along with higher water needs in the first few years of plant establishment.
 - iii. Noise contours and noise compatibility with land use, do not make much of the roof area acceptable for a park (see Appendix, Future Noise Contours).
 - iv. Cupertino adopted the Community Vision 2040, Ch. 9 outlines the “Recreation, Parks, and Services Element.” Their Policy RPC-7.1 Sustainable design, is to minimize impacts, RPC-7.2 Flexibility Design, is to design for changing community needs, and RPC-7.3 Maintenance design, is to reduce maintenance.

- v. The Vallco roof violates the three City of Cupertino Parks policies listed: it is not sustainable, it is not flexible (a baseball field cannot be created), and it is extremely high maintenance. Parkland acquisition is supposed to be based on “Retaining and restoring creeks and other natural open space areas” and to “design parks to utilize natural features and the topography of the site in order to...keep maintenance costs low.”
- vi. And unfortunately for us, the city states: “If public parkland is not dedicated, require park fees based on a formula that considers the extent to which the publicly-accessible facilities meet community need.” How much will this cost the public if it is a public park?
- vii. The proposed fruits which would be grown on the roof may absorb an excess of pollutants from the freeway. Additionally, air pollution can make it harder for plants to grow well in general.
- h. Inadequate parking/Use of Mall as Park and Ride
 - i. Currently the mall is used a commuter parking lot for Genentech and others, how will the use of the site continue as a known transit center and/or as a “casual” one. There is already a parking issue at 19,800 Wolfe Road.
 1. <https://www.mercurynews.com/2017/12/22/parking-restrictions-proposed-for-front-of-cupertino-condo-complex/>
 2. Proposed Measure D had inadequate parking and would have required an extensive valet parking system to stack vehicles and would burden the city Public Works department having to review and monitor the TDM program. This is unacceptable. Parking must be adequate for demand without expending future city resources form Code Enforcement or Public Works reviews. What will happen to the commuters using the lots now?
 3. The current shuttle service must be studied in the traffic study including the potential for Apple employees.
 - i. Population: All current development and population increases have occurred in Cupertino east of De Anza Boulevard. Main Street Cupertino added 120 units, 19,800 Wolfe Rd. added 204 units, Hamptons Apartments will add 942 units minimum, Metropolitan added 107 units. The Proposed Project would add 800 residential units. That is 2,173 residential units within a very small area. Because there is speculation the Vallco apartments are intended for Apple employees, and there employees are 70-80% male, how will this project effect the balance of male and female residents in Cupertino, which is balanced now. What future effects on the population of children can we expect? If traffic assumptions were made expecting Apple employees at Vallco, what happens when they move? Traffic study assumptions must hold up to scrutiny.
 - j. Soil Contamination:

- i. there was a petroleum distillate plume at the intersection of Wolfe and Stevens Creek which extended onto the Vallco site, SE corner. Please research this.
- ii. 19,333 Vallco Parkway is prohibited from having housing. Verify the soil contamination is not under the parking garage adjacent to this site at Vallco.
- iii. The following sites have had/may have contamination, and must be remediated:
 - 1. J.C. PENNEY (T0608500770)
 - 2. SEARS AUTOMOTIVE CENTER (T0608552828)
 - 3. FORMER TANDEM / APPLE (T10000000740)
 - 4. TOSCO #11220 (T0608575840)
 - 5. MOBIL (T0608500926)
 - 6. SHELL (T0608501269)
- iv. The Vallco site was historically an orchard. Area orchards were treated with arsenic and lead arsenate. Orchards typically would have a UST for onsite gas filling of farm equipment. Thoroughly research the potential for soil contamination and report during excavation. Main Street Cupertino had to 'haul off contaminated soil' but the only record was verbal.
- v. Potential for contamination from HVAC systems to soil.
- k. Groundwater
 - i. Proposed Project covers nearly the entire site in impermeable concrete. If cisterns are built for groundwater recharge, their sizing must hold up to scrutiny which will be very difficult. If the green roof is built, fertilizer contamination may result.
- l. Hydrology
 - i. Proposed Project increases impermeable areas which is contrary to best practices. Runoff must account for planters over concrete which would increase runoff. If the green roof structure is built, the slope and soil depth must be taken into consideration when calculating runoff, because both will increase runoff amounts and require larger pipe sizing.
- m. Storm Drains
 - i. Determine whether existing storm drains are adequate using the above mentioned hydrology calculations. Show both with and without the green roof scenarios.
- n. Sewage System
 - i. Current system is likely inadequate. What traffic impacts would be expected from mitigating the sewage system. The Sewage treatment plant capacity must be re-analyzed with all of the earlier mentioned large developments which will impact it.

- o. Thresholds and standards for the determination of impact significance must be characterized and justified. Individual components must also be aggregated to see if their

cumulative effects are significant. Indirect effects that are reasonably foreseen must likewise be addressed.

II. Alternative A: Occupied/Re-tenanted Mall

- a. The current mall would likely require some inspections because it has been closed up. If the WSA report was correct in their assumption that all water usage at the current mall is old style high flow, then all of the fixtures should be replaced as a condition for re-occupancy. Whatever remodeling may take place for the mall would need permits, as part of that permitting process, a traffic study would need to be performed. My assertion is that to study the mall fully occupied or with over 95% occupancy would be a different alternative from the required “no project.”

III. Alternative B: 2/3 residential, 1/3 non-residential mix.

- a. This alternative is inconsistent with the General Plan as stated earlier. It should not be studied because it is an infeasible alternative.
- b. All of the above mentioned comments for “Proposed Project” apply to Alternative B.
- c. **Social Justice Issues are magnified** under Alternative B:
 - i. Social Justice: The existing location of Vallco adjacent to the I-280 places project occupants within 1000’ of a freeway with over 200,000 vehicles per day. If residents with an economic level below that of the average in Cupertino are expected to live at Vallco, that would be a social justice issue. In essence placing poorer residents in harms’ way intentionally. The negative effects of air pollution have been long known. It is also known that poorer people tend to have less adequate health care. Asthmatics from lower economic levels tend to end up in the emergency room and have longer hospital stays than those patients with higher levels of care. Santa Clara County has 257,000 asthmatics and asthma costs the state of California \$11.3 billion annually.
 - ii. Proposed Project may trap the dispersal of freeway pollution. If the ‘green roof’ concept returns, it will exacerbate the dispersion of the freeway line source pollution. This would not make the site acceptable for community use or for placing low income renters which is a social justice issue.
 - iii. This many units adjacent to the freeway would inevitably place vulnerable populations in harm’s way due to poor air quality. This Alternative will likewise require similar building masses as “Proposed Project”. These large building masses may block air flow. Combined with urban street traffic within the street grid, and proposed underground parking in two levels, the air quality will be unacceptable. Ventilation will be problematic. Should the green roof be placed over these residents this

could be disastrous. HEPA filtration, should it be used, does not block VOC's.

- d. Alternative B, imbalances to population. Apple has a 70-80% male workforce. If the intention is to populate the residential units with Apple employees we can expect a similar gender ratio. This may result in an 11 % increase in the male population of Cupertino. This is a significant impact which could alter whatever other uses are proposed. Should the employees leave Apple, traffic would be worsened. Traffic analysis should study a wide range of residency outcomes. The Alternative gave no estimates as to residential unit size. Consider any options such as family size apartments or micro-apartments. Employment centers both near and far. School impacts, as listed above for Proposed Project, for the potential of a massive amount of students, must be studied. Results and SGR's must stand up to scrutiny.

IV. Alternative C: Retail and Residential (no office)

- a. This alternative ignores the hotel.
- b. There is not enough information to speculate how much retail or residential they are attempting. The realistic capacity is 389 residential units and retail maximum is 1.2 million SF. This project would result in tearing down the mall structure to create the grid layout for the Specific Plan. (see Proposed Project for all comments and apply here).
- c. This could result in residents who would have been shopping in an enclosed mall now in a street grid. Because the structures would potentially be lower, the air pollution could dissipate more rapidly. There are too many missing variables to speculate.
- d. Placement of the residential units would need to be away from the freeway and other major streets (Wolfe Road and Stevens Creek Boulevard are over 30,000 vehicles per day).
- e. While not having office helps meet the housing goals better, the types of retail would need to be addressed. This matters for traffic (retail generating ¼ the traffic of a restaurant, and retail generates 1/10th the traffic of a fast food restaurant). Should the proposed regulation sized ice rink be built, that could have pre-dawn skaters, so the placement of that and parking would best be away from residents.
- f. If, referring back to CEQA and the need to present alternatives to project "which could feasibly attain its basic objectives but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives."
 - i. this option would need to have less impacts than Proposed Project, and still be compliant. That would be 1.2 million SF retail maximum and 389 units residential. 30% of retail could be entertainment: 360,000 SF. It is possible it will have less impacts and could be compliant with the General Plan. However, since the Proposed Project is infeasible and inconsistent. This exercise has been moot.

ENROLLMENT AND FISCAL IMPACT ANALYSIS

for the:

THE HILLS AT VALLCO

Prepared for:

The City of Cupertino



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TABLE OF CONTENTS

| | |
|---|----|
| BRIEF SUMMARY | 1 |
| ENROLLMENT IMPACTS | 3 |
| The Hills at Vallco Project | |
| Enrollment Considerations | |
| Enrollment Impacts | |
| Enrollment and Capacity of Cupertino District Schools | |
| Enrollment and Capacity of Fremont Union District Schools | |
| CAPITAL FACILITIES COST AND REVENUE IMPACTS | 15 |
| Facilities Costs | |
| Development Impact Fee Revenues | |
| Comparison of Capital Costs and Mitigation and Volunteer Benefits | |
| OPERATING REVENUE AND COST IMPACTS | 22 |
| Operating Costs | |
| Operating Revenues | |
| Comparison of Operating Costs and Revenues | |

SUMMARY

The proposed Hills at Vallco includes 800 relatively small apartments over ground floor retail, including 680 market rate units, 80 below market rate (BMR) affordable rentals and 40 age-restricted senior units. Proposed non-residential uses consist of about three million square feet of office space and associated amenity and support uses, 650,000 square feet of retail and other commercial space, 40,000 square feet in facilities available for civic uses, and 150,000 square feet of civic use and infrastructure space. The name of the project reflects a 30-acre green park and open space roof.

The enrollment and fiscal impacts of the apartments on Cupertino Union School District (CUSD) and Fremont Union High School District (FUHSD) are summarized below. In addition to required mitigation, the developer has signed letters of intention (LOIs) to provide substantial benefits to the two districts at an estimated cost of \$40,000,000. Both districts have concluded that, if these benefits are provided, the Vallco project would be of net benefit to them.

- ❑ Both CUSD and FUHSD have grown steadily in recent decades. However, due to maturing households and the rapid increase in the cost of housing, CUSD enrollment is now projected to decrease by about 400 elementary and 500 middle school students over the next five years (prior to any significant student generation from the Vallco project). FUHSD enrollment is expected to increase by about 600 students over the same period, then begin to decline as smaller cohorts move up from the younger grades.
- ❑ The demand for housing in the CUSD and in the Cupertino High attendance area is very high. The Hills at Vallco apartments are projected to have students per household generation rates of 0.28 for CUSD and 0.06 for FUHSD, a total of 0.34 students per household, though recent student counts indicate decreasing generation rates.
- ❑ Based on the above SGRs, an enrollment impact of 258 students is estimated as a result of the Vallco project: 144 students in the Collins Elementary attendance area; 68 students in the Lawson Middle attendance area, and 46 students in the current Cupertino High attendance area.
- ❑ The most significant benefit included in the developer's CUSD LOI is the construction of a new 700 student school on the Site of the former Nan Allan School, adjacent to the Collins school. This school would provide capacity for Vallco project students and reduce enrollment pressures on Collins and the schools north and east of Collins.
- ❑ The recent addition of 21 classrooms at Lawson Middle School brings its capacity up to about 1,500 students, significantly above its Fall 2015 enrollment of 1,249 students. Enrollment in the 2018-19 school year is projected to be at the same level, allowing room for the Vallco project students.

- ❑ The recent addition of 12 classrooms at Cupertino High School increases capacity approximately equal to the 300 student projected enrollment growth in Cupertino High’s current attendance area. Lynbrook High, whose attendance area borders Cupertino’s on the south, is projected to experience a decline of about 240 students in the next five years. The district recently allowed students from Miller Middle School, in the current Cupertino School attendance area, to attend Lynbrook and established a district-wide citizens advisory committee “to study the enrollment needs of the district...”
- ❑ The developer’s LOI to FUHSD provides for a 10,000 square foot “Innovator Space” for 34 years in the Vallco project. The district sees this space as a unique opportunity to help students relate their classes at the comprehensive schools to the tech activities of Silicon Valley.
- ❑ For both districts one-time development fee revenue from The Hills at Vallco project is anticipated to be significantly less than the share of school facilities costs attributable to the project, consistent with the intent of the state-set limits on fees. However, the magnitude of the costs of the benefits to be voluntarily provided by the developer are a multiple of the costs of full mitigation of the project’s impacts.
- ❑ The share of CUSD annual operational costs attributable to the Vallco project are anticipated to be approximately equal to operational revenue from the project due to the developer’s commitment to pay in lieu parcel taxes on the market rate apartments.
- ❑ In contrast, FUHSD operational revenues from the project will exceed operational costs attributable to the project by a large amount, about \$109,000 per student. The result is a projected annual surplus of about \$5.0 million for FUHSD.

I. ENROLLMENT IMPACTS

The Hills at Vallco Project

The City of Cupertino has contracted with Schoolhouse Services to conduct an analysis of the enrollment and fiscal impacts of the proposed The Hills at Vallco project (also referred to as the Vallco project in this report) on the Cupertino Union School District and the Fremont Union High School District. The land-owner, Vallco Property Owner, LLC, and the developer and applicant, Sand Hill Property Company, are seeking approval for the project on the site of the Vallco Shopping Center on Wolfe Road at its intersection with the Interstate 280 freeway. The developer envisions the project to be a center of community activity, with a variety of activities situated around two town squares, one on each side of Wolfe Road with a connecting overpass. The name, The Hills at Vallco, refers to the sloping roof design that presents a 30 acre green environment, with parkland and open space, to viewers outside of the project.

On-site Components

The residential component of the proposed new development consists of 800 apartments over ground floor retail, which would include 680 market rate units, 80 below market rate (BMR) affordable rentals and 40 age-restricted senior units. Sixty percent of the units are studio and one-bedroom units. The apartments are relatively small, the interiors averaging only 800 square feet in size. Amenity uses including a clubhouse/fitness pavilion are associated with the residences.

Proposed non-residential uses consist of about 2.3 million square feet of office space and associated amenity and support uses, 650,000 square feet of retail and other commercial space, 40,000 square feet in facilities available for civic uses, and 110,000 square feet of support infrastructure area. The commercial space is required to include 420,000 square feet of restaurants and similar uses by the city's General Plan and the theatre, bowling alley and ice rink are being retained. The land uses are listed in more detail in Table I-1 below.

The 30-acre roof supporting playgrounds and green open space is a distinguishing feature of the development. It is planned to include 3.8 miles of walking/hiking trails, bike paths, children's play areas, and gardens and vineyards; the majority of the area will be green open space. Parking is planned for 9,175 vehicles, the large majority of it in underground structures. The project requires the demolition of approximately 1,200,000 square feet of existing retail space as well as associated parking garages.

**Table I-1
The Hills at Vallco Project**

| | <i>Units</i> | <i>Square Feet</i> |
|---|--------------|--------------------|
| <i>Apartments</i> | | |
| <i>Non-senior Units</i> | 680 | 723,100 |
| <i>Senior Units</i> | 80 | 38,700 |
| <i>Non-living Space</i> | 40 | 38,200 |
| <i>Residential Total</i> | 800 | 800,000 |
| | | |
| <i>Non-residential</i> | | |
| <i>Office</i> | | 2,000,000 |
| <i>Office Support¹</i> | | 345,000 |
| <i>Commercial/Retail²</i> | | 420,000 |
| <i>Commercial/Entertainment³</i> | | 180,000 |
| <i>Commercial/Other⁴</i> | | 50,000 |
| <i>Civic⁵</i> | | 40,000 |
| <i>Residential Amenity</i> | | 25,000 |
| <i>Support Infrastructure⁶</i> | | 110,000 |
| <i>Non-residential Total</i> | | 3,170,000 |

¹ *Includes testing and workshop area, conference hall, cafeteria and fitness*

² *Retail and restaurants*

³ *Theatre, ice rink, and bowling alley*

⁴ *Fitness*

⁵ *Community meeting space, high school innovation center, and transit center*

⁶ *Loading, facility, and security areas and central plant*

Source: Sand Hill Property Company

School District Benefits

The project is located within the school district service areas of Cupertino Union Elementary School District (CUSD or Cupertino District) and Fremont Union High School District (FUHSD or Fremont District). It is located within the Collins Elementary School and the Lawson Middle School attendance areas, both part of CUSD. The project is in the Cupertino High School attendance area within the FUHSD.

State law specifies that a school district can only require payment of state authorized fees to mitigate school impacts. For the Hills at Vallco, the developer has voluntarily proposed funding for specific facilities and program improvements beyond its obligations under state law.

Discussions with the two districts on their facility needs have resulted in Letters of Intent (LOIs) signed by Sand Hill Property and the school districts to address district needs.

The improvements proposed in these LOIs are substantial; the developer estimates their cost at more than \$40 million. The benefits have also been evaluated below in this report as part of the school enrollment and fiscal impacts on the two districts.

The Letter of Intent to the Cupertino Union School District provides for the following benefits.

- The construction of a new school on the former Nan Allan School site. This is a small site on the Portal Avenue side of the Collins campus. The site currently houses district administrative facilities and a small pre-school; these activities would be moved elsewhere. By using multi-story buildings, the site will accommodate a school for 700 students.
- The developer is committing to replacing the relocatables that are part of Collins School with new two-story classrooms. This will also result in more ground space being available.
- The LOI commits the developer to improving the Collins playground, a large portion of which is currently unusable.
- The creation of a \$1,000,000 quasi endowment fund to support the Yosemite Science Program for eighth grade students.
- Sand Hill Property had agreed to remain subject to payment of statutory development fees on the Vallco project construction, generating funds to CUSD's capital account. Sand Hill has also committed that in lieu parcel tax payments would be made for the non-senior market rate apartments, as though they were separate parcels rather than a single parcel, per current taxes and parcel taxes as authorized in the future.

The provision of the new Nan Allan School is particularly important to CUSD. It has long seen the need another school in the northern portion of the district and, while it would ideally be located north of Interstate 280, located at the Collins campus it does provide additional capacity in the larger northern portion of the district.

Sand Hill Property has executed a similar LOI to the Fremont Union High School District. It focuses on the following.

- A new 10,000 square foot, turn-key Innovation Center within the project for the FHUSD, with a lease with rent of \$1 per year for a term of 34 years. The Center could be used by students for the following:
 - Student led business incubator
 - Work-based learning initiatives hub

- Robotics team competition arena
- Multi-disciplinary student maker creativity brainstorming and prototyping space
- Centrally located classroom for students from all five campuses within the district
- Performance space
- Exhibition space
-
- As with CUSD, Sand Hill Property had agreed to remain subject to payment of statutory development fees on the Vallco project construction and also committed that in lieu parcel tax payments would be made for the non-senior market rate apartments, as though they were separate parcels rather than a single parcel, per current taxes and parcel taxes as authorized in the future.

The stated intention of the Vallco developer is to provide resources to CUSD and FUHSD substantially in excess of the development fee mitigation required by state law. CUSD and FUHSD have expressed the view that the LOIs do provide significant benefits in addition to the fee revenues, and in so doing more than mitigate the impacts of the project.

Enrollment Considerations

A projection of new student enrollment resulting from The Vallco Hills project is necessary for identification of the potential impact of the proposed development on the impacted schools. Student generation rates (SGRs), the average number of students per new housing unit, are the key factor for the projection of enrollment into the future. Multiplying the number of new units by an appropriate SGR results in a projection of students from the units.

Different housing types generate different SGRs. Single family detached units with private yards usually generate the most students, typically approximately two to three times the number of students generated by most apartment units and condominiums. Within the range of apartments and condominiums, however, student generation can vary significantly, with the sizes and the design and marketing of the units being major factors. The majority of apartments and condominiums are not designed for families. Most of these units are smaller than single family homes, ranging from studio and loft units to predominantly one and two-bedroom units. They are usually in multi-story buildings and lack private yards. However, if located in a highly rated school district and especially if they are in a family-friendly setting, relatively large apartments and condominiums can generate almost as many students as single family detached units.

SGRs of Recent Residential Development in Cupertino

Enrollment Projection Consultants (EPC) has been the demographer for both the Cupertino District (elementary and middle schools) and the Fremont District (high school) for many years. As part of its work the firm determines student generation (counts the number of students) for a large number of relatively new housing units of various housing types. The student generation rate (SGR) for a given type of homes is the number of students counted divided by the number of units generating those students. The SGRs are then multiplied by the number of projected new units of each housing type to project future enrollment from new housing.

The EPC surveys are the logical place to start in estimating the SGRs for The Hills project. The most recent survey covered 585 units in multi-family buildings, mostly apartments but also including some condominiums, built in the last few years. While, one and two-bedroom units dominate the sample, it also includes some studios and some larger units. A few low-rise multi-family buildings with generally larger units and/or that appear to be designed to accommodate families are not included in this sample; they have been grouped with single family homes in a separate 294 unit sample for EPC’s analysis.

The survey by Enrollment Projection Consultants found an average SGR for the CUSD (kindergarten through eighth grade) of 0.33 students per multi-family residential unit, or approximately one student in every three homes. The average high school SGR for the Cupertino District portion of FUHSD was 0.09 per unit in multi-family buildings. (This is more than four times the 0.02 high school SGR in the remainder of the Fremont District.) These rates include some below market rate (BMR) units in the buildings, but not buildings devoted entirely to BMR units.

Tables I-2 and I-3 summarize the SGR findings for both CUSD and FUHSD for the residential projects analyzed. (The SGRs for single family units are included for reference only since no single family units have been proposed for the Vallco development.)

**Table I-2
Average SGRs by Housing Type
Cupertino Union School District**

| <i>Housing Type</i> | <i>Average SGR</i> |
|---|--------------------|
| <i>Most Apartments and Condominiums</i> | 0.33 |
| <i>Single Family Detached Units*</i> | 0.57 |

**Includes a few family-friendly apartments and condominiums
Source: Enrollment Projection Consultants.*

**Table I-3
Average SGRs by Housing Type
Fremont Union High School District***

| <i>Housing Type</i> | <i>Average SGR</i> |
|---|--------------------|
| <i>Most Apartments and Condominiums</i> | 0.09 |
| <i>Single Family Detached Units**</i> | 0.24 |

** City of Cupertino portion of FUHSD
**Includes a few family-friendly apartments and condominiums
Source: Enrollment Projection Consultants.*

The Hills at Vallco project units will be in some ways different from many of the buildings included in these averages; this suggests that SGRs of buildings with specific similarities to the project would be relevant. The “19800” apartments, also known as the “Rosebowl”, are adjacent

to the proposed project site. As of Fall 2015, 184 units (out of 204) had been rented. These units have 60 CUSD students, an SGR of 0.33, and 13 FUHSD students, an SGR of 0.07. It should be noted that these units are on average significantly larger than the proposed units in The Hills at Vallco project, indicating that the Rosebowl SGRs are likely to be higher than those of the units in the Vallco project.

The 80 new units in the Biltmore apartments, nearby along Stevens Creek Blvd., have significantly lower SGRs - 12 CUSD students, an SGR of 0.15, and three FUHSD students, an SGR of 0.04. These SGRs are surprisingly low, especially given that the units are modestly larger than the proposed units in the Vallco project. These two are the only large projects that have been renting in the last 18 months. Table I-4 shows other developments and their SGRs.

**Table I-4
SGRs in Comparable Developments**

| Development | Unit Characteristics | Number of Units | CUSD SGR | FUHSD SGR |
|---------------------------------------|-------------------------------------|------------------|----------|-----------|
| <i>19800/Rosebowl</i> | much larger apartments ¹ | 184 ¹ | 0.33 | 0.07 |
| <i>Biltmore Addition</i> | larger apartments ² | 80 | 0.15 | 0.04 |
| <i>Earlier Apartments³</i> | high density | 828 | 0.32 | 0.07 |

¹ Number and average size of units: 165 2-bedroom, 1,310 sq. ft.; and 39 3-bedroom, 1,573 sq.ft. Only 184 units occupied at the time of the Fall 2015 student counts.

² Number and average size of units: 34 1-bed-room, 813 sq. ft., 46 2-bedroom, 1,212,sq. ft.

³ SGRs in 2013, when the units were significantly more affordable.

Sources: Enrollment Projection Consultants, City of Cupertino, and Schoolhouse Services.

Finally, four earlier large apartment projects (built 1995 to 2000) provide a large, but not as recent, sample of 828 rental units. The CUSD SGRs for these projects in 2013 were 0.25 for grades K-5 and 0.07 for grades 6-8, a total of 0.32. The FUHSD SGR for grades 9-12 was 0.07. It should be noted that the rents were considerably more affordable when the tenants rented these units and it not likely that their rents had escalated to the level of new units constructed in the few years prior to 2013. The district-wide sample of recent multi-family buildings that year had a CUSD SGR of 0.35 and a FUHSD SGR of 0.12, the high school SGR in particular being almost double the SGR of the larger projects. These comparisons from the larger, but older survey, support the conclusion that SGRs in large multi-family projects are lower than the SGRs of all multi-family units in the survey.

The Hills at Vallco SGRs

We know from our many studies that certain characteristics are often associated with adult oriented complexes (and hence few students). These include:

- The units have more studios and one bedroom units than units with two or three bedrooms;
- The units are small, in particular lacking larger kitchen/family eating areas;
- Though small, the apartments are expensive; families can usually get more for their money in older buildings and alternative locations;
- They tend to be in taller buildings, with a minimal number of the units at ground level;
- They are not in a residential environment; apartments situated in the midst of an urban commercial environment are more likely to appeal to adults than to families with children.
- They lack yards with limited access and play structures for pre-school children, and lack lawns in the complex for the play of elementary school-age children;
- There is no more than one assigned parking space per unit;
- They are marketed for their sophisticated adult life style;
- To make living at such a high density attractive, they include features such as physical fitness centers, party lounges, business centers, gated entrances, etc., all oriented to adult preferences, but adding to the price. They do not include child care facilities.

The proposed apartments within the project will generally match the characteristics listed. They will be four to seven stories tall; the ground floors will be commercial. The units are small, averaging about 800 square feet within each unit. Amenity features in the complex, e.g. a fitness center, will be oriented to the preferences of young, working adults but not so much to families with young children. The roofs will be designed to provide recreational space, the only factor appearing to make the units attractive to families with children.

Most important, they will be expensive. The market for apartments is a primary consideration. The wild success of technology (including internet) firms, many of them young companies, has created a demand for young engineers and entrepreneurs, with relatively large salaries as a result. The housing supply is inadequate and rents have escalated tremendously. Many of these tech employees can afford the high rents, though many have to double up to do so, two people sharing a two-bedroom unit, each having his/her own room. It has become very difficult for young families to compete for two- and three-bedroom apartments in the heart of Silicon Valley.

For the above reasons the projected Vallco SGRs are below the average SGRs from EPC's survey of recently added multi-family housing. This is consistent with the survey of 800+ earlier units that demonstrated that smaller units in large relatively high-rise buildings have lower student generation than the average for all multi-family buildings. The recently rented 19800

(Rosebowl) units provide a very relevant comparable, though some adjustments have to be made due to the smaller units in the proposed project. The new units at the Biltmore, also recently rented, indicate the potential for markedly lower SGRs.

In summary, our perspective is that The Hills at Vallco SGRs are likely to be modestly below the average of the large sample of recent multi-family projects and between the Rosebowl SGRs and those of the Biltmore units. The low Biltmore SGRs indicate that the SGRs used here could be high, but they are deliberately chosen to be conservative. For the proposed apartments for purposes of this analysis, a 0.19 SGR for elementary school and a 0.09 SGR for middle school, for a total CUSD SGR of 0.28, and a 0.06 SGR for FUHSD are used, based on the reasons identified above. These assumptions were checked by development of a scenario of sub-SGRs for each size unit, from studios to 3-bedroom units, fitting the project SGRs. Table I-5 above shows the project SGRs by grade level for CUSD and FUHSD.

**Table I-5
Vallco Development
Projected SGRs**

| | <i>Vallco Project</i> |
|---------------------------------------|---------------------------|
| <i>Elementary (K-5) SGR</i> | 0.19 |
| <i>Middle (6-8) SGR</i> | 0.09 |
| <i>Total CUSD SGR</i> | 0.28 |
| | |
| <i>High School (FUHSD) SGR</i> | 0.06 |

Source: Schoolhouse Services.

Enrollment Impacts

With appropriate SGRs we can proceed with the calculation of the enrollment generated from the 760 non-senior apartments. (The number of students generated by the 80 senior units will presumably be negligible. It should also be remembered that the SGRs analyzed above and those chosen for the Vallco project include a proportion of BMR units.) We can also assess the impact of that development on the current enrollment at the impacted schools, which the districts expect to be at the Collins/Nan Allan Elementary campus, Lawson Middle, and Cupertino High. Table I-6 shows the calculated student enrollment impact resulting from the project three to ten years after construction of the units.

**Table I-6
Estimated Enrollment Impact***

| | <i>Elementary</i> | <i>Middle</i> | <i>High</i> | <i>Total</i> |
|---------------------------------|-------------------|---------------|-------------|--------------|
| <i>Apartments</i> | 760 | 760 | 760 | 760 |
| <i>SGR</i> | 0.19 | 0.09 | 0.06 | 0.34 |
| <i>Students Subtotal</i> | 144 | 68 | 46 | 258 |

** Three to ten years after construction of the units.*

Source: Schoolhouse Services.

Given the assumptions described above, the Hills at Vallco development is projected to generate approximately 258 students . It is anticipated that the 144 K-5 students projected will be in the current Collins/Nan Allan Elementary attendance area. Sixty eight students will be attending Lawson Middle School, and 46 students will be attending Cupertino High School, perhaps in the time period 2025-2030.

These estimates are reasonable for the proposed units. However, many characteristics of the units are unknown and the market is uncertain; the actual enrollment generated could vary moderately up or down from these numbers, especially since we are talking about perhaps 10 years and further into the future. We suggest that the forecast be considered as being a total of 200 to 300 students; given the intention that the projections be conservative, there is more potential for enrollment being below 258 students than above.

Enrollment and Capacity of Cupertino Union District Schools

District-wide Enrollment

A discussion of the capacity of schools needs to start with a consideration of capacity versus enrollment of the district as a whole. Cupertino Union has been a rapidly growing school district. Enrollment has increased almost every year, going from 15,571 in the fall of 2001 to 18,924 in the Fall of 2015, an increase of more than 20% accommodated without additional schools in the District. This has overcrowded many of schools, particularly in the northern and northeastern portions of the District. Many of the schools are housing far more students than their design capacity, primarily by adding modular classrooms and, more recently, two story classroom buildings. School classroom support facilities - cafeteria/general purpose spaces, administrative offices, support classrooms for music/art or for students with targeted needs, playground space and facilities, etc. - are over-crowded in some schools.

A different enrollment trend is now projected for the next five years. The Enrollment Projection Consultants (EPC) Fall 2015 study projects a decline of over 900 students district-wide over this period. Two main factors appear to be responsible for this decline. One is a long understood and anticipated maturation of households whose students are graduating and moving on. This process has been ongoing over the last decade, particularly in the southern half of the district, but the resulting loss of students was in the past more than compensated for by the growth in young families in the northern portion of the district.

The other factor causing a loss of students is relatively new. Rapidly rising rents are resulting in young families being priced out of the district. Rising home prices are also making it much more difficult for young families to move into the district, though they do not price out existing homeowners and thus have less effect than on renters. Many of the households with the financial resources to move into the district are young tech employees, many not yet married and relatively few with school age children. EPC sees this factor continuing to reduce enrollment over the next five years.

This is the first year in many that the EPC report has not forecast growth beyond the five-year period. This reflects the firm's uncertainties about the longer term picture. In particular, in the long term the young tech workers will be older; a decade from now, many will be married and with children in the household. Additionally, rising values could lead to more home sales by older households in the district, with the buyers being tech employee households, including workers who currently choose to live in San Francisco because of its more urban life style, but with school-age children will likely come to prefer a more suburban environment with good schools. How these factors will balance out is difficult to predict.

Elementary Schools

Against the district-wide overall picture, attention must be given to (1) what is happening in the elementary schools compared to the middle schools and (2) the differences in the various parts of the district. A decline in elementary enrollment over the next five years, reflecting the large number of maturing households, has been projected by EPC in previous reports. The current report adds awareness of the smaller number of young families due to housing affordability issues. It projects that over the next five years elementary enrollment will decline by almost 400 students, a three percent decline from 12,362 students to 11,964 students. The decline would be even greater except for EPC's projected increase of 900 housing units (including an estimate of only 50 units from the Vallco project).

The rate of decline will not be the same throughout the district, differing among three areas of the district. The majority of the schools north and northeast of I-280 will still be experiencing some growth worsening already serious capacity problems. Schools in the central area lying below I-280 and Bollinger Road (Collins, Garden Gate, Eaton and Sedgwick) overall are crowded, though not to the extent of the northern schools. These central area schools are now beginning to experience decreases in enrollment. The schools in the southern portion of the district have already passed their peak enrollment and have a continued decline projected in the future.

Wolfe Road is the dividing line between the Collins and Eisenhower attendance areas. While the proposed project encompasses property on both the east and west sides of Wolfe Road, the residential portion of the development is limited to the property located on the west side of Wolfe Road. In any case, CUSD anticipates that the students generated by the project would be assigned to the Collins/Nan Allan campus and Lawson Middle School attendance areas.

The relationship between a school's enrollment and the count of students residing in the school's attendance area needs to be explained.

- The Cupertino District has developed programs and magnet schools that are located at campuses with available capacity, generally schools in the south part of the district; CLIP, the Chinese Language Immersion Program, is an example. Many students participating in the program are drawn from attendance areas in the northern/northeastern and central tiers of the district, lessening the pressure on these overcrowded schools.

- Special Day Class (SDC) programs are located in the southern schools, again drawing some students from the more crowded schools.
 - There are situations in which students are directed to a school in a nearby attendance area, shifting enrollment south and lessening the pressure on the over-crowded schools.
- All of these practices have some inherent disadvantage, but it is a more favorable resolution than either having the northern schools even more crowded or having fewer voluntary choices of schools.

Collins Elementary currently has only 36 more students residing within its attendance area than attending the school, making it approximately in balance when the factors in the preceding list are considered. Looking ahead, the number of students residing in its attendance area is projected to decline by 49 students over the next three years.

District staff considers that Collins Elementary School has a maximum capacity of about 700 students. However, this assumes that all rooms are continually utilized and additional academic support space would be desirable. The staff considers about 600 students to be a more effectively managed school size.

Fall 2015 enrollment at Collins Elementary School is 719 students; the projected decline of 49 students residing in the attendance area will reduce enrollment by the year 2019 to 670 students. This reduces the severe overcrowding, but leaves no room to accommodate the 144 students projected from the Hills at Vallco project. As described earlier the developer, working with CUSD, has agreed in the LOI on the voluntary construction of a new school at the site of the former Nan Allan School to add capacity for 700 students. The construction of this school would accommodate all the elementary students from the Vallco project, allow for reduction of enrollment at Collins to a desirable level, and accommodate some students from Stocklmeir and other crowded schools.

Middle Schools

Growing enrollment in the school district was until recently threatening to overwhelm the capacity of CUSD middle schools. Enrollment reached 6,562 students in the Fall 2015 counts while the General Plan Housing Element study calculated capacity at desirable educational standards at a much lower figure. However, since that study proceeds from a bond issue have allowed the district to complete several projects that add enrollment capacity.

The most important is the relocation of CUSD offices to office space on Mary Avenue in Sunnyvale, freeing up the site adjacent to Lawson Middle School to add 12 classrooms, bringing capacity up to about 1,500 students. Classrooms added to the Cupertino Middle School also brought capacity up to that level.

The decline in enrollment in the K-5 elementary schools, which is already underway, is projected to begin soon in the middle school grades. EPC is expecting a decrease of about 500 students between now and the Fall of 2020, the majority showing in lower counts in the fourth and fifth years (2019 and 2020). However, the decline of students living in the Lawson Middle School attendance area is projected to be relatively modest.

Lawson Middle School had a Fall 2015 student enrollment of 1,249 students, about 250 students below its capacity. This enrollment includes 60 more than the 1,189 CUSD students residing within its attendance area. These intra-district students include students from the adjacent Cupertino and Kennedy attendance areas, these being the largest schools in the district.

Enrollment and Capacity of Fremont Union High School District Schools

The Fremont Union High School District had a Fall 2015 enrollment of 10,683 students, with all but 37 of them attending its five comprehensive high schools. This is an increase of about 800 students over the last decade. Enrollment Projection Consultants projects that this pattern will continue over the next five years with a further increase of 625 students over this period, bringing enrollment to about 11,300, an increase of about six percent. This increase is due to the larger cohorts already in the older elementary school grades and middle school grades entering the high schools. EPC has not made quantitative forecasts past that point, but it is expected that the decreases projected over the next five years in its feeder districts will begin to be reflected in FUHSD enrollment as the smaller feeder district cohorts move into the high school grades.

FUHSD staff has just completed draft calculations of enrollment capacity of district schools in the 2016-17 school year. Assuming moderate compromises in order to maximize capacity, the enrollment capacity of these five schools is determined to be 11,095 students. In other words, the district's current capacity is more than its current enrollment, but a little less than its expected coming peak enrollment.

Cupertino High School had a Fall 2015 enrollment of 2,233 students. EPC projects the increase of students residing in its attendance area over the next five years at 312 students, about half of the district's growth. Staff estimates Cupertino High School's capacity at 2,268 students. This is adequate for current enrollment, but not for the expected increase.

The Lynbrook High School attendance lies south of Cupertino's attendance area. Lynbrook had a Fall 2015 enrollment of 1,767 students, with a projected decline of 243 students living in its area over the next five years. Lynbrook's calculated capacity is 1,803 students, ideal for current enrollment but significantly greater than projected enrollment. The Board acted in January 2016 to allow students from Miller Middle School to choose to enroll at Lynbrook and appointed a committee to study options for changes in district attendance assignment policies.

II. CAPITAL FACILITIES COST AND REVENUE IMPACTS

This section of the report addresses the cost of accommodating students from Vallco and compares the cost with the development fees the project will generate and with the cost of the proposed voluntary supplemental benefits. As with the consideration of enrollment impact, mitigation, and voluntary benefits, both one-time capital and annual operating fiscal impact projections cannot be precise. This is generally the case in predicting the effects of development on schools, but is particularly so in this case where the full impacts will not be felt until a decade or more in the future. Nevertheless, in this case, the estimates present a relatively clear picture.

Facilities Costs

Elementary and Middle School Costs

The analysis of elementary school capacity above shows that about 144 additional students generated by The Hills at Vallco project would be generated within the Collins Elementary School attendance area. Even if Collins were to remain stressed from more students than it was designed for, it could not accommodate these students. This is the primary CUSD need addressed in the benefits to which the developer is committing. The cost of additional capacity if the district builds capacity for the Vallco project elementary students offers financial perspective on the impact and perspective on the benefit if the developer constructs Nan Allan School.

On the middle school level, because of the recent construction bringing capacity at Lawson up to 1,500 students, the district can accommodate the 68 projected additional students from the Vallco project at the school. In effect, a portion of the debt incurred to build the Lawson addition, that attributable to space for 68 students, is the cost impact of the Vallco project.

Table II-1 shows the cost impact of the Hills at Vallco project generated students on the Cupertino Union School District.

**Table II-1
The Hills at Vallco Cost Impact
Elementary and Middle Schools**

| | |
|---------------------------------|--------------------|
| <i>Elementary School</i> | |
| <i>Number of Students</i> | 144 |
| <i>Cost per Student</i> | \$29,780 |
| <i>Cost Impact</i> | \$4,288,320 |
| <i>Middle School</i> | |
| <i>Number of Students</i> | 68 |
| <i>Cost per Student</i> | \$32,640 |
| <i>Cost Impact</i> | \$2,219,520 |
| <i>Total CUSD</i> | \$6,507,840 |

Sources: City of Cupertino Housing Element and Schoolhouse Services.

The costs in Table II-1 are from the June 2014 study of school impacts for the City of Cupertino Housing Element of the General Plan. The report determined CUSD’s cost of providing additional capacity in multi-story buildings at \$29,780 per elementary student and \$32,640 per middle school student based on recent district projects; these costs are conservatively used here as current costs. (It should be understood that, unless noted otherwise, all cost and revenue figures are expressed in January 2016 constant dollars.) The building cost is relatively high because it is based on multi-story buildings constructed on a constrained site. However, it does not include any land acquisition costs.

High School Costs

The General Plan Housing Element study (June 2014) determined that the cost for additional high school capacity based on FUHSD recent projects was \$69,600; again this figure is conservatively used as a current cost. The building cost is relatively high because it is based on multi-story buildings constructed in a constrained site, but it does not include any land acquisition costs.

It is not known whether FUHSD would incur future costs of new capacity to have the capacity to accommodate students from the Vallco project. The advisory committee and the board will be considering various attendance options. But the cost impact of the Vallco project students on the district can, similar to the situation with the middle schools, be seen as a share of the cost of recent improvements that have added to the district’s enrollment capacity, or perhaps the cost of future improvements. In either case, the magnitude of the cost can be estimated as the cost cited in the General Plan Housing Study report. Table II-2 shows the cost impact of the Hills at Vallco project generated students on the FHUSD.

**Table II-2
The Hills at Vallco Cost Impact
High Schools**

| | |
|---------------------------|--------------------|
| <i>High School</i> | |
| <i>Number of Students</i> | 46 |
| <i>Cost per Student</i> | \$69,600 |
| <i>Cost Impact</i> | \$3,201,600 |
| <i>Total FHUSD</i> | \$3,201,600 |

Sources: City of Cupertino Housing Element and Schoolhouse Services.

Table II-3 shows the cost impact of the Hills at Vallco project generated students on both Cupertino and Fremont Union Districts.

Table II-3
The Hills at Vallco Cost Impact
Cupertino and Fremont Union Districts

| | |
|--------------------------|--------------------|
| Total CUSD | \$6,507,840 |
| Total FHUSD | \$3,201,600 |
| Total Cost Impact | \$9,709,440 |

Development Impact Fee Revenues

A school district adding a significant number of students usually needs to incur one-time upfront costs for capital facilities to house the students. California law provides for fees on residential and non-residential development, usually paid at the time a building permit is issued. The maximum fee amounts were originally conceived of as providing one-half of the cost of facilities to accommodate additional students, though they typically fall short of this share.

The initial fees authorized by state legislation, effective beginning in 1987, are set forth in Education Code Section 17620(a)(1), “The governing board of any school district is authorized to levy a fee, charge, dedication or other requirement against any construction project ... for the purpose of funding the construction or reconstruction of school facilities” Even more critically, the section states “A city or county ... shall not issue a building permit for any construction absent certification by the appropriate school district that any fee ... levied by the governing board of that school district has been complied with,”

The imposition of these fees, now usually referred to as Level 1 fees, is subject to statutorily prescribed rules. One rule limits the fees to maximum amounts, adjusted biennially for inflation. The fee for residential development was increased in January 2016 to \$3.39 per square foot. Fees can also usually be levied on non-residential development because of the role of employment in causing a need for residences where employees and their children live. The recently adjusted fee for commercial/industrial (C/I) buildings, which includes almost all private non-residential development, is \$0.55 per square foot.

A minority of school districts in the state are eligible, based on factors such as overcrowding and debt, to levy higher residential fees, referred to as Level 2 and Level 3 fees. Few of the districts in the Cupertino area are eligible to levy these fees; neither CUSD or FUHSD are. The same 1998 law that authorized these fees, set forth in Government Code Sections 65995.5 *et seq.*, made it clear that a project’s compliance with a fee program adopted by a district constituted mitigation of the project’s impact; no other mitigation can be required. The Hills at Vallco

project is unusual in that the developer has agreed to fund significant voluntary benefits to the school districts in addition to payment of the fees levied by the districts.

Both CUSD and FUHSD are eligible to levy Level 1 development impact fees on new residential development and the majority of commercial/industrial development. When two districts both serve in an area, they must agree on how the fee revenue is to be split in that area. FUHSD and its elementary feeder districts have such agreements. Per the agreement between the two districts, CUSD will be allowed to collect up to 60% of the maximum fee amount, \$2.03 per square foot of residential development. FUHSD is allowed to collect 40% of the maximum, \$1.36 per square foot of residential development. The maximum fees on commercial/industrial development are \$0.33 and \$0.22 per square foot for CUSD and FUHSD respectively.

California Government Code section 65995.1(a) stipulates that residential units designated for senior housing may be charged only the commercial/industrial rate. Therefore, the 40 Vallco project senior units would be charged \$0.55 per square foot, with the revenue being allocated between the districts according to the agreed upon shares.

The impact fee revenue, the source of school capital improvements funding, will depend on the size and nature of the buildings in proposed project. Other documents provide much more information about the buildings than is included in this report. Here we focus on the characteristics of the buildings that affect development fee revenues and property tax revenues that will accrue to the two school districts.

Table I-1 listed the various types of development in the project with the number of residential units and the square footage of the non-residential buildings. That information is incorporated here into Table II-4 below. The area in parking structures is not included in the table. The reasons are (1) that generally only parking facilities that are paid parking with attendants can justify levying fees and (2) even if fees are justified they likely will be only about \$0.05 per square foot (about 10% of the fee levied on office and retail space). Of course, no fees can be levied for surface parking.

Two court decisions have made it clear that demolition of existing buildings that contribute to school enrollment should result in credit against the fees payable by construction of which the demolition is a component. About 1.2 million square feet of the Vallco shopping center retail space will be demolished. This is also shown in Table II-4. Credit against fees from the demolition of the parking structures will be non-existent or negligible.

The calculations in the table show net fee revenues (after credits for demolition) of about \$2.2 million to CUSD and \$1.5 million to FUHSD. This amounts to \$11,000 per additional CUSD student and \$32,000 per additional FUHSD student.

**Table II-4
Development Impact Fee Revenue**

| | <i>Total Square Feet</i> | <i>CUSD Fee/sq ft</i> | <i>CUSD Fee Revenue</i> | <i>FUHSD Fee/sq ft</i> | <i>FUHSD Fee Revenue</i> | <i>Total Revenue</i> |
|------------------------------|------------------------------|---------------------------|-----------------------------|----------------------------|------------------------------|--------------------------|
| Apartments | | | | | | |
| <i>Non-senior Units</i> | 723,100 | \$2.03 | \$1,468,000 | \$1.36 | \$983,000 | \$2,451,000 |
| <i>Senior Units</i> | 38,700 | \$0.33 | \$13,000 | \$0.22 | \$9,000 | \$22,000 |
| <i>Non-living Space</i> | 38,200 | \$0.33 | \$13,000 | \$0.22 | \$8,000 | \$21,000 |
| Total Residential | 800,000 | | \$1,494,000 | | \$1,000,000 | \$2,494,000 |
| Non-residential | 3,170,000 | \$0.33 | \$1,046,000 | \$0.22 | \$697,000 | \$1,743,000 |
| Gross Revenues | 3,970,000 | | \$2,540,000 | | \$1,697,000 | \$4,237,000 |
| <i>Credit for Demolition</i> | 1,200,000 | \$0.33 | \$396,000 | \$0.22 | \$264,000 | \$660,000 |
| Net Revenues | 2,770,000 | | \$2,144,000 | | \$1,433,000 | \$3,577,000 |
| <i>Number of Students</i> | | | 212 | | 46 | |
| Revenue per Student | | | \$10,000 | | \$31,000 | |

Source: Schoolhouse Services

Comparison of Capital Costs and Developer Mitigation and Voluntary Benefits

Table II-5 below shows the calculation of the difference between the development impact fees likely to be generated by the proposed project and the facilities costs per student for each of the districts. (The voluntary benefits, in addition to development fees, proposed by the developer are not reflected in this table.) The table shows a larger net capital cost impact for CUSD and a larger net per student impact for FUHSD. The impacts reflect the high cost of school facilities at CUSD and FUHSD campuses. They would be even higher if not for the substantial fee revenue from the non-residential development portion of the project. The deficits also reflect the design of California law that development fees are only intended to partially mitigate development impacts on schools districts.

**Table II-5
Development Impact Fees versus School Costs***

| | <i>Fee Revenue Per Student</i> | <i>Facilities Cost Per Student</i> | <i>Per Student Cost Difference</i> | <i>Students</i> | <i>Total Facilities Cost Impact</i> |
|------------------------|------------------------------------|--|--|-----------------|---|
| <i>CUSD-Elementary</i> | \$11,000 | \$29,780 | (\$18,780) | 144 | (\$2,704,320) |
| <i>CUSD-Middle</i> | \$11,000 | \$32,640 | (\$21,640) | 68 | (\$1,471,520) |
| <i>CUSD - total</i> | | | | 212 | (\$4,175,840) |
| <i>FUHSD</i> | \$32,000 | \$69,600 | (\$37,600) | 46 | (\$1,729,600) |
| <i>Total</i> | | | | \$258 | (\$5,905,440) |

* Both fee revenue and facilities costs are one-time, rather than annual, estimates.

Source: Schoolhouse Services

Recognizing the importance of schools to Cupertino citizens and the role of a positive impact on schools in making the project attractive to them, the developer has, as noted above, offered LOIs that specify voluntary improvements and funding obligations in addition to the statutory development fees. The provision of a new school at the site of the former Nan Allan Elementary School is particularly important to CUSD, as the district has long seen the need for another school in the northern portion of the district. The proposed location, proximate to the Collins Elementary School campus, would provide additional capacity in the greater northern portion of the district. It would provide capacity for about 550 more CUSD students than the proposed project would generate located reasonably close to the overcrowded schools north and east of Interstate 280. The new school would address perhaps the most significant problem the district faces in accommodating its students.

In addition, the construction of permanent classrooms to replace the existing portables at the Collins Elementary School site would improve the usability of the existing playgrounds at the site. The project applicant also proposes to improve the playgrounds as a part of their voluntary improvements and to fund a \$1 million endowment for the 8th grade Yosemite science program.

FUHSD sees the “Innovator Space” as a critical element in its future role educating students who may work in the tech industry. Being part of the Vallco project, and also its favorable location in the project, allow the district to have a facility in the proximity of the tech world. It is envisioned that student involvement there will enhance the relevance of many of the classes in the district’s comprehensive schools.

The developer has estimated the cost of the benefits at \$40 million. Some of the facts about the benefits are not specific enough for us to generate an accurate independent estimate of the costs, but enough is specified for us to confirm that the cost to the two districts of providing these benefits would be of this order of magnitude.

Table II-4 above calculated the cost impact to the districts based on its recent cost of adding capacity. The table below shows the magnitude of the benefit to the district based on the

developer’s cost estimate. The benefits are a multiple of the deficit assuming only fee mitigation.

**Table II-6
Fees and Voluntary Improvements Versus Facilities Costs***

| <i>Cost of Voluntary Benefits*</i> | <i>Fee Cost Deficit</i> | <i>Net Benefit</i> |
|--|-----------------------------|------------------------|
| \$40,000,000 | (\$5,905,440) | \$34,094,560 |

** Cost of Voluntary Improvements estimated by the developer.*

III OPERATING REVENUE AND COST IMPACTS

Operating Costs

Operating costs are annual costs and are matched with revenues received annually. Almost all operating costs tend to increase with enrollment if educational standards are to be maintained. These costs include personnel costs like salaries and benefits for certificated and classified employees, which comprise the large majority of a district’s budget. It is possible that there can be some economies of scale, that students can be added without increasing some costs proportionately. But the savings would be small and, therefore, the cost per student estimate here is simply a calculation of the operating expenditures divided by the number of students.

**Table III-1
Operating Costs**

| | <i>Operating Budget</i> | <i>Number of Students</i> | <i>Per Student Cost</i> |
|--------------|-----------------------------|-------------------------------|-----------------------------|
| <i>CUSD</i> | \$187,371,986 | 18,924 | \$9,900 |
| <i>FUHSD</i> | \$125,000,000 | 10,683 | \$11,700 |

Sources: CUSD and FUHSD 2015-16 budgets and Schoolhouse Services

Operating Revenues

Cupertino Union School District Revenue

The Hills at Vallco project will affect the revenues and costs for the two districts in very different ways. CUSD is a “revenue limit” district. Like other revenue limited districts in the state, its property tax revenues are sufficiently low that it is eligible to receive a supplemental grant from the state’s operating grants program. (Ninety-plus percent of the students in California public schools attend in revenue limit districts.) This grant program in its current version is only in its third year; it folds about 40 funding programs into a single grant program and generally allows districts to allocate the revenue as it see fit.

The program can be briefly summarized as follows. The public school funding level (property tax revenues plus grants) that the state can support across all California districts is determined based on the state budget allocation to K-12 education for the fiscal year and the state Local Control Funding Formula (LCFF). The state then uses the educational budget allocation to supply the additional funds necessary to each district to fill the gap between that level and local property taxes. For example, if the LCFF calculations determine that a district is be supported with \$100 million of property taxes plus LCFF grant, and the district’s property tax revenues are \$70 million, then the LCFF grant is \$30 million.

For each district, the state specified funding level per the LCFF depends on total enrollment and the portion of that enrollment that is learning English or eligible for free or reduced price lunches. CUSD revenue (taxes plus the state grant) due to this program totals \$137 million in this fiscal year, or \$7,230 per student.

The result is that the sum of the revenues from property taxes and the revenue limit program increases proportionately as enrollment increases. Another reality for a revenue limit district is that the increase in property tax revenue from new homes is offset by an equal reduction in the money from the state; thus higher property taxes do not affect the total of property tax and state revenue limit funding. It should also be understood that the above analysis is based on current programs. These programs could be modified in coming years.

The federal and state governments also supply other funding, generally for categorical programs, and these also tend to increase as enrollment increases, as do the relatively small revenues from several local sources (e.g. interest and transportation fees). CUSD operating revenues from these sources total \$42 million, or \$2,210 per student for the 2015-2016 fiscal year.

There is one CUSD funding source (other than the property taxes) that ordinarily would not increase proportionally with enrollment, that being parcel taxes. Parcel taxes flow from measures approved by the voters. The current CUSD parcel tax, which provides less than five percent of district revenues, is \$250 per parcel. It is not known, of course, whether a new measure will be adopted when it expires and, if so, at what level, but a new parcel tax is more likely than not. Since there will not be a large number of parcels in the project, its legally required contribution to parcel tax revenue would be negligible.

However, the LOIs have been updated to require that in lieu parcel taxes equal to the Measure A amounts, as well as any subsequent parcel taxes, will be paid on the 680 non-senior market rate apartments as if they were separate parcels rather than a single parcel. While this requirement is in place, parcel tax revenue would also increase significantly.

In summary, all categories of CUSD revenue sources would tend to increase proportionately with enrollment. The result would be that additional revenue per student and additional expenses per student would be approximately equal.

Fremont Union High School District Revenue

FUHSD is one of the relatively few districts in the state that is not a revenue limit district. The District's property tax revenue is moderately above the amount below which the state Local Control Funding Formula (LCFF) comes into play and provides grants supplementing property tax revenue. Because there is no state supplement to property tax revenues (in contrast to the CUSD situation), state revenue does not increase when additional students are enrolled. However, new development generates additional property taxes, increasing the District's revenues. The property tax revenues will be equal to the District's share of the property tax rate times the fair market value established by the Santa Clara County Assessor at the time each building is completed.

Table III-2 shows the calculation of the assessed valuation estimate for the proposed project as proposed. The assessed values are calculated based on per unit and/or per square foot market

values estimated by Schoolhouse based on an analysis of about 30 sales in the last three months as comparables. At this time the real estate markets are changing rapidly, with values up in the order of 15-25% in the last year, so reference information needs to be quite recent. Sales are to a large extent dependent on historically low interest rates and the uncertainty about alternative investments. These, and other, factors could change in the years before construction of the buildings is completed.

**Table III-2
Assessed Value**

| | <i>Number of Units</i> | <i>Square Feet</i> | <i>Assessed Value per Unit/Foot*</i> | <i>Assessed Value (in Millions)</i> |
|-----------------------------------|----------------------------|--------------------|--|---|
| Apartments | | | | |
| <i>Market Rate</i> | 680 | | \$900,000 | \$612 |
| <i>Below Market Rate</i> | 80 | | \$300,000 | \$24 |
| <i>Senior</i> | 40 | | \$500,000 | \$20 |
| Apartments Total | 800 | | | \$656 |
| Non-residential | | | | |
| <i>Office</i> | | 2,000,000 | \$950 | \$1,900 |
| <i>Office Amenity and Support</i> | | 345,000 | \$400 | \$138 |
| <i>Commercial/Retail</i> | | 420,000 | \$1,200 | \$504 |
| <i>Commercial/Entertainment</i> | | 180,000 | \$400 | \$72 |
| <i>Commercial/Other</i> | | 50,000 | \$500 | \$25 |
| <i>Civic</i> | | 40,000 | \$100 | \$4 |
| <i>Residential Amenity</i> | | 25,000 | \$300 | \$8 |
| <i>Support Infrastructure</i> | | 110,000 | \$100 | \$11 |
| Non-residential Total | | 3,170,000 | | \$2,662 |
| Total | | | | \$3,318 |

*Assessed value of parking facilities and the 30-acre roof are included with that of the buildings shown.

Source: Schoolhouse Services

There are also uncertainties as to how value will be allocated among the buildings; the central plant, for example, has little value in itself, but it is necessary for the income generating buildings. Parking facilities and the 30-acre roof are other components for which it is difficult to assign value independent of its relationship to components that generate significant income. Therefore these estimates should be understood to reflect judgment as much as they reflect statistical data.

The estimated total fair market value of the buildings is \$3.32 billion. The basic property tax rate per California law is one percent of assessed value; the annual base property tax (without voter approved bonds and special taxes) that will be generated by The Hills at Vallco complex is estimated to be \$33.2 million. FUHSD's share of the property tax in the 13-301 tax code area in which the project is located is 16.68% of the total one percent base tax rate; the annual property tax revenue from the Vallco project going to the district general fund is \$5.53 million. If 46 high

school students reside in the 800 apartments, this amounts to \$120,200 for per student. It should be understood that this large per student number reflects the fact that residential development is a relatively small part of the total Vallco development.

Assessed values by law are only allowed to increase by a maximum of two percent annually unless the property changes ownership. This rate is likely to be less over time than the rate at which district expenses increase. There are, however, ballot proposals to remove this limit on the rate of increase for commercial properties.

**Table III-3
FUHSD Property Tax Impact**

| | <i>Assessed Valuation</i> |
|--|-------------------------------|
| <i>Estimated Assessed Valuation</i> | \$3,318 |
| <i>Property Tax at 1.0% Tax Rate</i> | \$33,180,000 |
| <i>FUHSD Share of Tax Rate (16.68%)</i> | \$5,530,000 |
| <i>FUHSD Share of Tax Rate per FUHSD Student</i> | \$120,200 |

Sources: Santa Clara County Tax Collector, Controller, and Schoolhouse Services

The voters of both CUSD and FUHSD have approved bond issues for campus improvements. Debt service on the bond issues is spread among property tax payers proportional to assessed value. The current tax rate for CUSD is 0.000519 per dollar of assessed value; the revenue thus paid by Vallco property owners for debt service on CUSD bonds is projected to be \$1.72 million. Similarly, the current tax rate for the Fremont District is 0.000525 per dollar of assessed value and the revenue paid for debt service on the district’s bonds is projected to be \$1.74 million. It should be understood, however, that these revenues do not increase the funds available to the two districts. The bond issues and associated debt service are fixed amounts. The assessed value of new development increases the total assessed value, spreading the debt service among a larger tax base; it does not increase the revenue to the districts. It does decrease by \$3.46 million annually the amount other tax-payers in the districts have to pay.

Other revenues to FUHSD, the largest components being government support (\$7.00 million) and parcel taxes (\$5.75 million), provide \$1,620 per student. Given the developer’s commitment on parcel taxes (FUHSD’s current parcel tax Measure J is \$98 per year), these sources are estimated to increase roughly proportional to district enrollment. They would generate about \$67,000 annually from the Vallco project.

**Table III-4
Operational Costs Versus Operational Revenues***

| | <i>CUSD</i> | <i>FUHSD</i> |
|------------------------------------|--------------------|--------------------|
| <i>Projected Enrollment</i> | | |
| Students | 212 | 46 |
| <i>Per Student Revenues</i> | | |
| State LCFF Funding | \$7,230 | |
| Sources Proportional to Enrollment | \$2,670 | \$1,620 |
| FUHSD Share of Property Tax | | \$120,200 |
| Total per Student Revenues | \$9,900 | \$121,820 |
| Total Operational Revenues | \$2,099,000 | \$5,604,000 |
| <i>Per Student Costs</i> | | |
| Average Cost per Student | \$9,900 | \$11,700 |
| Total Operational Costs | \$2,099,000 | \$538,200 |
| <i>Net Fiscal Impact</i> | | |
| Per Student Impact | \$0 | \$110,120 |
| Total Impact | \$0 | \$5,065,800 |

* All costs and revenues shown are annual costs and revenues

Sources: Revenues and costs from the CUSD and FUHSD 2015-2016 budgets, Schoolhouse Services

Comparison of Operating Costs and Revenues

Table III-4 also shows the operational costs anticipated for both districts as a result of the proposed Hills at Vallco project, which allows for a comparison with the revenues resulting from the project. There is no discernable annual operating impact for CUSD as a result of the additional students from the proposed project. This reflects the perspective that all major funding sources are expected to increase proportionately to the number of students added, as our operating costs.

For FUHSD, at the estimated assessed valuation of the project, there is a net fiscal surplus of about \$110,000 per student for FUHSD, about ten times the district's costs per student. After providing services to an additional 46 students as a result of the Hills at Vallco project, the annual surplus is projected to be about \$5.0 million, a substantial amount.

MEMORANDUM

TO: Carol Korade, City Attorney

FROM: Ellen J. Garber

DATE: February 25, 2014

RE: Application of SB 50 to Consideration of Development Applications

INTRODUCTION and SUMMARY OF CONCLUSIONS

The Leroy F. Greene School Facilities Act of 1998 (“SB 50”)¹ preempts the issue of impacts of new development on school facilities. Therefore, if a developer agrees to pay the fees established by SB 50, the impacts on school facilities may not be analyzed under the California Environmental Quality Act (“CEQA”),² no mitigation for impacts on school facilities may be required, and the project may not be denied due to impacts on schools or due to the inadequacy of school facilities. Hence, state law limits the City’s discretion to (i) consider the effects of new development on the ability of schools to accommodate enrollment, (ii) require mitigation, and (iii) deny projects.

A relatively recent case, *Chawanakee Unified School District v. County of Madera* (2011) 196 Cal. App. 4th 1016, holds that development applications may be analyzed under CEQA, and mitigation may be required, if the potential impacts are indirectly caused by the operation or construction of schools on the non-school physical environment.

¹ Gov. Code §§ 65995-65998 and Educ. Code §§ 17620-17621.

² Pub. Resources Code § 21000 *et seq.*

DISCUSSION

I. SB 50

Pursuant to SB 50, which was enacted in 1998, impacts on school facilities are not to be considered in an EIR, and SB 50 fees constitute adequate mitigation of those impacts. As SB 50 states, payment of fees “shall be the exclusive method[] of considering and mitigating impacts on school facilities,” and “are . . . deemed to provide full and complete school facilities mitigation. Gov. Code §§ 65996 (a) and (b). See Part II, below. In addition,

A state or local agency may not deny or refuse to approve a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization as defined in Section 56021 or 56073 on the basis of a person's refusal to provide school facilities mitigation that exceeds the amounts authorized pursuant to this section or pursuant to Section 65995.5 or 65995.7, as applicable.

Gov. Code § 65995(i).

Even where applicants have agreed to pay school impact mitigation fees, however, if the proposed development, including the school expansion it requires, would cause other environmental impacts—traffic or construction impacts, for example—then those impacts to non-school resources may be analyzed under CEQA. This is discussed in Part III, below.

II. Impacts of New Development On School Facilities

SB 50 limited the scope of CEQA analysis of impacts on school facilities, making the fees set forth in Government Code section 65995 “the exclusive means of both ‘considering’ and ‘mitigating’ school facilities impacts of projects. The provisions of [S.B. 50] are ‘deemed to provide full and complete school facilities mitigation.’” Kostka & Zischke, *Practice Under the California Environmental Quality Act* (2012), § 14.28 (citations omitted). According to the Kostka & Zischke treatise, SB 50 appears to transform CEQA review of impacts on school facilities into a ministerial function after the applicant agrees to pay the required mitigation fees. *Id.*, § 14.28 (concluding that the law limits not only mitigation but also the scope of the EIR).³ No case expressly reached

³ *Cf.* 9 Miller & Starr, *Cal. Real Estate* (3d ed. 2001) § 25.49, 25–213 to 25–214, fns. omitted (“SB 50 employs three primary means to preempt the field of development (footnote continued)

this conclusion until the *Chawanakee Unified School District* case, discussed below, but logic seemed to dictate this outcome based on the statutory language.

Therefore, if a project applicant has agreed to pay school mitigation fees, the lead agency may not consider the following items in an EIR, nor deny the project based on these considerations:

- impacts on the physical structures at the school (on school grounds, school buildings, etc.) related to the ability to accommodate enrollment;
- mitigation measures above and beyond the school mitigation fee ;
- other non-fee mitigation measures the school district's ability to accommodate enrollment.

3. Physical Effects on the Environment Because of School Facilities

Despite the restrictions on environmental review and mitigation discussed above, SB 50 also states that “[n]othing in this section shall be interpreted to limit or prohibit the ability of a local agency to mitigate the impacts of land use approvals other than on the need for school facilities, as defined in this section.” Gov. Code, § 65996(e). This leaves the agency free to reject a project based on impacts *other* than impacts on the need for “school facilities.”⁴ Any number of impacts could fall outside of this definition; for example, impacts on wildlife in the development site, impacts on air quality, or inadequate water supply.

fees and mitigation measures related to school facilities and to overturn [*Mira* and its progeny]. First, it provides for a *cap on the amount of fees, charges, dedications or other requirements* which can be levied against new construction to fund construction or reconstruction of school facilities. Second, SB 50 *removes denial authority* from local agencies by prohibiting refusals to approve legislative or adjudicative acts based on a developer's refusal to provide school facilities mitigation exceeding the capped fee amounts, or based on the inadequacy of school facilities. Third, it *limits mitigation measures* which can be required, under the California Environmental Quality Act or otherwise, to payment of the statutorily capped fee amounts and deems payment of these amounts ‘to provide full and complete school facilities mitigation [.]’ (emphasis in original).

⁴ SB 50 defines “school facilities” as “any school-related consideration relating to a school district's ability to accommodate enrollment.” Gov. Code § 65996(c).

In 2011, the court in *Chawanakee Unified School District* carefully interpreted the statutory language of SB 50 and held that while an EIR need not analyze the impacts on school facilities as a result of accommodating more students, the document must consider the impacts on traffic of additional students traveling to the school and consider other impacts to the non-school physical environment from construction of additional facilities. 196 Cal. App. 4th at 1028-1029.⁵

Courts have found the physical activities caused by school growth to be outside the definition of “school facilities,” and therefore not shielded from review by SB 50. For example, as discussed above, *Chawanakee Unified School District* interpreted the traffic associated with more students traveling to a school to be something other than impacts on school facilities, and therefore subject to review and mitigation under CEQA. Accordingly, traffic impacts resulting from more students traveling to the school, dust and noise from construction of new or expanded school facilities, and any other impacts to the non-school physical environment were not impacts on “school facilities,” and must be addressed in an EIR. According to the court in *Chawanakee*:

Consequently, the phrase ‘impacts on school facilities’ used in SB 50 does not cover all possible environmental impacts that have any type of connection or relationship to schools. As a matter of statutory interpretation . . . the prepositional phrase ‘on school facilities’ limits the type of impacts that are excused from discussion or mitigation to the adverse physical changes to the school grounds, school buildings and ‘any school-related consideration relating to a school district’s ability to accommodate enrollment.’ Therefore, the project’s indirect impacts on parts of the physical environment that are not school facilities are not excused from being considered and mitigated.

196 Cal. App. 4th at 1028 (internal citation omitted).

Hence, the lead agency must determine whether impacts fall outside the definition of “school facilities,” thereby making them subject to environmental review. In light of the *Chawanakee* case, however, the agency’s discretion to conduct environmental review, to require mitigation, and to consider denying the would be limited to physical effects on the non-school environment.

⁵ While SB 50 was not at issue in this case, in *City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal. App. 4th 889 the court held that an EIR prepared in connection with the construction of a new school properly analyzed health and safety issues, air quality, traffic impacts, and land use issues.

Therefore, a lead agency may consider, in an EIR, among other factors the following impacts potentially caused by school expansion or construction:

- traffic impacts associated with more students traveling to school;
- dust and noise from construction of new or expanded school facilities;
- effects of construction of additional school facilities (temporary or permanent) on wildlife at the construction site;
- effects of construction of additional school facilities on air quality;
- other “indirect effects” as defined by CEQA Guidelines § 15258 (a)(2) (growth-inducing effects, changes in pattern of land use and population density, related effects on air and water and other natural systems). *See Chawanakee Unified School District*, 196 Cal. App. 4th at 1029.

CONCLUSION

When it comes to arguments about the impact of a proposed development on existing school facilities and their ability to accommodate more students, the CEQA process is essentially ministerial. Agencies must accept the fees mandated by SB 50 as the exclusive means of considering and mitigating the impacts of the proposed development on school facilities. However, nothing in SB 50 or in CEQA or current case law prohibits an agency from conducting environmental review of an application that creates significant environmental impacts on non-school-facility settings or sites, regardless of whether the applicant has agreed to pay mitigation fees under SB 50.

STEVENS CREEK URBAN VILLAGE OVERVIEW

- As stated in the Stevens Creek Urban Village Plan, the Urban Village boundary is a long commercial corridor currently characterized by large car dealerships and medium sized commercial buildings interspersed with smaller one- and two-story retail and service shops.
- Existing Conditions
 - 1,624 dwelling units
 - 1,584,519 SF commercial space
 - 5,281 jobs (calculated using 1 employee per 300 SF)
- Proposed increases
 - 3,860 dwelling units
 - 1,350,000 SF commercial space (calculated by using proposed jobs x 300 SF/employee)
 - 4,500 jobs
- Traffic EIR basis: 2010 Traffic Study for San Jose's Envision 2040 with counts from 2009
- Current SCUV Signature Projects in review:
 - Garden City (460,000 SF office, up to 15,000 SF retail, 871 residential units)
 - (APNs 303-25-012, 303-25-013, 303-25-016, 303-25-022, 303-25-023, 303-25-044, and 303-25-052).
<http://www.sanjoseca.gov/index.aspx?NID=5074>
 - Fortbay (AKA Stevens Creek Promenade) (233,000 SF office, 10,000 SF retail, up to 500 residential units)
 - 4300 Stevens Creek Blvd. Mixed Use Project: <http://www.sanjoseca.gov/index.aspx?NID=5380>

CEQA ISSUES STEVENS CREEK URBAN VILLAGE

1. Cupertino has not reviewed pending lawsuits RE City Place Santa Clara, Santana Row Expansion, and the San Jose Envision 2040 EIR which have traffic, noise, and air quality impacts reaching Cupertino.
 - a. **CITY OF SAN JOSE, Petitioner, v. CITY OF SANTA CLARA, and DOES 1-25, inclusive, Respondents RELATED COMPANIES, dba RELATED SANTA CLARA, LLC, and DOES 26-50, inclusive, Real Parties in Interest:**
<http://media.bizj.us/view/img/10102877/city-place-complaint-filed-7-29-16.pdf>
 - b. **CITY OF SANTA CLARA, Petitioner and Plaintiff, CITY OF SAN JOSE, CITY OF SAN JOSE CITY COUNCIL; and DOES 1 through X inclusive, Respondents and Defendants, FEDERAL REALTY AND INVESTMENT TRUST, and DOES 1 through 20 inclusive, Real Parties in Interest.** <http://www.mercurynews.com/wp-content/uploads/2016/11/santana-west-lawsuit.pdf>
 - c. **CALIFORNIA CLEAN ENERGY COMMITTEE, v. CITY OF SAN JOSE, a municipal corporation, and DOES 1-50, inclusive,**
https://d3n8a8pro7vhmx.cloudfront.net/cleanenergy/pages/22/attachments/original/1426349313/Order_Re_Petition_for_Writ_of_Mandate.pdf?1426349313
 - i. Air Quality GHG Writ of Mandate must be adhered to and found fault in the Envision 2040 EIR:
https://d3n8a8pro7vhmx.cloudfront.net/cleanenergy/pages/22/attachments/original/1426349313/Order_Re_Petition_for_Writ_of_Mandate.pdf?1426349313
 - ii. "CCEC has argued (and the City did not dispute the calculations) that if present emissions data is compared to that allowed by the proposed General Plan update as required by Guidelines § 15064.4, GHG emissions will increase by 2.7 MNT or 36 percent by 2020 (from the approximate 2008 figure of 7.6 to the estimated 10.3). This is "substantially different information" that was not provided to the public. This failure to provide relevant information was prejudicial as the failure "**deprived the public and decision makers of substantial relevant information about the project's likely adverse impacts.**" Smart Rail, supra, at 463." "That said, given that the failure to state the "present" GHG emissions affects the Project baseline and all comparisons and determinations made using the baseline, and the City's stated intention to tier other projects off this defective EIR, a limited order may not be possible."
 - iii. San Jose did not present Cupertino with the myriad lower growth alternatives presented to comply with the above Writ of Mandate and evaluated here showing multiple alternatives with fewer jobs and housing along the Stevens Creek Boulevard corridor: <http://www.sanjoseca.gov/DocumentCenter/View/46547>

*Envision San Jose 2040 General Plan Supplemental Program EIR - Greenhouse Gas Emission Analysis
File Nos. PP15-060 and GPT15-002*

The City has prepared a Draft Supplemental Program Environmental Impact Report (Draft Supplemental PEIR) to the Envision San Jose 2040 General Plan to provide additional analysis and information on greenhouse gas emissions to supplement the Envision San Jose 2040 General Plan Program EIR (State Clearinghouse No. 2009072096) certified by the City of San Jose on November 1, 2011. The Draft Supplemental PEIR is intended to inform the decision makers and the general public of the environmental effects of greenhouse gas emissions and global climate change associated with continued implementation of the Envision San Jose 2040 General Plan. Discretionary approvals to implement the project consist of text revisions to the Envision San Jose 2040 General Plan, including, but not limited to, the update and re-adoption of the City's Greenhouse Gas Reduction Strategy. <http://www.sanjoseca.gov/index.aspx?NID=4940>

2. Stevens Creek Urban Village area consists of multiple auto dealerships, dry cleaners, and auto maintenance facilities which have an unknown potential for soil and groundwater contamination along with impacts during demolition. Future residents may have unknown soil contamination. Potential for exposure to current residents during construction. Area is in a groundwater aquifer supplying the east side of Cupertino. The dry wells indicated in the below studies may have been filled due to the 2016-2017 significant rainfall moving the contamination plumes.
 - a. Garden City Signature Project contamination:
http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=SL1823R923
 - i. PCE is reasonably anticipated carcinogen:
<https://www.environmentalpollutioncenters.org/perchloroethylene/>
 - ii. TPH-g 2,200 ppb benzene 59 ppb MTBE 27 ppb found:
http://geotracker.waterboards.ca.gov/profile_report?global_id=T0608500255&cmd=closurereview
 - iii. Contamination plume monitoring has been incomplete:
http://geotracker.waterboards.ca.gov/regulators/deliverable_documents/8483994007/07S1W16J03f.pdf
 - iv. 5 impediments to path to closure:
http://geotracker.waterboards.ca.gov/profile_report?global_id=T0608500255&cmd=ptcpreport<cp_id=106172
 - b. 3960 Stevens Creek Blvd. Texaco contamination:
http://geotracker.waterboards.ca.gov/profile_report?global_id=T0608501423
 - i. Potential contaminants of concern: GASOLINE
 - ii. 5 impediments to path to closure:
http://geotracker.waterboards.ca.gov/profile_report?global_id=T0608501423&cmd=ptcpreport<cp_id=100707
 - c. 1704 Saratoga Avenue contamination:
http://geotracker.waterboards.ca.gov/profile_report?global_id=T0608509697
 - i. Potential contaminants of concern: GASOLINE, MTBE / TBA / OTHER FUEL OXYGENATES
 - ii. **AQUIFER USED FOR DRINKING WATER SUPPLY**
 - d. 404 Saratoga Avenue contamination:
http://geotracker.waterboards.ca.gov/profile_report?global_id=T0608500255
 - i. Potential Contaminants of concern: BENZENE, GASOLINE, MTBE / TBA / OTHER FUEL OXYGENATES, TOLUENE, XYLENE
 - ii. 5 impediments to path to closure:
http://geotracker.waterboards.ca.gov/profile_report?global_id=T0608500255&cmd=ptcpreport<cp_id=106172
 - iii. **AQUIFER USED FOR DRINKING WATER SUPPLY**
3. Fortbay Signature Project letters to San Jose: <https://www.sanjoseca.gov/DocumentCenter/View/69230>
4. Garden City Signature Project letters to San Jose: <http://www.sanjoseca.gov/DocumentCenter/View/59361>

5. Projects in the Santana Row area including Volar, Santana Row West (under litigation from Santa Clara), and Santana Row Expansion (AKA lots 9 and 17) were not included in the Traffic EIR from 2010 for Envision 2040. Pending projects at Vallco, Cupertino and City Place Santa Clara, were not included.
6. "Santa Clara has grave concerns about the impact this increased intensity of use will have on the already congested transportation system the two cities share" – excerpt from Santa Clara City Manager Letter to San Jose <https://files.acrobat.com/a/preview/d56fddac-5752-453e-a62b-a5d76ed08f98>
7. VTA Transportation Impact Analysis Guidelines 12.2, 12.3, and 12.4 have not been adequately adhered to: <http://www.vta.org/sfc/servlet.shepherd/document/download/069A000001frgSIAQ>
 - a. 12.2 Projects on a Jurisdiction Border: "...coordinate with the adjacent jurisdiction(s) to discuss transportation related issues such as assessment of existing conditions, trip assignment, trip distribution, and mitigation measures and improvements as appropriate."
 - b. 12.3 Multi-Agency Projects: "For projects that extend in multiple jurisdictions such as shopping centers or large developments, the Lead Agency should facilitate early coordination with the participating agencies." Minimal coordination and explanation of project took place.
 - c. 12.4: "If the new transit ridership generated by the project causes the load factor of one or more transit routes to exceed the standard established by the applicable transit agency, the project should contribute to transit improvements to enhance the capacity of the affected route or provide alternative facilities."
"If the additional bicycle or pedestrian volumes generated by the project would unreasonably degrade conditions on bicycle and pedestrian facilities, the project should contribute to improvements to the conditions of the affected facility or provide alternative facilities."
 - d. 12.5 Transit Delay: "If increased transit vehicle delay is found in this analysis, the Lead Agency should work with VTA to identify feasible transit priority measures near the affected facility and include contributions to any applicable projects that improve transit speed and reliability in the TIA. Refer to Section 10.2 for more information on improvements to address congestion effects on transit travel times."
 - i. The Volar, San Jose TIA indicates transit delay issues are anticipated on Stevens Creek Blvd. Excerpt: "*Both the Stevens Creek/Winchester and Stevens Creek/Monroe intersections are currently Protected Intersections, per City policy, meaning that the City would accept offsetting transportation system improvements to enhance pedestrian, bicycle, and transit facilities as required by the development in order for the City to approve the project. VTA supports the idea of designating Protected Intersections to encourage development in locations conducive to walking, bicycling and transit in order to reduce vehicle miles traveled and greenhouse gas emissions. However, increased congestion at this intersection could result in delay to transit vehicles on Stevens Creek Boulevard, including the Local 23, Limited 323 and future Bus Rapid Transit (BRT) service, which could degrade schedule reliability and increase operating costs.*" See P. 7, no actual mitigation measures to be implemented, "The Improvements provided by VTA in the comment letter will also be incorporated into the project's list for future off-setting improvements."

First Amendment to the Draft Environmental Impact Report 350 Winchester Mixed Use Project (Volar) May, 2017: <http://sanjoseca.gov/DocumentCenter/View/68773>

8. Land Use has no percentage requirements in the mixed used urban villages. Density ranges are given with multiple options. Urban Residential land use may ultimately be commercial space over a parking garage for example, further impacting traffic. Land Use definitions and density, Chapter 3 - Land Use: <http://www.sanjoseca.gov/DocumentCenter/View/68867>
9. No parkland will be purchased for the total 5,484 housing units, placing the crowding impact and maintenance cost on surrounding parks from Santa Clara and Cupertino.
 - a. San Jose has a "Service Level Objective" for parkland. San Jose's objective is to provide 3.5 acres of parkland for every 1,000 residents.
 - b. <https://www.sanjoseca.gov/DocumentCenter/Home/View/32>
10. Housing unit and job increases appear to have no logical basis. 300 SF/ Employee results in a total existing plus proposed of 9,781 jobs in the SCUUV area vs. 11,738 employees when 250 SF/employee is used. San Jose did not research the actual number of employees in the area to determine trips they may currently be generating, but instead calculated the number

of employees based on square footage (300 SF/employee) which is likely too high considering the number of car dealerships with large parking lots and show rooms along the Stevens Creek Corridor.

11. San Tomas Expressway and Stevens Creek Boulevard is an intersection in multiple area traffic studies and is symptomatic of the traffic degradation which will occur. Traffic studies reviewed for impacts to this intersection show excessive impacts from various developments:
 - a. Santana Row Lots 9 and 17 (Expansion) resulted in LOS E AM/E PM contributing to 22% of the AM delay and 24% of the PM delay at this intersection.
 - b. Volar project resulted in LOS F AM/E PM contributing 7% to the AM delay.
 - c. Santana Row West resulted in LOS F AM/E PM contributing 34% to the AM delay.
 - d. City Place Santa Clara (AKA Related Urban, under CEQA litigation) resulted in LOS F AM/F PM contributing 1.6% and 2.0% to the AM/PM delays respectively.
 - e. Apple Campus 2 resulted in LOS E+ AM/LOS F PM contributing 1.0% and 2.4% to the AM/PM critical delays respectively. (Santana Row initial Expansion <http://www.sanjoseca.gov/DocumentCenter/View/45185> was included in AC2's study, the 4 other projects listed above were not).
 - f. No comprehensive study has been done for the Stevens Creek Urban Village. Litigation between the cities cannot be relied on to remove projects from cumulative.
12. Traffic Mitigation in multi-jurisdiction areas must be coordinated. Funding mechanisms require environmental review per Santa Clara Manager's office letter to San Jose, dated May 24, 2017.
13. No comprehensive study has addressed traffic, water treatment, wastewater treatment, emergency access, and noise impacts related to the combined developments at Santana Row with Stevens Creek Urban Village and due to these development areas being adjacent to one another, the arbitrary exclusion of Santana Row area when the traffic studies in that area show impacts on the Stevens Creek corridor into Cupertino, prevents a proper study. Santana Row must be included in a comprehensive traffic study.
14. No mitigation of the proposed Rapid Transit Bus line will result in significant delays to vehicular traffic and vice versa.
15. Proposed traffic mitigation to improve alternative mobilities will cause significant impacts to alternative residential areas. Proposed Tisch Road I-280 NB ramp has been deemed non-viable by Caltrans.
16. San Jose is in discussion to create 20,000 jobs in the Diridon vicinity which was not evaluated in Envision 2040 EIR. San Jose's lawsuit filed against Santa Clara's City Place highlights the proposed 24,760 jobs the City Place project anticipates, yet proposes 20,000 near Diridon and a minimum of 9,781 in the SCUV area, exceeding Santa Clara's proposal.
17. The San Jose lawsuit against Santa Clara's City Place acknowledges that City Place was not included in their GP EIR:

"21. On November 16, 2010, the Santa Clara City Council adopted the 2010-2035 General Plan after completing a comprehensive environmental review process that began in 2008 and culminated with an EIR, which the Council certified on November 16, 2010. The adopted General Plan did not anticipate, or accommodate, the project on the selected site."

"In fact, the project conflicts with the General Plan in numerous respects and violates consistency requirements imposed by the California Government Code. For example, the project creates an imbalance in Respondent's jobs/housing ratio by creating almost 25,000 jobs while adding a minimum of 200 housing units and no more than 1,360 housing units." - <http://media.bizj.us/view/img/10102877/city-place-complaint-filed-7-29-16.pdf>

18. No existing baseline counts were provided for the Santana Row Expansion (Lots 9 and 17) or Santana Row West TIA. See Sunnyvale West Neighborhood Association v. City of Sunnyvale, invalidating an environmental impact report (EIR) for a major roadway extension project. <http://www.jmbm.com/docs/changestoceqa.pdf>
 - a. The EIRs used faulty baselines for their traffic and transportation analysis, failed to identify and analyze intersections impacted by the project, failed to identify and analyze the project impacts on transit operations, and failed to identify and analyze enforceable measures to mitigate the traffic, transportation, noise, and transit impacts attributable to the projects.
19. TIA studies for Volar, Santana Row West, and Santana Row Expansion (lots 9 and 17) required Caltrans TIS (Traffic Impact Study) due to excessive trips impacting Caltrans' jurisdiction roadways. Caltrans does not allow the maximum trip

reductions used in all three of these studies. Studies maximized retail pass-by trips as well as a reduction of 25%. Santana Row West TIA used a 43% restaurant pass by trip reduction.

20. Counts for Santana Row West conducted on Valentines' Day 2/14/2013 must be discarded. Several counts for the same intersection for AM and PM are shown 5 months apart must be justified. (See Santana Row West Lots 9 and 17 TIA p. 17).
21. Air Quality GHG Writ of Mandate must be adhered to regarding San Jose's Envision 2040 EIR:
https://d3n8a8pro7vhmx.cloudfront.net/cleanenergy/pages/22/attachments/original/1426349313/Order_Re_Petition_for_Writ_of_Mandate.pdf?1426349313
 - a. "CCEC has argued (and the City did not dispute the calculations) that if present emissions data is compared to that allowed by the proposed General Plan update as required by Guidelines § 15064.4, GHG emissions will increase by 2.7 MNT or 36 percent by 2020 (from the approximate 2008 figure of 7.6 to the estimated 10.3). This is "substantially different information" that was not provided to the public. This failure to provide relevant information was prejudicial as the failure **"deprived the public and decision makers of substantial relevant information about the project's likely adverse impacts."** Smart Rail, supra, at 463."

"That said, given that the failure to state the "present" GHG emissions affects the Project baseline and all comparisons and determinations made using the baseline, and the City's stated intention to tier other projects off this defective EIR, a limited order may not be possible."
22. The Cupertino Vision 2040 GP EIR <http://www.cupertino.org/documents/view/211> using traffic data primarily from 2011 and 2012 indicates: that 11 of 16 intersections would operate at unacceptable level of service due to the proposed project. 9 out of 16 intersections are outside of Cupertino jurisdiction and will impact San Jose. Cupertino's GP EIR was certified December 4, 2014 making the traffic counts too old according to VTA TIA guidelines.
23. The San Jose Envision 2040 EIR <http://www.sanjoseca.gov/DocumentCenter/View/2198> is a broad-brush program-level traffic study using traffic counts from 2009 showing 73% of Cupertino's lane miles are impacted by San Jose's GP and 100% of Santa Clara's. Stevens Creek Blvd. will be deficient. San Jose indicates in their traffic study that they altered their policy to no longer consider driver comfort and convenience, yet this is not holding up to CEQA scrutiny due to other concerns such as greenhouse gas emissions (see CALIFORNIA CLEAN ENERGY COMMITTEE, v. CITY OF SAN JOSE, a municipal corporation, and DOES 1-50. Inclusive, above)
24. Schools and Education services impact: multiple daycare facilities, preschools, and elementary schools will be negatively impacted. During construction children may be exposed to excessive contaminants. Facilities will be forced to close due to construction at their own sites and newly constructed sites may be cost prohibitive for returning centers. The project area feeds Cupertino Union School District and Fremont Union School District schools. Hyde Middle School (Cupertino) and Cupertino High School are at capacity. Relocating students will increase vehicle trips.
25. Attorney correspondence dated May 24, 2017 RE Volar project, 350 S. Winchester San Jose:
<https://files.acrobat.com/a/preview/ea9d4530-bc9f-46de-b41c-73d1fc9b2641> Attorney states:
 - a. "The Project Conflicts with the General Plan."
 - b. There is no indication in the General Plan that Signature Projects can exist in a legal gray area where no land use designation fully applies. In fact, in order to qualify as a Signature Project, the City must find that the project conforms to the Land Use/ Transportation Diagram.¹¹
 - c. The DEIR Contains an Inadequate Analysis of Impacts from Greenhouse Gas Emissions
 - d. Because the General Plan, and thereby the GHG Reduction Plan, did not anticipate the density and timing of this development, additional mitigation is needed to reduce GHG impacts to a less than significant level. The City should enforce the voluntary criteria contained in the GHG Reduction Plan as binding mitigation.
 - e. As demonstrated above, approving this Project would violate CEQA and be inconsistent with the General Plan.
26. Air pollution has not been studied along Stevens Creek or for the proposed Freeway Cap park. Research indicates the Freeway Cap park would have no mitigations. Only limited mitigations exist for homes near Stevens Creek Blvd. from the air pollution. The proposed Freeway Cap Park is an unacceptable alternative to purchasing parkland. Source:
<https://www.arb.ca.gov/research/health/traff-eff/research%20status%20-reducing%20exposure%20to%20traffic%20pollution.pdf>

CEQA LAWSUITS ONGOING BETWEEN SAN JOSE – SANTA CLARA

San Jose sues Santa Clara over City Place (AKA Related Urban): <http://media.bizj.us/view/img/10102877/city-place-complaint-filed-7-29-16.pdf>

This lawsuit has moved to San Mateo County and will have a hearing in August.

Santa Clara sues San Jose over Santana Row Expansion (AKA Lots 9 and 17): <http://www.mercurynews.com/wp-content/uploads/2016/11/santana-west-lawsuit.pdf>

Progress article: <http://www.mercurynews.com/2017/06/09/internal-affairs-san-jose-v-santa-clara-round-one-goes-to-santa-clara/>

CITIES' CORRESPONDENCE RE STEVENS CREEK URBAN VILLAGES

Letter from Santa Clara to San Jose RE Stevens Creek Urban Village:

<https://files.acrobat.com/a/preview/d56fddac-5752-453e-a62b-a5d76ed08f98>

Letter from Cupertino Mayor to San Jose:

<https://files.acrobat.com/a/preview/f0935275-a2bc-4c80-9aea-d8b9c4b382c0>

VARIOUS TRAFFIC STUDIES IMPACTING STEVENS CREEK BLVD.

Santana Row Lots 9 and 17 AKA Santana Row Expansion Traffic EIR: <https://www.sanjoseca.gov/DocumentCenter/View/41531>

Volar Traffic EIR: <http://sanjoseca.gov/DocumentCenter/View/68773>

Santana Row West Traffic EIR: <http://www.sanjoseca.gov/DocumentCenter/View/57720>

Apple Campus 2 Traffic EIR: <https://s3.amazonaws.com/Apple-Campus2-DEIR/Appendix-B-Transportation-Impact-Analysis.pdf>

City Place Santa Clara (Under CEQA Litigation):

Chapter 03-03 - Transportation, Part 1 (PDF) <http://santaclaraca.gov/home/showdocument?id=15536>

Chapter 03-03 - Transportation, Part 2 (PDF) <http://santaclaraca.gov/home/showdocument?id=15538>

Cupertino General Plan 2040 Vision Traffic EIR: <http://www.cupertino.org/documents/view/211>

San Jose General Plan Envision 2040 Traffic EIR: <http://www.sanjoseca.gov/DocumentCenter/View/2198>

SUPPORTING DOCUMENTS FROM TRAFFIC STUDIES

SANTANA ROW LOTS 9 AND 17 AKA SANTANA ROW EXPANSION TRAFFIC EIR:

- <https://www.sanjoseca.gov/DocumentCenter/View/41531>
- Counts from 2012 and 2013
- See Lawsuit link above or here: <http://www.mercurynews.com/wp-content/uploads/2016/11/santana-west-lawsuit.pdf>

- Trip Generation Table 8 Issues:
 - Low movie theater Daily Trip Rate in Table 8 p. 41 does not match ITE Trip Generation Handbook rates for Movie Theaters, and employee count was omitted
 - No baseline counts made for existing Dudley Apartments, used ITE Trip Generation Rate instead
 - Approved 69,491 SF Office (approved) has generated trips subtracted from 510,000 SF total which appears to be an error if these are not existing. If existing, a traffic count should have been made.
- Project Meets the threshold requirements for a Caltrans Traffic Impact Study.

http://www.dot.ca.gov/hq/tpp/offices/ocp/igr_ceqa_files/tisguide.pdf

 - Used Maximum ITE Trip Reductions for Mixed Use BUT Caltrans TIS Guidelines p. 4 require that using the maximum reductions be justified:
 - 3. Captured Trips7 – Captured trip reductions greater than 5% requires consultation and acceptance by Caltrans. The justification for exceeding a 5% reduction should be discussed in the TIS.
- Traffic counts include intersections with up to five months separation in count dates and multiple counts were done on 2/14/2013 which is Valentine’s Day, near Valley Fair Mall. Traffic patterns may have been significantly altered.



Figure 2
Project Components

ITE Trip Generation Rates - 9th Edition
Pass-by rates from ITE Trip Generation Handbook - 2nd Edition
(copyrights, Insitute of Transportation Engineers)

| Description/ITE Code | Units | ITE Vehicle Trip Generation Rates | | | | | | | |
|-------------------------------|------------------|--|------|-------|---------|-------|--------|-------|--------|
| | | (peak hours are for peak hour of adjacent street traffic unless highlighted) | | | | | | | |
| | | Weekday | AM | PM | Pass-By | AM In | AM Out | PM In | PM Out |
| Live Theater 441 | Seats | NA | NA | 0.02 | | NA | NA | 50% | 50% |
| Movie Theater w/o matinee 443 | KSF ² | 78.06 | 0.22 | 6.16 | | NA | NA | 94% | 6% |
| Movie Theater w/o matinee 443 | Movie Screens | 220.00 | NA | 24.00 | | NA | NA | 41% | 59% |
| Movie Theater w/o matinee 443 | Seats | 1.76 | 0.01 | 0.07 | | NA | NA | 75% | 25% |
| Movie Theater w/o matinee 443 | Employees | 53.12 | 0.15 | 4.20 | | NA | NA | NA | NA |
| Movie Theater w/ matinee 444 | KSF ² | 99.28 | NA | 3.80 | | NA | NA | 64% | 36% |
| Movie Theater w/ matinee 444 | Movie Screens | 546.86 | NA | 20.22 | | NA | NA | 40% | 60% |
| Movie Theater w/ matinee 444 | Seats | 2.24 | NA | 0.07 | | NA | NA | 39% | 61% |
| Multiplex Movie Theater 445 | KSF ² | NA | NA | 4.91 | | NA | NA | 62% | 38% |
| Multiplex Movie Theater 445 | Movie Screens | NA | NA | 13.64 | | NA | NA | 45% | 55% |
| Multiplex Movie Theater 445 | Seats | NA | NA | 0.08 | | NA | NA | 36% | 64% |

Table 8
Background Plus Project Trip Generation Estimates

| Land Use | Size | Daily Trip Rate | Daily Trips | AM Peak Hour | | | | | | PM Peak Hour | | | | | | | |
|--|--------------|-----------------|---------------|--------------|---------------|--------|-----|-------------|------------|--------------|---------------|--------|-----|------------|------------|-------------|------|
| | | | | Pk-Hr % | Internal Red. | Splits | | Trips | | Pk-Hr % | Internal Red. | Splits | | Trips | | | |
| | | | | | | In | Out | In | Out | | | In | Out | In | Out | Total | |
| Proposed Land Uses | | | | | | | | | | | | | | | | | |
| Parcel 9 & 17 Office /a/ | 510,000 s.f. | 11.00 | 5,610 | 14% | | 88% | 12% | 691 | 94 | 785 | 14% | | 17% | 83% | 133 | 652 | 785 |
| Mixed-Used Reductions /b/ | | | -168 | | 3% | | | -21 | -3 | -24 | | 13% | | | -17 | -85 | -102 |
| Sub-Total | | | 5,442 | | | | | 670 | 91 | 761 | | | | 116 | 567 | 683 | |
| Movie Theater /a/ | 7 screens | 154.00 | 1,078 | 0% | | 0% | 0% | 0 | 0 | 0 | 12.4% | | 60% | 40% | 80 | 54 | 134 |
| Mixed-Used Reductions /b/ | | | -129 | | 12% | | | 0 | 0 | 0 | | 12% | | | -10 | -6 | -16 |
| Sub-Total | | | 949 | | | | | 0 | 0 | 0 | | | | 70 | 48 | 118 | |
| Hotel Rooms /a/ | 6 rooms | 9.00 | 54 | 8% | | 60% | 40% | 2 | 2 | 4 | 9% | | 60% | 40% | 3 | 2 | 5 |
| Mixed-Used Reductions /b/ | | | -6 | | 12% | | | 0 | 0 | 0 | | 12% | | | 0 | 0 | 0 |
| Sub-Total | | | 48 | | | | | 2 | 2 | 4 | | | | 3 | 2 | 5 | |
| Total Proposed Project Trips | | | 6,438 | | | | | 672 | 93 | 765 | | | | 189 | 617 | 806 | |
| Existing/Approved Land Uses | | | | | | | | | | | | | | | | | |
| Dudley Apartments | 47 units | 6.00 | -282 | 10% | | 35% | 65% | -10 | -18 | -28 | 10% | | 65% | 35% | -18 | -10 | -28 |
| Mixed-Used Reductions /b/ | | | 28 | | 10% | | | 1 | 2 | 3 | | 38% | | | 7 | 4 | 11 |
| Sub-Total | | | -254 | | | | | -9 | -16 | -25 | | | | -11 | -6 | -17 | |
| Lot 17 Approved Office | 69,491 s.f. | 11.00 | -764 | 14% | | 88% | 12% | -94 | -13 | -107 | 14% | | 17% | 83% | -18 | -89 | -107 |
| Mixed-Used Reductions /b/ | | | 23 | | 3% | | | 3 | 0 | 3 | | 13% | | | 2 | 12 | 14 |
| Sub-Total | | | -741 | | | | | -91 | -13 | -104 | | | | -16 | -77 | -93 | |
| Total Existing/Approved Project Trips | | | -1,023 | | | | | -100 | -29 | -129 | | | | -27 | -83 | -110 | |
| Net Project Trips | | | 5,415 | | | | | 572 | 64 | 635 | | | | 162 | 534 | 696 | |

/a/ City of San Jose Traffic Impact Analysis Handbook: Volume 1 - Methodologies and Requirements, 2009.
/b/ Mixed-use reductions estimated based on ITE mixed-used reduction methodology, ITE Trip Generation Handbook.

**Table ES 2
Freeway Segment Level of Service Summary**

| Freeway | Segment | Direction | Peak Hour | Mixed-Flow Lane | | | | Existing Plus Project | | | | HOV Lane | | | | Project Trips | | | |
|---------|---------------------------------|-----------|-----------|--------------------------|------------|----------------|----------------------|-----------------------|-----|--------------------------|------------|----------------|----------------------|---------|-----|---------------|---------------|--------|---------------|
| | | | | Avg. Speed ^{a/} | # of Lanes | Capacity (vph) | Volume ^{a/} | Density | LOS | Avg. Speed ^{a/} | # of Lanes | Capacity (vph) | Volume ^{a/} | Density | LOS | Volume | % of Capacity | Volume | % of Capacity |
| SR 17 | Hamilton to I-280 | NB | AM | 23.0 | 3.0 | 6,900 | 5,306 | 77 | F | -- | -- | -- | -- | -- | 58 | 0.8% | -- | -- | |
| | | | PM | 65.0 | 3.0 | 6,900 | 5,677 | 29 | D | -- | -- | -- | -- | -- | 17 | 0.2% | -- | -- | |
| I-880 | I-280 to Stevens Cr | NB | AM | 18.0 | 3.0 | 6,900 | 4,613 | 66 | F | -- | -- | -- | -- | -- | 143 | 2.1% | -- | -- | |
| | | | PM | 66.5 | 3.0 | 6,900 | 3,441 | 17 | B | -- | -- | -- | -- | -- | 41 | 0.6% | -- | -- | |
| I-880 | Stevens Cr to N. Bascom Ave | NB | AM | 26.0 | 3.0 | 6,900 | 5,466 | 70 | F | -- | -- | -- | -- | -- | 6 | 0.1% | -- | -- | |
| | | | PM | 65.0 | 3.0 | 6,900 | 5,929 | 30 | D | -- | -- | -- | -- | -- | 79 | 1.1% | -- | -- | |
| I-880 | N. Bascom Ave to The Alameda | NB | AM | 36.0 | 3.0 | 6,900 | 6,056 | 56 | E | -- | -- | -- | -- | -- | 6 | 0.1% | -- | -- | |
| | | | PM | 65.5 | 3.0 | 6,900 | 5,389 | 27 | D | -- | -- | -- | -- | -- | 79 | 1.1% | -- | -- | |
| I-280 | Lawrence Epwy to Saratoga Ave | EB | AM | 61.0 | 3.0 | 6,900 | 6,640 | 36 | D | 67.0 | 1.0 | 1,650 | 816 | 12 | B | 50 | 0.7% | 6 | 0.4% |
| | | | PM | 32.0 | 3.0 | 6,900 | 5,971 | 62 | F | 60.0 | 1.0 | 1,650 | 2,224 | 37 | D | 11 | 0.2% | 4 | 0.2% |
| I-280 | Saratoga Ave to Winchester Blvd | EB | AM | 59.0 | 3.0 | 6,900 | 6,800 | 37 | D | 67.0 | 1.0 | 1,650 | 746 | 11 | A | 50 | 0.7% | 6 | 0.3% |
| | | | PM | 45.0 | 3.0 | 6,900 | 6,491 | 48 | E | 70.0 | 1.0 | 1,650 | 2,034 | 29 | D | 11 | 0.2% | 4 | 0.2% |
| I-280 | Winchester Blvd to I-880 | EB | AM | 66.0 | 3.0 | 6,900 | 5,150 | 26 | C | 67.0 | 1.0 | 1,650 | 940 | 14 | B | 0 | 0.0% | 0 | 0.0% |
| | | | PM | 52.0 | 3.0 | 6,900 | 6,560 | 42 | D | 70.0 | 1.0 | 1,650 | 1,470 | 21 | C | 0 | 0.0% | 0 | 0.0% |
| I-280 | I-880 to Meridian Ave | EB | AM | 65.5 | 3.0 | 6,900 | 5,319 | 27 | D | 67.0 | 1.0 | 1,650 | 671 | 10 | A | 9 | 0.1% | 1 | 0.1% |
| | | | PM | 25.0 | 3.0 | 6,900 | 5,538 | 74 | F | 70.0 | 1.0 | 1,650 | 2,122 | 30 | D | 58 | 0.8% | 22 | 1.3% |
| I-280 | Meridian Ave to Bird Ave | EB | AM | 46.0 | 4.0 | 9,200 | 8,660 | 47 | E | -- | -- | -- | -- | -- | 10 | 0.1% | -- | -- | |
| | | | PM | 28.0 | 4.0 | 5,200 | 7,550 | 98 | F | -- | -- | -- | -- | -- | 80 | 0.9% | -- | -- | |
| I-280 | Bird Ave to Meridian Ave | WB | AM | 13.0 | 4.0 | 9,200 | 5,466 | 106 | F | -- | -- | -- | -- | -- | 86 | 0.9% | -- | -- | |
| | | | PM | 59.0 | 4.0 | 9,200 | 8,844 | 38 | D | -- | -- | -- | -- | -- | 24 | 0.3% | -- | -- | |
| I-280 | Meridian Ave to I-880 | WB | AM | 7.0 | 3.4 | 7,820 | 3,134 | 132 | F | 27.0 | 1.0 | 1,650 | 1,872 | 6 | E | 54 | 0.7% | 32 | 1.8% |
| | | | PM | 66.0 | 3.4 | 7,820 | 5,189 | 23 | C | 70.0 | 1.0 | 1,650 | 1,265 | 18 | B | 19 | 0.2% | 5 | 0.3% |
| I-280 | I-880 to Winchester Blvd | WB | AM | 16.0 | 3.0 | 6,900 | 4,520 | 94 | F | 42.0 | 1.0 | 1,650 | 2,100 | 50 | E | 0 | 0.0% | 0 | 0.0% |
| | | | PM | 65.5 | 3.0 | 6,900 | 5,310 | 27 | D | 70.0 | 1.0 | 1,650 | 1,470 | 21 | C | 0 | 0.0% | 0 | 0.0% |
| I-280 | Winchester Blvd to Saratoga Ave | WB | AM | 12.0 | 3.0 | 6,900 | 3,893 | 108 | F | 45.0 | 1.0 | 1,650 | 2,161 | 48 | E | 3 | 0.0% | 1 | 0.1% |
| | | | PM | 62.0 | 3.0 | 6,900 | 6,554 | 35 | D | 70.0 | 1.0 | 1,650 | 1,269 | 18 | B | 44 | 0.6% | 9 | 0.5% |
| I-280 | Saratoga Ave to Lawrence Epwy | WB | AM | 16.0 | 3.0 | 6,900 | 4,423 | 92 | F | 36.0 | 1.0 | 1,650 | 2,061 | 57 | E | 3 | 0.0% | 1 | 0.1% |
| | | | PM | 65.5 | 3.0 | 6,900 | 5,357 | 27 | D | 70.0 | 1.0 | 1,650 | 636 | 9 | A | 47 | 0.7% | 6 | 0.3% |
| I-880 | The Alameda to N. Bascom Ave | SB | AM | 66.0 | 3.0 | 6,900 | 5,234 | 26 | C | -- | -- | -- | -- | -- | 84 | 1.2% | -- | -- | |
| | | | PM | 25.0 | 3.0 | 6,900 | 5,502 | 73 | F | -- | -- | -- | -- | -- | 22 | 0.3% | -- | -- | |
| I-880 | N. Bascom Ave to Stevens Cr | SB | AM | 24.0 | 3.0 | 6,900 | 5,414 | 75 | F | -- | -- | -- | -- | -- | 84 | 1.2% | -- | -- | |
| | | | PM | 30.0 | 3.0 | 6,900 | 5,782 | 64 | F | -- | -- | -- | -- | -- | 22 | 0.3% | -- | -- | |
| I-880 | Stevens Cr to I-280 | SB | AM | 66.0 | 3.0 | 6,900 | 5,167 | 26 | C | -- | -- | -- | -- | -- | 17 | 0.2% | -- | -- | |
| | | | PM | 65.0 | 3.0 | 6,900 | 5,964 | 31 | D | -- | -- | -- | -- | -- | 134 | 1.9% | -- | -- | |
| SR 17 | I-280 to Hamilton | SB | AM | 66.0 | 3.0 | 6,900 | 4,367 | 22 | C | -- | -- | -- | -- | -- | 7 | 0.1% | -- | -- | |
| | | | PM | 61.0 | 3.0 | 6,900 | 6,644 | 36 | D | -- | -- | -- | -- | -- | 54 | 0.8% | -- | -- | |

^{a/} Source: Santa Clara Valley Transportation Authority Congestion Management Program Monitoring Study, 2012.
 - Denotes significant impact

Table 3
Existing Intersection Levels of Service

| Study Number | Intersection | Jurisdiction | Peak Hour | Count Date | Avg. Delay | LOS |
|--------------|--|--------------|-----------|------------|-------------|----------|
| 1 | Winchester Boulevard and Stevens Creek Boulevard * | San Jose | AM | 02/27/13 | 35.5 | D |
| | | | PM | 09/18/12 | 50.7 | D |
| 2 | Santana Row and Stevens Creek Boulevard | San Jose | AM | 02/13/13 | 15.1 | B |
| | | | PM | 02/13/13 | 29.7 | C |
| 3 | Redwood Avenue and Stevens Creek Boulevard | San Jose | AM | 02/13/13 | 8.2 | A |
| | | | PM | 02/13/13 | 22.0 | C |
| 4 | Monroe Street and Stevens Creek Boulevard | San Jose | AM | 02/13/13 | 28.8 | C |
| | | | PM | 02/13/13 | 38.6 | D |
| 5 | I-880 SB off-ramp and Stevens Creek Boulevard * | San Jose | AM | 02/13/13 | 23.8 | C |
| | | | PM | 09/18/12 | 21.8 | C |
| 6 | Bascom Avenue and San Carlos Street | San Jose | AM | 02/14/13 | 41.9 | D |
| | | | PM | 02/14/13 | 51.3 | D |
| 7 | Meridian Avenue and San Carlos Street | San Jose | AM | 02/14/13 | 39.4 | D |
| | | | PM | 02/14/13 | 46.4 | D |
| 8 | Lincoln Avenue and San Carlos Street | San Jose | AM | 02/14/13 | 35.3 | D |
| | | | PM | 02/14/13 | 39.0 | D |
| 9 | Bird Avenue and San Carlos Street * | San Jose | AM | 04/18/13 | 33.0 | C |
| | | | PM | 09/18/12 | 39.0 | D |
| 10 | Monroe Street and Forest Street | San Jose | AM | 02/14/13 | 17.4 | B |
| | | | PM | 02/14/13 | 20.2 | C |
| 11 | Monroe Street and Hedding Street | San Jose | AM | 02/14/13 | 35.7 | D |
| | | | PM | 05/07/13 | 37.3 | D |
| 12 | Monroe Street and Newhall Street | San Jose | AM | 02/14/13 | 26.6 | C |
| | | | PM | 02/14/13 | 27.0 | C |
| 13 | Winchester Boulevard and Hedding Street | San Jose | AM | 02/14/13 | 31.0 | C |
| | | | PM | 02/14/13 | 35.9 | D |
| 14 | Winchester Boulevard and Forest Street | San Jose | AM | 02/14/13 | 15.4 | B |
| | | | PM | 02/14/13 | 21.5 | C |
| 15 | San Tomas Expressway and Stevens Creek Boulevard * | San Jose | AM | 02/26/13 | 51.1 | D |
| | | | PM | 09/11/12 | 68.2 | E |
| 16 | Saratoga Avenue and Stevens Creek Boulevard * | San Jose | AM | 02/26/13 | 34.8 | C |
| | | | PM | 09/25/12 | 38.1 | D |
| 17 | Kiely Boulevard and Stevens Creek Boulevard * | San Jose | AM | 04/16/13 | 37.9 | D |
| | | | PM | 09/19/12 | 37.1 | D |
| 18 | Saratoga Avenue and Kiely Boulevard * | San Jose | AM | 04/17/13 | 45.2 | D |
| | | | PM | 09/19/12 | 41.0 | D |
| 19 | Saratoga Avenue and I-280 (North) * | San Jose | AM | 04/18/13 | 23.4 | C |
| | | | PM | 09/19/12 | 21.9 | C |
| 20 | Saratoga Avenue and I-280 (South) * | San Jose | AM | 04/18/13 | 40.7 | D |
| | | | PM | 09/19/12 | 34.5 | C |
| 21 | Saratoga Avenue and Moorpark Avenue * | San Jose | AM | 04/18/13 | 41.5 | D |
| | | | PM | 09/19/12 | 44.1 | D |
| 22 | San Tomas Expressway and Moorpark Avenue * | San Jose | AM | 03/07/13 | 51.8 | D |
| | | | PM | 09/06/12 | 52.8 | D |
| 23 | Winchester Boulevard and Olin Avenue | San Jose | AM | 02/13/13 | 17.6 | B |
| | | | PM | 02/13/13 | 21.5 | C |

Table 11
Cumulative Conditions Intersection Levels of Service

| Study Number | Intersection | Jurisdiction | Peak Hour | Background | | Cumulative | | | | % of Project Contribution |
|--------------|--|--------------|-----------|------------|-----|------------|-----|----------------------|--------------------|---------------------------|
| | | | | Delay | LOS | Delay | LOS | Incr. In Crit. Delay | Incr. In Crit. V/C | |
| 1 | Winchester Boulevard and Stevens Creek Boulevard * | San Jose | AM | 36.1 | D | 68.8 | E | 82.8 | 0.587 | 10% |
| | | | PM | 60.1 | E | 191.9 | F | 273.9 | 0.699 | |
| 2 | Santana Row and Stevens Creek Boulevard | San Jose | AM | 15.0 | B | 14.7 | B | 2.3 | 0.183 | |
| | | | PM | 31.0 | C | 28.5 | C | -2.3 | 0.137 | |
| 3 | Redwood Avenue and Stevens Creek Boulevard | San Jose | AM | 9.8 | A | 10.4 | B | 0.5 | 0.173 | |
| | | | PM | 29.7 | C | 29.4 | C | 1.9 | 0.169 | |
| 4 | Monroe Street and Stevens Creek Boulevard | San Jose | AM | 34.1 | C | 43.5 | D | 14.6 | 0.210 | 25% |
| | | | PM | 83.6 | F | 172.2 | F | 126.9 | 0.304 | |
| 5 | I-880 SB off-ramp and Stevens Creek Boulevard * | San Jose | AM | 23.0 | C | 26.5 | C | -6.4 | 0.225 | |
| | | | PM | 18.7 | B | 21.5 | C | 3.2 | 0.148 | |
| 6 | Bascom Avenue and San Carlos Street | San Jose | AM | 43.0 | D | 45.0 | D | 3.3 | 0.062 | |
| | | | PM | 52.6 | D | 54.5 | D | 2.0 | 0.061 | |
| 7 | Meridian Avenue and San Carlos Street | San Jose | AM | 40.3 | D | 40.9 | D | 0.9 | 0.047 | |
| | | | PM | 52.2 | D | 54.0 | D | 2.9 | 0.032 | |
| 8 | Lincoln Avenue and San Carlos Street | San Jose | AM | 37.2 | D | 37.4 | D | 0.6 | 0.041 | |
| | | | PM | 41.7 | D | 41.6 | D | 0.6 | 0.028 | |
| 9 | Bird Avenue and San Carlos Street * | San Jose | AM | 35.7 | D | 36.4 | D | 1.0 | 0.016 | |
| | | | PM | 42.4 | D | 43.1 | D | 1.1 | 0.016 | |
| 10 | Monroe Street and Forest Street | San Jose | AM | 17.8 | B | 17.8 | B | 0.1 | 0.016 | |
| | | | PM | 21.1 | C | 21.3 | C | 0.4 | 0.010 | |
| 11 | Monroe Street and Hedding Street | San Jose | AM | 36.0 | D | 36.4 | D | 0.2 | 0.007 | |
| | | | PM | 37.6 | D | 37.8 | D | -0.7 | 0.018 | |
| 12 | Monroe Street and Newhall Street | San Jose | AM | 26.9 | C | 27.1 | C | -0.1 | 0.018 | |
| | | | PM | 27.1 | C | 27.5 | C | 0.3 | 0.022 | |
| 13 | Winchester Boulevard and Hedding Street | San Jose | AM | 31.7 | C | 33.7 | C | 6.2 | 0.117 | |
| | | | PM | 38.3 | D | 39.6 | D | 3.5 | 0.054 | |
| 14 | Winchester Boulevard and Forest Street | San Jose | AM | 20.2 | C | 21.9 | C | 1.0 | 0.029 | |
| | | | PM | 20.5 | C | 24.6 | C | 4.2 | 0.080 | |
| 15 | San Tomas Expressway and Stevens Creek Boulevard * | San Jose | AM | 54.2 | D | 59.9 | E | 8.0 | 0.046 | 22% |
| | | | PM | 74.8 | E | 79.0 | E | 5.9 | 0.012 | |
| 16 | Saratoga Avenue and Stevens Creek Boulevard * | San Jose | AM | 38.8 | D | 39.8 | D | 3.8 | 0.067 | |
| | | | PM | 38.5 | D | 39.5 | D | 2.0 | 0.044 | |
| 17 | Kiely Boulevard and Stevens Creek Boulevard * | San Jose | AM | 37.8 | D | 37.7 | D | 0.0 | 0.004 | |
| | | | PM | 37.0 | D | 36.8 | D | -0.1 | 0.005 | |
| 18 | Saratoga Avenue and Kiely Boulevard * | San Jose | AM | 45.0 | D | 45.0 | D | 0.1 | 0.002 | |
| | | | PM | 41.1 | D | 41.3 | D | 0.5 | 0.012 | |
| 19 | Saratoga Avenue and I-280 (North) * | San Jose | AM | 23.3 | C | 23.1 | C | 0.0 | 0.004 | |
| | | | PM | 21.8 | C | 21.6 | C | -0.3 | 0.013 | |
| 20 | Saratoga Avenue and I-280 (South) * | San Jose | AM | 42.2 | D | 42.2 | D | 0.1 | 0.000 | |
| | | | PM | 34.6 | C | 34.8 | C | 0.6 | 0.004 | |
| 21 | Saratoga Avenue and Moorpark Avenue * | San Jose | AM | 41.8 | D | 42.9 | D | 1.1 | 0.024 | |
| | | | PM | 44.7 | D | 45.1 | D | 0.3 | 0.013 | |
| 22 | San Tomas Expressway and Moorpark Avenue * | San Jose | AM | 52.9 | D | 53.3 | D | 0.7 | 0.005 | |
| | | | PM | 54.9 | D | 61.7 | E | 11.6 | 0.049 | |
| 23 | Winchester Boulevard and Olin Avenue | San Jose | AM | 17.5 | B | 20.5 | C | 7.0 | 0.405 | 9% |
| | | | PM | 20.4 | C | 58.8 | E | 49.4 | 0.540 | |

VOLAR:

TIA, traffic study: <http://www.sanjoseca.gov/DocumentCenter/View/65247>

Comments from VTA RE Draft EIR: <http://sanjoseca.gov/DocumentCenter/View/68773>

Excerpt: *“Both the Stevens Creek/Winchester and Stevens Creek/Monroe intersections are currently Protected Intersections, per City policy, meaning that the City would accept offsetting transportation system improvements to enhance pedestrian, bicycle, and transit facilities as required by the development in order for the City to approve the project. VTA supports the idea of designating Protected Intersections to encourage development in locations conducive to walking, bicycling and transit in order to reduce vehicle miles traveled and greenhouse gas emissions. However, increased congestion at this intersection could result in delay to transit vehicles on Stevens Creek Boulevard, including the Local 23, Limited 323 and future Bus Rapid Transit (BRT) service, which could degrade schedule reliability and increase operating costs.”*

- Project Meets the threshold requirements for a Caltrans Traffic Impact Study.
http://www.dot.ca.gov/hq/tpp/offices/ocp/igr_ceqa_files/tisguide.pdf
 - Used Maximum ITE Trip Reductions for Mixed Use BUT Caltrans TIS Guidelines p. 4 require that using the maximum reductions be justified:
 - *3. Captured Trips7 – Captured trip reductions greater than 5% requires consultation and acceptance by Caltrans. The justification for exceeding a 5% reduction should be discussed in the TIS.*
- Counts from 2014 & 2015

**Table 3
Trip Generation Estimates**

| Land Use | ITE Land Use Code | % Trip Reduction | Size | Daily Rate ¹ | Daily Trips | AM Peak Hour | | | | | PM Peak Hour | | | | | | |
|--|---|------------------|-------------|-------------------------|--------------|-------------------------|-----------|------------|-----------|------------|--------------|-------------------------|-----------|------------|------------|------------|-------------|
| | | | | | | Pk-Hr Rate ¹ | Spills In | Spills Out | Trips In | Trips Out | Trips Total | Pk-Hr Rate ¹ | Spills In | Spills Out | Trips In | Trips Out | Trips Total |
| Proposed Land Uses | | | | | | | | | | | | | | | | | |
| Residential | 230 - Condo/Townhouse | | 307 units | 5.81 | 1,784 | 0.44 | 17% | 83% | 23 | 112 | 135 | 0.52 | 67% | 33% | 107 | 53 | 160 |
| | housing and retail mixed-use reduction ² | 15% | | | -173 | | | | -2 | -2 | -4 | | | | -8 | -7 | -15 |
| | housing and employment mixed-use reduction ⁴ | 3% | | | -5 | | | | 0 | -1 | -1 | | | | -1 | 0 | -1 |
| | housing near a major bus stop reduction ⁵ | 2% | | | -32 | | | | 0 | -2 | -2 | | | | -2 | -1 | -3 |
| Retail | 820 - Shopping Center | | 26,999 s.f. | 42.70 | 1,153 | 0.96 | 62% | 38% | 16 | 10 | 26 | 3.71 | 48% | 52% | 48 | 52 | 100 |
| | housing and retail mixed-use reduction ² | 15% | | | -173 | | | | -2 | -2 | -4 | | | | -7 | -8 | -15 |
| | employment and employee-serving retail mixed-use reduction ³ | 3% | | | -5 | | | | 0 | -1 | -1 | | | | -1 | 0 | -1 |
| | pass-by reduction ⁶ | 25% | | | -21 | | | | 0 | 0 | 0 | | | | -10 | -11 | -21 |
| Office | 710 - General Office Building | | 16,516 s.f. | 11.03 | 182 | 1.56 | 88% | 12% | 23 | 3 | 26 | 1.49 | 17% | 83% | 4 | 21 | 25 |
| | housing and employment mixed-use reduction ⁴ | 3% | | | -5 | | | | -1 | 0 | -1 | | | | 0 | -1 | -1 |
| | employment and employee-serving retail mixed-use reduction ³ | 3% | | | -5 | | | | -1 | 0 | -1 | | | | 0 | -1 | -1 |
| | employment near a major bus stop reduction ⁵ | 2% | | | -3 | | | | 0 | 0 | 0 | | | | 0 | 0 | 0 |
| Restaurant | 931 - Quality Restaurant | | 8,652 s.f. | 89.95 | 778 | 0.81 | 50% | 50% | 4 | 3 | 7 | 7.49 | 67% | 33% | 44 | 21 | 65 |
| Total project trips after reductions | | | | | 3,475 | | | | 60 | 120 | 180 | | | | 174 | 118 | 292 |
| Existing Land Use | | | | | | | | | | | | | | | | | |
| Driveway Counts (January 21, 2016) | | | 26,774 s.f. | 19.53 | 523 | 0.45 | 83% | 17% | 10 | 2 | 12 | 1.23 | 42% | 58% | 14 | 19 | 33 |
| | pass-by reduction ⁷ | 25% | | | -9 | | | | 0 | 0 | 0 | | | | -4 | -5 | -9 |
| Total project trips after reductions | | | | | 514 | | | | 10 | 2 | 12 | | | | 10 | 14 | 24 |
| Net Project Trips (Proposed - Existing Land Uses) | | | | | 2,961 | | | | 50 | 118 | 168 | | | | 164 | 104 | 268 |
| <p>Source: ITE Trip Generation, 9th Edition, 2012.</p> <p>¹The average trip generation rate from the ITE Trip Generation Manual was used.</p> <p>²As prescribed by the VTA Transportation Impact Analysis Guidelines (October 2014), the maximum trip reduction for a mixed-use development project with housing and retail components is equal to 15% off the smaller trip generator (retail component generates less trips than the housing component).</p> <p>³As prescribed by the VTA Transportation Impact Analysis Guidelines (October 2014), the maximum trip reduction for a mixed-use development project with employment and employee-serving retail components is equal to 3% off the employment component.</p> <p>⁴As prescribed by the VTA Transportation Impact Analysis Guidelines (October 2014), the maximum trip reduction for a mixed-use development project with housing and employment components is equal to 3% off the smaller trip generator (employment component generates less trips than the housing component).</p> <p>⁵As prescribed by the VTA Transportation Impact Analysis Guidelines (October 2014), the maximum trip reduction for employment and housing located near a major bus stop is equal to 2% of the employment and housing components.</p> <p>⁶A 25% PM pass-by reduction is typically applied for retail development within Santa Clara County.</p> | | | | | | | | | | | | | | | | | |

**Table 9
Cumulative Conditions Intersection Levels of Service**

| Study Number | Intersection | Peak Hour | Background | | Cumulative | | | | % of Project Contribution |
|--------------|---|-----------|------------|-----|------------|-----|----------------------|--------------------|---------------------------|
| | | | Avg. Delay | LOS | Avg. Delay | LOS | Incr. In Crit. Delay | Incr. In Crit. V/C | |
| 1 | Winchester Boulevard and Stevens Creek Boulevard * | AM | 39.7 | D | 40.6 | D | 1.0 | 0.021 | 67% |
| | | PM | 76.1 | E | 90.6 | F | 35.1 | 0.090 | |
| 2 | Santana Row and Stevens Creek Boulevard | AM | 12.9 | B | 12.9 | B | 0.2 | 0.020 | |
| | | PM | 29.3 | C | 28.8 | C | -0.3 | 0.023 | |
| 3 | Redwood Avenue and Stevens Creek Boulevard | AM | 18.8 | B | 19.2 | B | 0.0 | 0.019 | |
| | | PM | 49.4 | D | 52.2 | D | 6.7 | 0.038 | |
| 4 | Monroe Street and Stevens Creek Boulevard | AM | 40.2 | D | 42.3 | D | 2.0 | 0.024 | 52% |
| | | PM | 148.3 | F | 157.3 | F | 13.3 | 0.031 | |
| 5 | I-880 SB Ramps and Stevens Creek Boulevard * | AM | 27.1 | C | 28.2 | C | 1.5 | 0.032 | |
| | | PM | 25.4 | C | 27.2 | C | 1.9 | 0.044 | |
| 6 | I-880 NB Ramps and Stevens Creek Boulevard | AM | 23.9 | C | 24.1 | C | 0.2 | 0.011 | |
| | | PM | 25.5 | C | 26.0 | C | 0.4 | 0.015 | |
| 7 | Winchester Boulevard and Olin Avenue | AM | 19.2 | B | 19.2 | B | -0.1 | 0.006 | |
| | | PM | 33.0 | C | 34.3 | C | 3.2 | 0.052 | |
| 8 | Winchester Boulevard and Olsen Drive | AM | 26.8 | C | 26.6 | C | -0.1 | 0.006 | |
| | | PM | 46.9 | D | 47.0 | D | 0.2 | 0.009 | |
| 9 | Winchester Boulevard and I-280 WB on-ramp/Tisch Way | AM | 52.6 | D | 55.8 | E | 8.1 | 0.027 | 43% |
| | | PM | 69.1 | E | 75.3 | E | 10.0 | 0.029 | |
| 10 | Winchester Boulevard and Moorpark Avenue | AM | 48.2 | D | 49.5 | D | 2.1 | 0.013 | |
| | | PM | 43.6 | D | 43.9 | D | 0.3 | 0.007 | |
| 11 | I-280 EB off-ramp and Moorpark Avenue * | AM | 12.2 | B | 12.3 | B | 0.0 | 0.007 | |
| | | PM | 13.6 | B | 13.7 | B | 0.1 | 0.011 | |
| 12 | San Tomas Expressway and Stevens Creek Boulevard * | AM | 90.4 | F | 99.3 | F | 12.9 | 0.041 | 7% |
| | | PM | 68.5 | E | 71.5 | E | 2.3 | 0.018 | |

* Denotes CMP Intersection
 Bold indicates unacceptable level of service.
 Bold and boxed indicate significant impact.

proposed project's contribution to traffic growth at this intersection would be 25 percent or more during the PM peak hour.

Mitigation Measure. The intersection of Winchester Boulevard and Stevens Creek Boulevard has been identified as a City of San Jose Protected Intersection. Thus, in lieu of physical mitigations at the Winchester Boulevard and Stevens Creek Boulevard intersection, the project will construct offsetting improvements to other parts of the citywide transportation system to improve system-wide roadway capacity or to enhance non-auto travel modes in furtherance of the General Plan goals and policies.

(4) Monroe Street and Stevens Creek Boulevard

Impact: This intersection would operate at LOS F during the PM peak hour under background conditions, and the added trips as a result of the proposed and pending projects would cause the intersection's critical-movement delay to increase by two or more seconds and the demand-to-capacity ratio (V/C) to increase by 0.005 or more during the PM peak hour. Based on City of San Jose level of service impact criteria, this constitutes a significant impact. The proposed project's contribution to traffic growth at this intersection would be 25 percent or more during the PM peak hour.

Mitigation Measure. The intersection of Monroe Street and Stevens Creek Boulevard has been identified as a City of San Jose Protected Intersection. Thus, in lieu of physical mitigations at the Monroe Street and Stevens Creek Boulevard intersection, the project will construct offsetting improvements to other

Santana West:

- TIA, traffic study: <http://www.sanjoseca.gov/DocumentCenter/View/57720>
- Counts from 2014 & 2015
- Project Meets the threshold requirements for a Caltrans Traffic Impact Study. http://www.dot.ca.gov/hq/tpp/offices/ocp/igr_ceqa_files/tisguide.pdf
 - Used Maximum ITE Trip Reductions for Mixed Use BUT Caltrans TIS Guidelines p. 4 require that using the maximum reductions be justified:
 - 3. Captured Trips7 – Captured trip reductions greater than 5% requires consultation and acceptance by Caltrans. The justification for exceeding a 5% reduction should be discussed in the TIS.

**Table 7
Project Trip Generation Estimates**

| Land Use | ITE Land Use Code | % Trip Reduction | Size | Daily | | AM Peak Hour | | | | | PM Peak Hour | | | | | | |
|---|-------------------|------------------|--------------|-------------------|---------------|-------------------|--------|-------|--------------|------------|-------------------|--------|-------|-----|------------|--------------|--------------|
| | | | | Rate ¹ | Trips | Rate ¹ | Splits | Trips | | | Rate ¹ | Splits | Trips | | | | |
| | | | | | | In | Out | In | Out | Total | In | Out | In | Out | Total | | |
| Proposed Land Uses | | | | | | | | | | | | | | | | | |
| Office | 710 | | 969,051 s.f. | 11.03 | 10,689 | 1.56 | 88% | 12% | 1,331 | 181 | 1,512 | 1.49 | 17% | 83% | 245 | 1,199 | 1,444 |
| employment near a major bus stop reduction ⁴ | | 2% | | | -214 | | | | -27 | -4 | -31 | | | | -5 | -24 | -29 |
| project-funded dedicated shuttle reduction ⁵ | | 3% | | | -321 | | | | -40 | -5 | -45 | | | | -7 | -36 | -43 |
| Retail | 820 | | 29,000 s.f. | 42.70 | 1,238 | 0.96 | 62% | 38% | 17 | 11 | 28 | 3.71 | 48% | 52% | 52 | 56 | 108 |
| retail pass-by reduction ² | | 25% | | | -27 | | | | 0 | 0 | 0 | | | | -13 | -14 | -27 |
| Total project trips after reductions | | | | | 11,365 | | | | 1,281 | 183 | 1,464 | | | | 272 | 1,181 | 1,453 |
| Existing Land Uses | | | | | | | | | | | | | | | | | |
| Movie Theaters (Century 22 and 23) ⁶ | 444 | | 5 screens | 214.36 | 1,072 | 0.00 | 0% | 0% | 0 | 0 | 0 | 20.22 | 40% | 60% | 40 | 61 | 101 |
| Flame Coffee Shop & Bakery | 932 | | 6,800 s.f. | 127.15 | 865 | 10.81 | 55% | 45% | 41 | 33 | 74 | 9.85 | 60% | 40% | 40 | 27 | 67 |
| restaurant pass-by reduction ³ | | 43% | | | -29 | | | | 0 | 0 | 0 | | | | -17 | -12 | -29 |
| Total project trips after reductions | | | | | 1,908 | | | | 41 | 33 | 74 | | | | 63 | 76 | 139 |
| Net Project Trips (Proposed - Existing Land Uses) | | | | | 9,457 | | | | 1,240 | 150 | 1,390 | | | | 209 | 1,105 | 1,314 |
| Source: ITE Trip Generation, 9th Edition, 2012. ITE Land Use 710 - General Office Building ITE Land Use 820 - Shopping Center ITE Land Use 444 - Movie Theater with Matinee ITE Land Use 932 - High-Turnover (Sit-Down) Restaurant ¹ The average trip generation rate from the ITE Trip Generation Manual was used. ² A 25% PM pass-by reduction is typically applied for retail development within Santa Clara County. ³ ITE data show that high-turnover (sit-down) restaurants have average pass-by trip reduction of 43% in the PM peak hour. ⁴ As prescribed by the VTA Transportation Impact Analysis Guidelines (October 2014), the maximum trip reduction for employment and housing located within 2,000-foot walk of a major bus stop is equal to 2% of the employment components. (The project is located close to the Valley Fair Transit Center on Forest Avenue). ⁵ As prescribed by the VTA Transportation Impact Analysis Guidelines (October 2014), the maximum trip reduction for employment with project-funded dedicated shuttle is equal to 3% of the employment component. (The project is proposing a project-funded dedicated shuttle to serve project traffic). ⁶ Weekday daily rate was derived using Friday daily rate and multiplying by the ratio of daily traffic variation between Tuesday and Friday. | | | | | | | | | | | | | | | | | |

Table 3
Existing Intersection Levels of Service

| Study Number | Intersection | Location | Peak Hour | Count Date | Avg. Delay | LOS |
|--------------|---|----------|-----------|------------|-------------|----------|
| 1 | Winchester Boulevard and Stevens Creek Boulevard * | San Jose | AM | 10/21/15 | 35.2 | D |
| | | | PM | 10/21/15 | 46.6 | D |
| 2 | Santana Row and Stevens Creek Boulevard | San Jose | AM | 10/21/15 | 13.7 | B |
| | | | PM | 10/21/15 | 30.8 | C |
| 3 | Redwood Avenue and Stevens Creek Boulevard | San Jose | AM | 10/21/15 | 7.5 | A |
| | | | PM | 10/21/15 | 23.0 | C |
| 4 | Monroe Street and Stevens Creek Boulevard | San Jose | AM | 10/21/15 | 29.8 | C |
| | | | PM | 10/21/15 | 35.4 | D |
| 5 | I-880 SB Ramps and Stevens Creek Boulevard * | San Jose | AM | 10/21/15 | 24.7 | C |
| | | | PM | 10/20/15 | 23.7 | C |
| 6 | Bascom Avenue and San Carlos Street | San Jose | AM | 10/21/15 | 41.1 | D |
| | | | PM | 10/21/15 | 48.7 | D |
| 7 | Meridian Avenue and San Carlos Street | San Jose | AM | 03/12/15 | 37.8 | D |
| | | | PM | 03/12/15 | 48.2 | D |
| 8 | Lincoln Avenue and San Carlos Street | San Jose | AM | 05/12/15 | 34.2 | C |
| | | | PM | 05/12/15 | 34.1 | C |
| 9 | Bird Avenue and San Carlos Street * | San Jose | AM | 10/14/14 | 32.9 | C |
| | | | PM | 09/18/14 | 39.6 | D |
| 10 | Monroe Street and Forest Street | San Jose | AM | 10/21/15 | 16.4 | B |
| | | | PM | 10/20/15 | 20.0 | B |
| 11 | Monroe Street and Hedding Street | San Jose | AM | 10/20/15 | 32.0 | C |
| | | | PM | 10/20/15 | 32.8 | C |
| 12 | Monroe Street and Newhall Street | San Jose | AM | 10/20/15 | 27.2 | C |
| | | | PM | 10/20/15 | 29.1 | C |
| 13 | Winchester Boulevard and Hedding Street/Pruneridge Avenue | San Jose | AM | 10/20/15 | 29.6 | C |
| | | | PM | 10/20/15 | 35.6 | D |
| 14 | Winchester Boulevard and Forest Street/Worthington Circle | San Jose | AM | 10/20/15 | 24.2 | C |
| | | | PM | 10/20/15 | 24.9 | C |
| 15 | San Tomas Expressway and Stevens Creek Boulevard * | San Jose | AM | 05/27/15 | 81.8 | F |
| | | | PM | 09/24/14 | 64.1 | E |
| 16 | Saratoga Avenue and Stevens Creek Boulevard * | San Jose | AM | 10/21/14 | 35.5 | D |
| | | | PM | 09/17/14 | 38.8 | D |
| 17 | Kiely Boulevard and Stevens Creek Boulevard * | San Jose | AM | 10/21/14 | 37.5 | D |
| | | | PM | 09/17/14 | 37.7 | D |
| 18 | Saratoga Avenue and Kiely Boulevard * | San Jose | AM | 10/21/14 | 35.6 | D |
| | | | PM | 09/18/14 | 41.0 | D |
| 19 | Saratoga Avenue and I-280 (North) * | San Jose | AM | 10/21/15 | 29.7 | C |
| | | | PM | 09/24/14 | 23.9 | C |
| 20 | Saratoga Avenue and I-280 (South) * | San Jose | AM | 10/21/14 | 34.1 | C |
| | | | PM | 09/24/14 | 33.2 | C |
| 21 | Saratoga Avenue and Moorpark Avenue * | San Jose | AM | 10/21/14 | 45.9 | D |
| | | | PM | 09/18/14 | 45.3 | D |
| 22 | San Tomas Expressway and Moorpark Avenue * | San Jose | AM | 10/20/15 | 85.3 | F |
| | | | PM | 09/24/14 | 46.9 | D |
| 23 | Winchester Boulevard and Olin Avenue | San Jose | AM | 10/20/15 | 18.6 | B |
| | | | PM | 10/20/15 | 20.4 | C |
| 24 | Winchester Boulevard and Olsen Drive | San Jose | AM | 10/20/15 | 14.0 | B |
| | | | PM | 10/20/15 | 19.6 | B |
| 25 | Winchester Boulevard and I-280 WB on-ramp/Tisch Way | San Jose | AM | 10/20/15 | 25.6 | C |
| | | | PM | 10/20/15 | 34.6 | C |
| 26 | Winchester Boulevard and Moorpark Avenue | San Jose | AM | 10/20/15 | 38.6 | D |
| | | | PM | 10/20/15 | 42.1 | D |

**Table 11
Cumulative Conditions Intersection Levels of Service**

| Study Number | Intersection | Location | Peak Hour | Background | | Cumulative No Project | | Cumulative with Project | | | | |
|--------------|---|----------|-----------|------------|-----|-----------------------|-----|-------------------------|-----|----------------------|--------------|---------------------------|
| | | | | Avg. Delay | LOS | Avg. Delay | LOS | Avg. Delay | LOS | Incr. In Crit. Delay | Incr. In V/C | % of Project Contribution |
| 1 | Winchester Boulevard and Stevens Creek Boulevard * | San Jose | AM | 36.4 | D | 37.3 | D | 40.7 | D | 14.2 | 0.232 | |
| | | | PM | 52.7 | D | 59.1 | E | 90.0 | F | 99.3 | 0.334 | 68% |
| 2 | Santana Row and Stevens Creek Boulevard | San Jose | AM | 12.9 | B | 12.7 | B | 12.9 | B | 0.8 | 0.096 | |
| | | | PM | 30.8 | C | 30.0 | C | 28.8 | C | -1.9 | 0.089 | |
| 3 | Redwood Avenue and Stevens Creek Boulevard | San Jose | AM | 19.6 | B | 19.9 | B | 19.2 | B | -0.4 | 0.094 | |
| | | | PM | 48.0 | D | 49.1 | D | 52.2 | D | 11.9 | 0.104 | |
| 4 | Monroe Street and Stevens Creek Boulevard | San Jose | AM | 36.0 | D | 36.7 | D | 42.3 | D | 6.9 | 0.121 | |
| | | | PM | 88.3 | F | 95.1 | F | 157.0 | F | 99.6 | 0.240 | 70% |
| 5 | I-880 SB Ramps and Stevens Creek Boulevard * | San Jose | AM | 25.5 | C | 26.4 | C | 28.2 | C | 4.4 | 0.164 | |
| | | | PM | 25.4 | C | 27.3 | C | 27.4 | C | 2.0 | 0.111 | |
| 6 | Bascom Avenue and San Carlos Street | San Jose | AM | 42.6 | D | 72.2 | E | 79.3 | E | 60.4 | 0.348 | 8% |
| | | | PM | 50.7 | D | 104.6 | F | 112.6 | F | 101.6 | 0.483 | 8% |
| 7 | Meridian Avenue and San Carlos Street | San Jose | AM | 39.0 | D | 57.7 | E | 62.2 | E | 33.4 | 0.360 | 6% |
| | | | PM | 53.6 | D | 98.5 | F | 102.8 | F | 60.9 | 0.269 | 4% |
| 8 | Lincoln Avenue and San Carlos Street | San Jose | AM | 37.2 | D | 40.9 | D | 41.3 | D | 5.8 | 0.193 | |
| | | | PM | 36.9 | D | 96.5 | F | 99.3 | F | 100.7 | 0.515 | 3% |
| 9 | Bird Avenue and San Carlos Street * | San Jose | AM | 35.8 | D | 61.6 | E | 63.4 | E | 41.5 | 0.387 | 3% |
| | | | PM | 43.8 | D | 174.4 | F | 177.4 | F | 213.8 | 0.648 | 2% |
| 10 | Monroe Street and Forest Street | San Jose | AM | 17.6 | B | 17.7 | B | 17.7 | B | 0.1 | 0.010 | |
| | | | PM | 19.9 | B | 20.0 | B | 20.0 | B | 0.1 | 0.011 | |
| 11 | Monroe Street and Hedding Street | San Jose | AM | 32.3 | C | 32.5 | C | 32.6 | C | 0.2 | 0.014 | |
| | | | PM | 33.2 | C | 33.3 | C | 33.3 | C | 0.5 | 0.020 | |
| 12 | Monroe Street and Newhall Street | San Jose | AM | 27.4 | C | 27.5 | C | 27.6 | C | 0.2 | 0.019 | |
| | | | PM | 29.5 | C | 29.7 | C | 29.9 | C | 0.4 | 0.024 | |
| 13 | Winchester Boulevard and Hedding Street/Pruneridge Avenue | San Jose | AM | 30.6 | C | 32.2 | C | 32.7 | C | 7.2 | 0.081 | |
| | | | PM | 38.6 | D | 39.0 | D | 39.8 | D | 2.6 | 0.037 | |
| 14 | Winchester Boulevard and Forest Street/Worthington Circle | San Jose | AM | 26.6 | C | 26.4 | C | 25.8 | C | -0.2 | 0.014 | |
| | | | PM | 51.1 | C | 51.3 | C | 51.7 | C | 1.0 | 0.034 | |
| 15 | San Tomas Expressway and Stevens Creek Boulevard * | San Jose | AM | 88.4 | F | 97.2 | F | 99.4 | F | 16.1 | 0.063 | 34% |
| | | | PM | 67.5 | E | 70.3 | E | 71.5 | E | 2.7 | 0.023 | |
| 16 | Saratoga Avenue and Stevens Creek Boulevard * | San Jose | AM | 35.7 | D | 38.1 | D | 38.0 | D | 5.9 | 0.055 | |
| | | | PM | 39.7 | D | 40.6 | D | 41.3 | D | 3.6 | 0.057 | |
| 17 | Kiely Boulevard and Stevens Creek Boulevard * | San Jose | AM | 37.5 | D | 37.1 | D | 37.0 | D | 0.1 | 0.032 | |
| | | | PM | 37.6 | D | 37.7 | D | 37.6 | D | 0.3 | 0.023 | |
| 18 | Saratoga Avenue and Kiely Boulevard * | San Jose | AM | 35.1 | D | 38.2 | D | 38.1 | D | 9.2 | 0.065 | |
| | | | PM | 41.2 | D | 48.7 | D | 48.8 | D | 6.8 | 0.084 | |
| 19 | Saratoga Avenue and I-280 (North) * | San Jose | AM | 29.5 | C | 27.8 | C | 27.7 | C | -23.5 | 0.038 | |
| | | | PM | 23.7 | C | 23.0 | C | 22.9 | C | -1.3 | 0.035 | |
| 20 | Saratoga Avenue and I-280 (South) * | San Jose | AM | 34.6 | C | 39.9 | D | 40.2 | D | 9.2 | 0.055 | |
| | | | PM | 33.2 | C | 35.7 | D | 35.7 | D | 4.3 | 0.051 | |
| 21 | Saratoga Avenue and Moorpark Avenue * | San Jose | AM | 46.8 | D | 47.2 | D | 47.7 | D | 1.1 | 0.037 | |
| | | | PM | 46.3 | D | 46.7 | D | 46.8 | D | 1.0 | 0.031 | |
| 22 | San Tomas Expressway and Moorpark Avenue * | San Jose | AM | 87.6 | F | 92.5 | F | 92.2 | F | 8.2 | 0.023 | 36% |
| | | | PM | 48.7 | D | 49.5 | D | 51.6 | D | 5.6 | 0.030 | |
| 23 | Winchester Boulevard and Olin Avenue | San Jose | AM | 17.9 | B | 18.4 | B | 21.2 | C | 7.4 | 0.207 | |
| | | | PM | 19.5 | B | 22.5 | C | 33.8 | C | 25.2 | 0.291 | |
| 24 | Winchester Boulevard and Olsen Drive | San Jose | AM | 22.9 | C | 22.5 | C | 26.6 | C | 5.3 | 0.073 | |
| | | | PM | 32.5 | C | 32.2 | C | 47.0 | D | 18.3 | 0.283 | |
| 25 | Winchester Boulevard and I-280 WB on-ramp/Tisch Way | San Jose | AM | 32.7 | C | 34.2 | C | 56.3 | E | 43.0 | 0.197 | 85% |
| | | | PM | 52.5 | D | 56.7 | E | 75.1 | E | 29.1 | 0.103 | 81% |
| 26 | Winchester Boulevard and Moorpark Avenue | San Jose | AM | 42.4 | D | 43.1 | D | 49.6 | D | 11.8 | 0.103 | |
| | | | PM | 43.5 | D | 43.8 | D | 43.9 | D | 1.0 | 0.007 | |
| 27 | I-280 EB off-ramp and Moorpark Avenue * | San Jose | AM | 11.8 | B | 11.8 | B | 12.3 | B | 0.2 | 0.037 | |
| | | | PM | 13.5 | B | 13.6 | B | 13.7 | B | 0.1 | 0.019 | |
| 28 | Winchester Boulevard and Williams Road | San Jose | AM | 35.5 | D | 35.5 | D | 35.8 | D | 0.5 | 0.032 | |
| | | | PM | 36.2 | D | 36.1 | D | 35.9 | D | -0.6 | 0.016 | |
| 29 | Winchester Boulevard and Payne Avenue | San Jose | AM | 38.6 | D | 38.5 | D | 38.5 | D | 0.1 | 0.023 | |
| | | | PM | 38.5 | D | 38.5 | D | 38.2 | D | -0.6 | 0.016 | |
| 30 | I-880 NB Ramps and Stevens Creek Boulevard | San Jose | AM | 22.4 | C | 22.6 | C | 24.1 | C | 1.7 | 0.110 | |
| | | | PM | 24.9 | C | 25.3 | C | 25.9 | C | 1.3 | 0.059 | |
| 31 | Delmas Avenue and San Carlos Street | San Jose | AM | 15.0 | B | 14.7 | B | 14.8 | B | 1.2 | 0.218 | |
| | | | PM | 22.0 | C | 37.0 | D | 38.2 | D | 22.1 | 0.309 | |
| 32 | Woz Way and San Carlos Street | San Jose | AM | 32.9 | C | 46.6 | D | 46.8 | D | 17.7 | 0.382 | |
| | | | PM | 35.0 | D | 151.1 | F | 151.6 | F | 140.8 | 0.678 | 1% |
| 33 | Bascom Avenue and I-880 (N) * | San Jose | AM | 11.2 | B | 11.5 | B | 11.4 | B | 0.3 | 0.010 | |
| | | | PM | 10.3 | B | 10.8 | B | 10.8 | B | 0.4 | 0.020 | |
| 34 | Bascom Avenue and I-880 (S) * | San Jose | AM | 9.2 | A | 9.3 | A | 9.2 | A | 0.2 | 0.009 | |
| | | | PM | 6.6 | A | 6.6 | A | 6.6 | A | 0.2 | 0.006 | |
| 35 | San Tomas Expressway and Williams Road | San Jose | AM | 64.6 | E | 68.4 | E | 71.0 | E | 11.1 | 0.025 | 32% |

FORTBAY

FILE NO: PDC16-036

PROJECT APPLICANT: FORTBAY, LLC

PROJECT LOCATION: 4300-4340 Stevens Creek Blvd.

Project Description: The project is a Planned Development Rezoning of a 9.9-acre site to allow a mixed-use commercial/residential project. The project includes demolition of the existing buildings, construction of two seven-story residential buildings (Building A and B) to allow up to 500 residential units with approximately 11,500 square feet of ground floor retail within Building A, a six-story approximately 244,000 square foot office building, and a six-story parking garage with up to 1,089 parking spaces. Additionally, the project may relocate an existing public right-of-way (Lopina Way), to the east property line; include two new driveways along Albany Drive to provide access to the proposed office parking garage and Building B; and relocate the existing driveways along Stevens Creek Boulevard. Residential parking would be provided within both residential buildings, and the existing Lopina Way right-of-way will be replaced with a landscaped promenade.

APPLE CAMPUS 2:

TIA traffic study for EIR:

<https://s3.amazonaws.com/Apple-Campus2-DEIR/Appendix-B-Transportation-Impact-Analysis.pdf>

Table V.I-9: Levels of Service for Intersections Operating Unacceptably under Existing Plus Project Conditions

| Intersection | Peak Hour ^a | Jurisdiction ^b | Inter-section Control | Existing Conditions | | Existing Plus Project Conditions | | | |
|---|------------------------|---------------------------|-----------------------|---------------------|------------------|----------------------------------|------------------|----------------------------------|------------------------------------|
| | | | | Delay ^c | LOS ^d | Delay ^c | LOS ^d | Change in Crit. V/C ^e | Change in Crit. Delay ^f |
| 21 Wolfe Road/I-280 Northbound Ramp | AM PM | CUP | Signal | 12.8 | B | 61.7 | E | +0.376 | +69.7 |
| | | | | 13.4 | B | 26.0 | C | +0.124 | +16.5 |
| 31 Tantau Avenue/Vallco Parkway ^g | AM PM | CUP | Signal | 24.1 | C | 55.1 | E+ | +0.454 | +48.8 |
| | | | | 27.8 | C | 23.5 | C | +0.149 | -6.1 |
| 36 Stevens Creek Boulevard/Calvert Drive/I-280 Ramps (West) | AM PM | CMP | Signal | 27.6 | C | 27.1 | C | +0.116 | -3.9 |
| | | | | 44.1 | D | 85.5 | F | +0.207 | +78.5 |
| 52 Stevens Creek Boulevard/San Tomas Expressway | AM PM | CMP | Signal | 51.2 80.5 | D- F | 51.5 82.0 | D- F | +0.004 +0.007 | +0.5 +2.8 |

Notes:

^a AM = morning peak hour; PM = afternoon peak hour

^b Intersection Jurisdictions: CUP = City of Cupertino Intersection (LOS D threshold); CMP = CMP Intersection (LOS E threshold)

^c Whole intersection weighted average control delay expressed in seconds per vehicle

^d LOS = Level of Service

^e Change in the critical volume-to-capacity ratio (V/C) between Existing and Existing Plus Project Conditions

^f Change in critical movement delay between Existing and Existing Plus Project Conditions

^g It should be noted that the delay would improve during the PM peak hour due to the project proposed improvement on the eastbound approach of the intersection (convert eastbound through lane to shared left-turn/through lane).

Bold indicates unacceptable intersection operations. **Bold and highlighted** indicates significant impacts.

Source: Fehr & Peers, May 2013.

The addition of project traffic would exacerbate unacceptable LOS F operations at the intersection of Stevens Creek Boulevard/San Tomas Expressway in the PM peak hour under Existing Plus Project Conditions. However, the critical delay is not projected to increase by more than 4 seconds (2.8 seconds) and the critical V/C ratio is not projected to increase by more than 0.01 (0.007) between the Existing and Existing Plus Project scenarios; therefore the project is considered to have a less-than-significant impact at the Stevens Creek Boulevard/San Tomas Expressway intersection based on VTA's impact criteria.

The proposed project would result in significant intersection impacts under Existing plus Project Conditions, as discussed below.

The project would exacerbate unacceptable conditions or cause unacceptable operating conditions at the following intersections, and these changes would be considered a significant impact.

- Int. 21. Wolfe Road/I-280 Northbound Ramps (Cupertino)
- Int. 31. Tantau Avenue/Vallco Parkway (Cupertino)
- Int. 36. Stevens Creek Boulevard/Calvert Drive/I-280 Ramps (west) (CMP)

Table V.I-12: Levels of Service for Intersections Operating Unacceptably under Cumulative Plus Project Conditions

| Intersection | Peak Hour ^a | Jurisdiction ^b | Intersection Control | Cumulative Conditions | | Cumulative Plus Project Conditions | | | |
|--|------------------------|---------------------------|----------------------|-----------------------|------------------|------------------------------------|------------------|----------------------------------|------------------------------------|
| | | | | Delay ^c | LOS ^d | Delay ^c | LOS ^d | Change in Crit. V/C ^e | Change in Crit. Delay ^f |
| 3 Stevens Creek Boulevard/Stelling Road | AM PM | CUP | Signal | 44.3 62.2 | D E | 44.4 62.7 | D E | +0.002 +0.005 | +0.1 +0.8 |
| 5 De Anza Boulevard/Homestead Road | AM PM | CUP | Signal | 45.6 61.4 | D E | 46.5 64.2 | D E | +0.002 +0.014 | +0.2 +4.0 |
| 8 De Anza Boulevard/Stevens Creek Blvd | AM PM | CUP | Signal | 40.0 58.6 | D E+ | 40.4 62.5 | D E | +0.015 +0.047 | +0.9 +11.3 |
| 9 De Anza Boulevard/McClellan Road | AM PM | CUP | Signal | 31.2 61.0 | C E | 31.4 62.7 | C E | +0.020 +0.012 | +0.3 +2.6 |
| 15 Wolfe Road/Fremont Avenue | AM PM | SUN | Signal | 46.4 58.0 | D E+ | 47.3 60.4 | D E | +0.021 +0.033 | +0.4 +3.1 |
| 21 Wolfe Road/I-280 Northbound Ramps | AM PM | CUP | Signal | 13.3 15.7 | B B | 69.9 32.1 | E C- | +0.389 +0.092 | +82.7 +20.9 |
| 23 Wolfe Road/Vallco Parkway | AM PM | CUP | Signal | 25.9 64.6 | C E | 31.3 93.9 | C- F | +0.159 +0.117 | +6.9 +42.7 |
| 27 Tantau Avenue/Homestead Road | AM PM | CUP | Signal | 36.3 36.9 | D+ D+ | 64.7 49.9 | E D | +0.350 +0.204 | +37.8 +13.9 |
| 31 Tantau Avenue/Vallco Parkway | AM PM | CUP | Signal | 28.7 35.3 | C D+ | 56.8 35.4 | E+ D+ | +0.453 +0.170 | +49.1 +0.9 |
| 32 Tantau Avenue/Stevens Creek Blvd | AM PM | CUP | Signal | 41.4 52.1 | D D- | 48.6 83.4 | D F | +0.135 +0.148 | +11.4 +48.0 |
| 36 Stevens Creek Blvd/Calvert Drive/I-280 Ramps (West) | AM PM | CMP | Signal | 28.2 98.1 | C F | 29.3 151.4 | C F | +0.144 +0.216 | +3.4 +106.0 |
| 40 Stevens Creek Blvd/Lawrence Ex Ramps (east) | AM PM | CMP | Signal | 43.7 33.8 | D C- | 84.6 36.3 | F D+ | +0.188 +0.043 | +54.8 +2.2 |
| 41 Lawrence Expressway/I-280 SB Ramps | AM PM | CMP | Signal | 55.1 74.8 | E+ F | 76.3 141.7 | E- F | +0.084 +0.155 | +27.1 +68.0 |
| 52 Stevens Creek Blvd/San Tomas Expressway | AM PM | CMP | Signal | 55.8 101.8 | E+ F | 56.5 103.1 | E+ F | +0.006 +0.005 | +1.0 +2.4 |

Notes:

- ^a AM = morning peak hour; PM = afternoon peak hour
- ^b Intersection Jurisdictions: CUP = City of Cupertino Intersection (LOS D threshold, except at #8, LOS E+); SUN = City of Sunnyvale Intersection (LOS D threshold); CMP = CMP Intersection (LOS E threshold)
- ^c Whole intersection weighted average control delay expressed in seconds per vehicle
- ^d LOS = Level of Service
- ^e Change in the critical volume-to-capacity ratio (V/C) between Cumulative and Cumulative Plus Project Conditions
- ^f Change in critical movement delay between Cumulative and Cumulative Plus Project Conditions

Bold indicates unacceptable intersection operations. **Bold and highlighted** indicates significant impacts.

Source: Fehr & Peers, May 2013.

At four intersections (intersection numbers 3, 9, 15, and 52) the critical delay during the PM peak hour is not projected to increase by more than 4 seconds and the critical V/C ratio is not projected to increase by more than 0.01 between the Cumulative and Cumulative Plus Project scenarios; therefore the project would have a less-than-significant impact at the #3 Stevens Creek Boulevard/Stelling

| APPENDIX E APPROVED, NOT OCCUPIED AND PENDING PROJECTS | | | | | | | |
|---|--------------------|---|-------|-------|--------------------|-------|-------|
| Project Name | Land Use | AM Peak Hour Trips | | | PM Peak Hour Trips | | |
| | | In | Out | Total | In | Out | Total |
| Approved and Built-Not Occupied Projects (c. January 2013) | | | | | | | |
| Downtown Sunnyvale Area Projects | Mixed Use | 565 | 352 | 917 | 526 | 771 | 1,297 |
| North Santa Clara Area Projects | Mixed Use | 7,180 | 1,601 | 8,781 | 2,273 | 6,382 | 8,655 |
| Valico South Area Projects | Mixed Use | 235 | 201 | 436 | 584 | 576 | 1,160 |
| 10212 and 10165 N. De Anza Blvd. | Retail, Hotel | 51 | 36 | 87 | 50 | 54 | 104 |
| Villa Serra | Condominiums | <i>Project Traffic Assignments Taken Directly from Villa Serra TIA</i> | | | | | |
| PW Market | Retail | <i>Project Traffic Assignments Taken Directly from PW Market TIA</i> | | | | | |
| 19770 Stevens Creek Blvd | Retail | 20 | 13 | 33 | 58 | 63 | 121 |
| De Anza College Expansion | Junior College | 892 | 88 | 980 | 728 | 392 | 1120 |
| 10100 N. Tantau Avenue | Retail | 35 | 38 | 73 | 30 | 23 | 53 |
| Cupertino Village | Retail | 34 | 22 | 56 | 74 | 80 | 154 |
| Oaks Shopping Center | Mixed Use | 119 | 59 | 178 | 141 | 214 | 355 |
| 900 Kiely Boulevard | Mixed Use | 79 | 313 | 392 | 312 | 167 | 479 |
| Carden Academy - 2499 Homestead Rd | Private School | 124 | 101 | 225 | 71 | 79 | 150 |
| Main Street Cupertino | Mixed Use | 492 | 190 | 682 | 564 | 592 | 1,256 |
| Crossroads | Mixed Use | 106 | 82 | 188 | 217 | 206 | 422 |
| Biltmore | Mixed Use | -2* | 32 | 30 | 13 | 6 | 19 |
| 3175 El Camino Real | Apartments | 14 | 55 | 69 | 59 | 32 | 91 |
| 5403 Stevens Creek Boulevard | Office | 475 | 65 | 540 | 85 | 414 | 499 |
| Kaiser - 3800 Homestead Road | Medical Offices | 272 | 73 | 345 | 115 | 310 | 425 |
| Valley Fair Expansion | Shopping Mall | 291 | 186 | 477 | 1,124 | 1,170 | 2,294 |
| Apple Cafeteria | Cafeteria | 11 | 11 | 22 | 5 | 4 | 9 |
| Cupertino Bay Club | Health Club | 34 | 43 | 77 | 3 | -42 | -39 |
| City of San Jose Projects | Various | <i>Project Traffic Assignments Taken Directly from City of San Jose <u>Approved Trip Database</u></i> | | | | | |
| Pending Projects (c. January 2013) | | | | | | | |
| Valico South Area Projects | Retail, Restaurant | 242 | 154 | 396 | 804 | 805 | 1,609 |

| | | | | | | | |
|---|--------------|----|-----|-----|-----|----|-----|
| Saich Way Station | Mixed Use | 34 | 21 | 55 | 23 | 23 | 46 |
| 3515 Monroe Street | Apartments | 43 | 172 | 215 | 166 | 89 | 255 |
| 2645 El Camino Real | Apartments | 20 | 80 | 100 | 82 | 44 | 126 |
| 2585 El Camino Real | Condominiums | 6 | 27 | 33 | 25 | 13 | 38 |
| Downtown Sunnyvale Area Projects | Apartments | 16 | 9 | 25 | 16 | 9 | 25 |
| * Taken as 0 trips for analysis | | | | | | | |
| Sources: City of Cupertino Approved and Pending Projects List, City of Sunnyvale Approved and Pending Projects List, City of Santa Clara Approved and Pending Projects List, City of San Jose Approved Projects Count Database, Fehr & Peers, 2012. | | | | | | | |

| LOS Comparison for San Tomas Expressway and Stevens Creek Boulevard | | | | | |
|---|----------------------|-------------------------|-------------------------|----------------------|----------------------|
| | | Existing AM LOS/Date | Existing PM LOS/Date | Cumulative AM LOS | Cumulative PM LOS |
| Apple Campus 2 | May 31, 2013 | D-/2011 | F/2011 | E+ | F |
| Santana Row Lots 9 & 17 Development | November 12, 2014 | D/2/26/2013 | E/9/11/2012 | E | E |
| Santana West | June 14, 2016 | F/5/27/2015 | E/9/24/2014 | F | E |

CITY PLACE SANTA CLARA (UNDER CEQA LITIGATION)

Traffic study from DEIR:

Chapter 03-03 - Transportation, Part 1 (PDF) <http://santaclaraca.gov/home/showdocument?id=15536>

Chapter 03-03 - Transportation, Part 2 (PDF) <http://santaclaraca.gov/home/showdocument?id=15538>

Table 3.3-49. Cumulative with-Project Signalized Intersection LOS Results

| ID | Intersection | Jurisdiction/ CMP ^a | Peak Hour ^b | Existing ^c | | Cumulative ^d | | Cumulative with Project | | | | |
|-----|---|-----------------------------------|---------------------------|-----------------------|------------------|-------------------------|------------------|-------------------------|------------------|-----------------------------------|-------------------------------------|-------------------------|
| | | | | Delay ^e | LOS ^f | Delay ^e | LOS ^f | Delay ^e | LOS ^f | Δ in Crit. V/C ^g | Δ in Crit. Delay ^h | Project Contribution |
| 125 | San Tomas Expressway/Stevens Creek Boulevard ⁱ | Santa Clara County (CMP) | AM | 63.5 | E | >180 | F | >180 | F | 0.033 | 14.2 | 1.6% |
| | | | PM | 59.9 | E | 142.6 | F | 147.8 | F | -0.104 | 11.2 | 2.0% |

Table 3.3-49. Cumulative with-Project Signalized Intersection LOS Results

| ID | Intersection | Jurisdiction/ CMP ^a | Peak Hour ^b | Existing ^c | | Cumulative ^d | | Cumulative with Project | | | | |
|----|--------------|-----------------------------------|---------------------------|-----------------------|------------------|-------------------------|------------------|-------------------------|------------------|-----------------------------------|-------------------------------------|-------------------------|
| | | | | Delay ^e | LOS ^f | Delay ^e | LOS ^f | Delay ^e | LOS ^f | Δ in Crit. V/C ^g | Δ in Crit. Delay ^h | Project Contribution |

Notes:

- a. CMP = Congestion Management Program intersection (VTA).
- b. AM = morning peak hour, PM = evening peak hour
- c. "Existing" presents the delay and LOS for intersections, using existing geometry plus any approved and funded transportation projects and existing traffic counts plus project trips from projects that are currently under construction (see Appendix 3.3-B and Appendix 3.3-D).
- d. "Cumulative" presents the delay and LOS for intersections, using 2040 geometry and traffic volumes estimated using the VTA travel demand model.
- e. Whole intersection weighted average control delay expressed in seconds per vehicle, calculated using methods described in the 2000 *Highway Capacity Manual*, with adjusted saturation flow rates to reflect Santa Clara County conditions for signalized intersections.
- f. LOS = Level of service. LOS calculations conducted using the TRAFFIX analysis software packages, which applies the methods described in the 2000 *Highway Capacity Manual*.
- g. Change in critical volume-to-capacity ratio between cumulative without-Project and cumulative with-Project conditions.
- h. Change in average critical movement delay between cumulative without-Project and cumulative with-Project conditions.
- i. Geometry has been modified to include the improvements for projects under construction and planned under Cumulative conditions as outlined in Appendix 3.3-D.
- j. An LOS D threshold is used for study intersections within San José, including CMP designated intersections. Santa Clara County intersections in San José use an LOS E threshold.
- k. Maximum left-/right-turn lane or through-lane queuing in excess of available/potential storage at driveway entrances (intersections #10, 11, 12, 61, 62, 85, 86, and 87) during the morning and evening peak hours will most likely result in a worse LOS than calculated. These queues would require multiple traffic signal cycles to clear and could extend upstream and affect nearby intersections.

Bold text indicates unacceptable operations according to the jurisdiction's LOS standard.

Bold and highlighted indicates a significant impact.

Source: Fehr & Peers, September 2015.

| Street | | | | | | | | | | | | |
|--------|---------------------------|--------------|----|------|---|-------|---|-------|---|-------|------|------|
| 55 | Lawrence | Santa Clara | AM | 73.5 | E | 135.3 | F | 144.0 | F | 0.047 | 15.4 | 2.3% |
| | Expressway/Homestead Road | County (CMP) | PM | 56.7 | E | 168.8 | F | >180 | F | 0.076 | 33.6 | 2.9% |

Table 3.3-49. Cumulative with-Project Signalized Intersection LOS Results

| ID | Intersection | Jurisdiction/ CMP ^a | Peak Hour ^b | Existing ^c | | Cumulative ^d | | Cumulative with Project | | | | |
|----|---|-----------------------------------|---------------------------|-----------------------|------------------|-------------------------|------------------|-------------------------|------------------|-----------------------------------|-------------------------------------|-------------------------|
| | | | | Delay ^e | LOS ^f | Delay ^e | LOS ^f | Delay ^e | LOS ^f | Δ in Crit. V/C ^g | Δ in Crit. Delay ^h | Project Contribution |
| 56 | Lawrence Expressway/Pruneridge Avenue | Santa Clara County | AM PM | 62.5 48.5 | E D | 100.8 147.9 | F F | 110.2 159.5 | F F | 0.024 0.004 | 8.9 -1.2 | 2.4% 2.7% |
| 80 | San Tomas Expressway/Homestead Road ⁱ | Santa Clara County (CMP) | AM PM | 53.0 57.9 | D E | 144.4 109.4 | F F | 167.3 120.4 | F F | 0.083 0.045 | 37.3 17.1 | 2.4% 3.1% |
| 81 | San Tomas Expressway/Forbes Avenue ⁱ | Santa Clara County | AM PM | 26.4 24.3 | C C | 23.8 23.4 | C C | 29.2 35.2 | C D | 0.017 0.078 | 0.2 28.0 | 3.1% 3.6% |
| 82 | San Tomas Expressway/Pruneridge Avenue ⁱ | Santa Clara County | AM PM | 69.1 50.8 | E D | >180 82.0 | F F | >180 87.5 | F F | 0.049 0.021 | 24.1 8.7 | 2.5% 3.3% |
| 83 | San Tomas Expressway/Saratoga Avenue ⁱ | Santa Clara County (CMP) | AM PM | 73.7 55.4 | E E | 116.8 120.8 | F F | 132.1 130.7 | F F | 0.052 -0.008 | 24.6 -11.0 | 2.4% 3.0% |

SAN JOSE ENVISION 2040 GENERAL PLAN TIA FOR THE DEIR

<http://www.sanjoseca.gov/DocumentCenter/View/2198>

- The broad-brush program-level traffic study shows 73% of Cupertino’s lane miles are impacted by San Jose’s GP. Stevens Creek Blvd. will be deficient.
- San Jose indicates they altered their policy to no longer driver comfort and convenience, yet this is not holding up to CEQA scrutiny due to other concerns such as greenhouse gas emissions.

adjacent jurisdiction are attributable to San Jose. The 25 percent threshold represents what would be a noticeable change in traffic by San José General Plan.

**TABLE 15
 ADJACENT JURISDICTION IMPACTS SUMMARY
 (BASED ON AM PEAK 4-HOUR PERIOD VOLUMES)**

| City | Existing Conditions | | | Proposed General Plan Update | | |
|----------------------------------|--|--|---|---|--|---|
| | Total Lane Miles with Deficient V/C Ratio ¹ | Impacted Lane Miles (San Jose traffic ≥ 10% of volume) | Percent of Impacted Lane Miles Affected | Total Lane Miles with Deficient V/C Ratio | Impacted Lane Miles (San Jose traffic ≥ 10% of volume) | Percent of Impacted Lane Miles Affected |
| Campbell | 0.13 | 0.13 | 100 | 0.42 | 0.42 | 100 |
| Cupertino | 0.67 | 0.67 | 100 | 7.52 | 5.45 | 73 |
| Gilroy | 0.00 | 0.00 | 0 | 1.65 | 1.65 | 100 |
| Los Altos | 0.78 | 0.78 | 100 | 2.52 | 2.52 | 100 |
| Los Altos Hills | 0.17 | 0.02 | 14 | 3.61 | 3.00 | 83 |
| Los Gatos | 0.12 | 0.12 | 100 | 0.90 | 0.90 | 100 |
| Milpitas | 0.73 | 0.73 | 100 | 22.17 | 22.17 | 100 |
| Monte Sereno | 0.00 | 0.00 | 0 | 0.00 | 0.00 | 0 |
| Morgan Hill | 0.00 | 0.00 | 0 | 1.97 | 1.97 | 100 |
| Mountain View | 0.72 | 0.65 | 90 | 11.76 | 10.83 | 92 |
| Palo Alto | 0.48 | 0.16 | 33 | 7.58 | 4.76 | 63 |
| Santa Clara | 0.17 | 0.17 | 100 | 1.95 | 1.95 | 100 |
| Saratoga | 1.26 | 1.26 | 100 | 5.71 | 5.71 | 100 |
| Sunnyvale | 0.00 | 0.00 | 0 | 1.45 | 1.42 | 98 |
| Caltrans Facilities ² | 5,093.26 | 4,391.72 | 86 | 4,951.58 | 4,584.04 | 93 |
| Santa Clara County Facilities | 3.01 | 3.01 | 100 | 21.33 | 21.33 | 100 |

Notes: Impacts are identified in **bold** text.

1 Lane miles of less than 0.5 were rounded to 0. For evaluating significant impacts, if impacted lane miles attributable to the City are less than 0.5, impacts are considered *less-than-significant*.

2 Includes all Caltrans facilities within Santa Clara County.

Source: Fehr & Peers, 2010.

The following roadways were analyzed to determine impacts presented in **Table 15**. CMP system roadways are identified in *italicized* text. Minor arterials were also analyzed to determine impacts presented in **Table 15**; however, they are not specifically identified below.

- **Campbell:** *Hamilton Avenue*, Campbell Avenue, Winchester Boulevard
- **Cupertino:** Homestead Road, Foothill Boulevard, Bubb Road, *Stevens Creek Boulevard*, Pruneridge Avenue, North Wolfe Road, *De Anza Boulevard*, Stelling Road
- **Gilroy:** Monterey Street, Leavesley Road, Hecker Pass Highway, East 10th Street, Monterey Street, East Luchessa Avenue

**TABLE 14
 TRANSIT PRIORITY CORRIDOR IMPACT SUMMARY**

| Roadway Segment | Cross Street | Cross Street | Distance (Miles) | AM Peak Hour Travel Speed (MPH) | |
|-----------------------------------|-------------------|------------------|------------------|---------------------------------|----------------------------------|
| | | | | Existing Conditions | Proposed General Plan Conditions |
| Second St. | San Carlos St. | St. James St. | 0.6 | 11.5 | 11.4 |
| Alum Rock Ave. | Capitol Ave. | US 101 | 3.4 | 20.0 | 12.9 |
| Camden Ave. | SR 17 | Meridian Ave. | 5.2 | 24.0 | 18.0 |
| Capitol Ave. | S. Milpitas Blvd. | Capital Expwy. | 7.6 | 24.1 | 17.5 |
| Hillsdale Ave./ Capitol Expwy. | Capitol Ave. | Meridian Ave. | 19.8 | 28.6 | 23.8 |
| E. Santa Clara St. | US 101 | Delmas Ave. | 4.6 | 20.4 | 16.2 |
| Meridian Ave. | Park Ave. | Blossom Hill Rd. | 12.2 | 25.5 | 19.6 |
| Monterey Rd. | Keyes St. | Metcalf Rd. | 18.2 | 24.6 | 17.0 |
| First St. | CA 237 | Keyes St. | 17.2 | 22.6 | 13.4 |
| San Carlos St. | Bascom Ave. | SR 87 | 4.2 | 24.3 | 19.7 |
| Stevens Creek Blvd. | Bascom Ave. | Tantau Ave. | 8.2 | 23.1 | 16.8 |
| Tasman Dr. | Lick Mill Blvd. | McCarthy Ln. | 5.0 | 24.3 | 9.5 |
| The Alameda | Alameda Wy. | Delmas Ave. | 4.2 | 22.6 | 14.2 |
| W. San Carlos St. | SR 87 | Second St. | 1.3 | 19.9 | 17.5 |

Note: The values shown have been rounded for presentation purposes.
 Source: Fehr & Peers, 2010.

g. Adjacent Jurisdictions

Operations of adjacent jurisdiction roadway segments outside the City of San José boundaries were reviewed to determine the potential impacts of the proposed General Plan Update. **Table 15** summarizes these results.

Given changes in land use, trip patterns, and behavior between the two scenarios, vehicular traffic on roadway segments within several jurisdictions is projected to increase with the proposed General Plan Update land uses as compared to existing conditions.

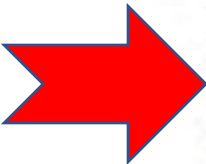
A roadway segment within adjacent jurisdictions is considered to be deficient if the future volume-to-capacity (V/C) ratio is 1.0 or greater during the AM peak 4-hour period in the year 2035. Given the large population and employment projected to reside in the region, and the complex travel patterns created by the large population and employment numbers, only a portion of trips on any roadway segment in adjacent jurisdictions are expected to have originated from a resident or job within City of San José. Therefore, a deficient roadway segment in adjacent jurisdictions is attributed to City of San José General Plan when the trips from the City are 10 (ten) percent or more on the deficient segment. The impact to an adjacent jurisdiction is considered significant when 25 percent or more of total deficient lane miles in that

Adjacent Jurisdiction Impacts

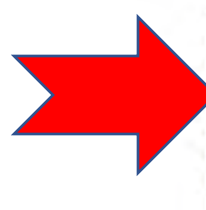
Impact TRANS-4. Motor vehicle traffic and congestion resulting from implementation of the proposed General Plan Update would increase on roadway segments outside of the City of San Jose. (Significant)

Roadways within adjacent jurisdictions are considered to be deficient if the volume to capacity (V/C) ratio under proposed General Plan Update conditions is 1.0 or greater, and is considered an impact when the trips from the City are 10 (ten) percent or more of the total traffic on these roadways. The impact is considered significant when the impacted roadway lane miles are 25 percent of the deficient lane miles.

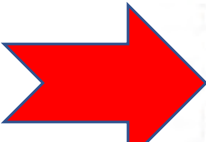
With implementation of the proposed General Plan Update, 15 adjacent jurisdictions would have impacts on greater than one lane mile of roadways. These impacts are the aggregate of the major roadways within the adjacent jurisdiction boundaries of Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Mountain View, Palo Alto, Saratoga, Sunnyvale, Milpitas, Morgan Hill, Santa Clara, Caltrans facilities, and Santa Clara County facilities.



The traditional response to mitigate significant traffic-related impacts, or increases in automobile trips on street segments, is to increase roadway capacity by providing additional lanes or facilities. In Santa Clara County, widening roads to provide additional travel lanes is no longer feasible in most cases because available right-of-way is already constrained and utilized by other land uses or transportation facilities. Dedication of additional land to paved roadways decreases landscaping, eliminates street trees/bus stops/bicycle lanes, reduces sidewalk widths, increases intersection sizes, and moves vehicular traffic (with associated noise and pollution) closer to residences and businesses.



The proposed General Plan Update recognizes and acknowledges that there will be increased levels of congestion resulting from new development, both within San Jose and elsewhere in the Bay Area. This reflects a change in policy for the City to acknowledge that transportation planning based solely on roadway traffic operations (i.e. analysis based on traffic level of service and volume to capacity ratios), which considers only driver comfort and convenience, is not desirable since it fails to acknowledge other users of the circulation system and other community values. In evaluating the roadway system, an impact to adjacent roadways may be desired when balanced against other community values related to resource protection, social equity, economic development, and consideration of pedestrians, bicyclists, and transit users.



Widening a road to achieve a lower volume to capacity ratio results in higher expenditure of infrastructure dollars for wider roadways that do not necessarily serve all users of the circulation system. Roadway widening also provides capacity that is excess for the majority of the day outside the peak periods. Furthermore wider roadways, in general, are inconsistent with goals promoting a more livable city, cause greater impacts to biological resources and discourage roadway use by pedestrians and bicyclists. In addition, mitigating impacts to affected roadway segments can have high infrastructure costs.

The proposed General Plan update contains several policies and actions that seek to reduce automobile travel. They include TR 1.1 through TR-1.9, TR 2.1 through 2.11, TR-3.1 through 3.4, TR-4.1 through 4.4, and TR-8.1 through 8.4. Implementation of these policies and actions would help reduce the magnitude of traffic impacts on adjacent jurisdictions.

The proposed General Plan update also includes an implementing action to encourage coordination with other jurisdictions:

- CR-1.8 **Interagency Participation and Coordination.** Actively coordinate with regional transportation, land use planning, and transit agencies to ensure development and maintenance of a transportation network with complementary land uses that encourage travel by bicycle, walking, and transit, and ensure regional greenhouse gas emission standards are met

Based on the considerations above, no mitigation measures are feasible to reduce adjacent jurisdiction impacts to a less than significant level. With adoption of the new policies and implementing actions contained in the General Plan Update, this impact would be reduced but could remain significant. Therefore, impacts to adjacent jurisdictions would remain **significant and unavoidable**.

Cupertino presents that 11 of 16 intersections would operate at unacceptable level of service due to the proposed project. 9 out of 16 intersections are outside of Cupertino jurisdiction.

Tuesday, March 20, 2012

Cupertino City Council

Jennifer Griffin expressed her concern that the vacation of Finch Avenue would be determined before an EIR is completed or permits for Main Street have been pulled. She said that she felt Main Street and the vacation of Finch Avenue should be separate items.

Director of Public Works Timm Borden said that the vacation would not be approved until Main Street is approved and that Council is only setting May 1 as the date for a public hearing to coincide with the hearing regarding Main Street.

Wong moved and Mahoney seconded to adopt Resolution No. 12-029 as amended with the correct hearing date of May 1. The motion carried unanimously.

SECOND READING OF ORDINANCES - None

PUBLIC HEARINGS - None

ORDINANCES AND ACTION ITEMS

13. Subject: Annual Status report of the General Plan and Housing Element
Recommended Action: Approve for submission to the California Department of Housing & Community Development (HCD) by April 1, 2012
Description: Review of the General Plan progress and program implementation as required by State Law

Community Development Director Aarti Shrivastava reviewed the staff report.

Jennifer Griffin said that developments such as Main Street, Biltmore, Rose Bowl, Apple, and the IHOP development are coming up. She noted that the General Plan says the City can't approve additional housing if road intersections can't maintain above a D grade level of service. She said she is concerned that Stevens Creek Blvd. will take the brunt of the traffic with these new developments. She urged Council to take a look at this when approving the projects.

Shrivastava explained that the General Plan does talk about maintaining a level of service D for all intersections. She said that this will be looked at during the environmental review of the projects. She noted that the City will review and get a chance to provide comments regarding the IHOP development, but since it's in a different city, they can only comment. She said that staff would make sure that none of Cupertino's intersections would be impacted above level service D when the projects are approved.

Wong moved and Mahoney seconded to approve the submission of the General Plan and Housing Element annual status report. The motion carried unanimously.

TRANSPORTATION AND TRAFFIC

Five (5) of the sixteen (16) intersections that would operate at an unacceptable level of service for at least one peak hour under the proposed Project were also predicted to operate at an unacceptable level of service under the No Project scenario.

The intersections that would operate at an unacceptable level of service are bolded and underlined in Table 4.13-13. All other study intersections would continue to operate at acceptable levels of service under the proposed Project conditions. The LOS calculation sheets are included in Appendix G, Transportation and Traffic Data, of this Draft EIR.

TABLE 4.13-13 PROPOSED PROJECT INTERSECTION LEVELS OF SERVICE TABLE

| # | Intersection | LOS Standard | Peak Hour | No Project | | Proposed Project | | | |
|----|---|--------------|-----------|-------------|-----------|------------------|----------|---------------------|-----------------------|
| | | | | Avg. Delay | LOS | Avg. Delay | LOS | Change in Crit. V/C | Change in Crit. Delay |
| 1 | SR 85 SB Ramps and Stevens Creek Blvd. ^a | D | AM | 29.2 | C | 31.9 | C | 0.127 | 4.6 |
| | | | PM | 29.1 | C | 32.2 | C- | 0.103 | 4.4 |
| 2 | SR 85 NB Ramps and Stevens Creek Blvd. ^a | D | AM | 51.1 | D- | 65.1 | E | 0.084 | 25.3 |
| | | | PM | 20.9 | C+ | 21.5 | C+ | 0.110 | 2.2 |
| 3 | Stelling Rd. and Stevens Creek Blvd. ^a | E+ | AM | 46.2 | D | 47.7 | D | 0.050 | -0.7 |
| | | | PM | 52.9 | D- | 88.2 | F | 0.240 | 71.7 |
| 4 | Sunnyvale-Saratoga Rd. and Fremont Ave. ^a | E | AM | 42.8 | D | 44.5 | D | 0.054 | 3.1 |
| | | | PM | 52.5 | D- | 63.0 | E | 0.075 | 17.6 |
| 5 | Sunnyvale-Saratoga Rd./De Anza Blvd. and Homestead Rd. ^a | D | AM | 51.2 | D- | 101.5 | F | 0.273 | 88.4 |
| | | | PM | 66.1 | E | 181.4 | F | 0.486 | 214.8 |
| 6 | De Anza Blvd. and I-280 NB Ramp ^a | D | AM | 46.4 | D | 100.0 | F | 0.393 | 170.6 |
| | | | PM | 71.7 | E | 162.2 | F | 0.623 | 274.1 |
| 7 | De Anza Blvd. and I-280 SB Ramp ^a | D | AM | 47.0 | D | 110.9 | F | 0.345 | 142.6 |
| | | | PM | 35.3 | D+ | 99.9 | F | 0.550 | 237.3 |
| 8 | De Anza Blvd. and Stevens Creek Blvd. ^a | E+ | AM | 45.8 | D | 53.6 | D- | 0.079 | 10.8 |
| | | | PM | 76.2 | E- | 160.4 | F | 0.445 | 188.9 |
| 9 | De Anza Blvd. and McClellan Rd./Pacifica Dr. | D | AM | 33.0 | C- | 39.3 | D | 0.138 | 9.3 |
| | | | PM | 70.7 | E | 108.8 | F | 0.153 | 57.3 |
| 10 | De Anza Blvd. and Bollinger Rd. ^a | E+ | AM | 44.0 | D | 51.4 | D- | 0.067 | 10.7 |
| | | | PM | 25.1 | C | 22.6 | C+ | 0.029 | -1.3 |
| 11 | De Anza Blvd. and SR 85 NB Ramp ^a | D | AM | 32.9 | C- | 37.6 | D+ | 0.099 | 5.9 |
| | | | PM | 16.4 | B | 27.8 | C | 0.130 | 18.2 |
| 12 | De Anza Blvd. and SR 85 SB Ramp ^a | D | AM | 23.9 | C | 26.2 | C | 0.063 | 3.6 |
| | | | PM | 22.2 | C+ | 29.5 | C | 0.148 | 13.7 |
| 13 | Blaney Ave. and Homestead Rd. | D | AM | 34.9 | C- | 52.9 | D- | 0.205 | 26.5 |
| | | | PM | 16.4 | B | 25.0 | C | 0.187 | 10.7 |
| 14 | Wolfe Rd. and El Camino Real (SR 82) ^b | E | AM | 47.6 | D | 48.0 | D | 0.016 | 0.7 |
| | | | PM | 51.8 | D- | 53.2 | D- | 0.027 | 1.4 |
| 15 | Wolfe Rd. and Fremont Ave. ^c | E | AM | 45.8 | D | 47.4 | D | 0.045 | -1.5 |
| | | | PM | 51.8 | D- | 59.3 | E+ | 0.060 | 7.1 |

TRANSPORTATION AND TRAFFIC

TABLE 4.13-13 PROPOSED PROJECT INTERSECTION LEVELS OF SERVICE TABLE

| # | Intersection | LOS Standard | Peak Hour | No Project | | Proposed Project | | | |
|----|--|--------------|-----------|-------------|-----------|------------------|-----------|---------------------|-----------------------|
| | | | | Avg. Delay | LOS | Avg. Delay | LOS | Change in Crit. V/C | Change in Crit. Delay |
| 16 | Wolfe Rd. and Homestead Rd. | D | AM | 36.3 | D+ | 39.6 | D | 0.094 | 4.7 |
| | | | PM | 51.9 | D- | 105.2 | F | 0.224 | 77.2 |
| 17 | Wolfe Rd. and Pruneridge Ave. | D | AM | 17.0 | B | 32.0 | C | 0.204 | 18.8 |
| | | | PM | 26.9 | C | 43.2 | D | 0.118 | 20.6 |
| 18 | Wolfe Rd. and I-280 NB Ramp ^a | D | AM | 88.3 | F | 113.2 | F | 0.100 | 44.0 |
| | | | PM | 36.5 | D+ | 70.3 | E | 0.146 | 57.9 |
| 19 | Wolfe Rd. and I-280 SB Ramp ^a | D | AM | 38.9 | D+ | 86.0 | F | 0.175 | 69.9 |
| | | | PM | 24.7 | C | 85.7 | F | 0.230 | 84.9 |
| 20 | Wolfe Rd. and Vallco Pkwy | D | AM | 26.4 | C | 31.1 | C | 0.113 | 5.9 |
| | | | PM | 51.2 | D- | 50.1 | D | -0.011 | -3.4 |
| 21 | Wolfe Rd./Miller Ave. and Stevens Creek Blvd. ^a | D | AM | 46.5 | D | 57.8 | E+ | 0.114 | 16.5 |
| | | | PM | 72.2 | E | 54.6 | D- | -0.072 | -22.4 |
| 22 | Miller Ave. and Bollinger Rd. ⁸ | D | AM | 42.0 | D | 42.6 | D | 0.019 | 1.0 |
| | | | PM | 44.2 | D | 49.3 | D | 0.046 | 8.1 |
| 23 | Finch Ave. and Stevens Creek Blvd. | D | AM | 26.6 | C | 23.1 | C | 0.195 | -1.1 |
| | | | PM | 41.8 | D | 46.6 | D | 0.032 | 3.5 |
| 24 | North Tantau Ave./Quail Ave. and Homestead Rd. | D | AM | 49.6 | D | 67.7 | E | 0.130 | 28.4 |
| | | | PM | 43.6 | D | 56.7 | E+ | 0.107 | 18.5 |
| 25 | North Tantau Ave. and Pruneridge Ave. | D | AM | 29.2 | C | 31.1 | C | 0.050 | -8.0 |
| | | | PM | 16.6 | B | 17.4 | B | 0.032 | 1.3 |
| 26 | North Tantau Ave. and Vallco Pkwy | D | AM | 29.2 | C | 31.4 | C | 0.135 | 13.9 |
| | | | PM | 34.6 | C- | 37.5 | D+ | 0.034 | 2.8 |
| 27 | Tantau Ave. and Stevens Creek Blvd. | D | AM | 47.4 | D | 58.1 | E+ | 0.134 | 15.2 |
| | | | PM | 56.8 | E+ | 85.3 | F | 0.136 | 41.7 |
| 28 | Lawrence Expressway and Homestead Rd. ^d | E | AM | 59.0 | E+ | 62.9 | E | 0.022 | 6.5 |
| | | | PM | 58.0 | E+ | 66.9 | E | 0.032 | 10.7 |
| 29 | I-280 SB Ramp and Stevens Creek Blvd. ^e | E | AM | 34.8 | C- | 63.1 | E | 0.136 | 42.8 |
| | | | PM | 84.9 | F | 118.3 | F | 0.159 | 70.4 |
| 30 | Agilent Tech Drive Way and Stevens Creek Blvd. ^f | D | AM | 52.9 | D- | 82.9 | F | 0.096 | 37.6 |
| | | | PM | 29.8 | C | 30.1 | C | -0.008 | -0.1 |
| 31 | Lawrence Expressway SB Ramp and Stevens Creek Blvd. ^d | E | AM | 72.8 | E | 112.4 | F | 0.126 | 52.3 |
| | | | PM | 29.9 | C | 29.9 | C | -0.012 | -0.6 |
| 32 | Lawrence Expressway NB Ramp and Stevens Creek Blvd. ^d | E | AM | 53.9 | D- | 89.4 | F | 0.142 | 52.3 |
| | | | PM | 30.1 | C | 29.8 | C | 0.016 | 0.7 |
| 33 | Lawrence Expressway and Calvert Dr./I-280 SB Ramp ^d | E | AM | 48.6 | D | 54.3 | D- | 0.026 | 7.0 |
| | | | PM | 50.6 | D | 65.1 | E | 0.062 | 21.9 |
| 34 | Lawrence Expressway and Bollinger Rd./Moorpark Ave. ^d | E | AM | 60.5 | E | 62.8 | E | 0.014 | 3.5 |
| | | | PM | 46.0 | D | 46.0 | D | -0.005 | 0.5 |

TRANSPORTATION AND TRAFFIC

TABLE 4.13-13 PROPOSED PROJECT INTERSECTION LEVELS OF SERVICE TABLE

| # | Intersection | LOS Standard | Peak Hour | No Project | | Proposed Project | | | |
|----|--|--------------|-----------|------------|-----|------------------|-----|---------------------|-----------------------|
| | | | | Avg. Delay | LOS | Avg. Delay | LOS | Change in Crit. V/C | Change in Crit. Delay |
| 35 | De Anza Blvd. and Rainbow Dr. (south) | D | AM | 20.2 | C+ | 19.5 | B- | 0.036 | -0.4 |
| | | | PM | 19.2 | B- | 18.8 | B- | 0.061 | 0.3 |
| 36 | Bubb Rd./Peninsula Blvd. and Stevens Creek Blvd. | D | AM | 31.0 | C | 31.9 | C | 0.107 | 2.3 |
| | | | PM | 31.1 | C | 33.8 | C- | 0.104 | 2.7 |
| 37 | North Stelling Rd./Hollenbeck Ave. and Homestead Rd. | D | AM | 38.5 | D+ | 39.9 | D | 0.072 | 4.8 |
| | | | PM | 43.6 | D | 44.4 | D | 0.036 | 2.9 |
| 38 | Blaney Ave. and Stevens Creek Blvd. | D | AM | 34.1 | C- | 40.9 | D | 0.194 | 11.9 |
| | | | PM | 40.0 | D | 43.5 | D | 0.115 | 14.4 |
| 39 | Foothill Blvd. and Stevens Creek Blvd. | D | AM | 48.7 | D | 48.9 | D | 0.011 | 1.8 |
| | | | PM | 25.2 | C | 26.3 | C | 0.024 | 0.4 |
| 40 | Stelling Rd. and McClellan Rd. | D | AM | 32.1 | C- | 32.4 | C- | -0.001 | 0.0 |
| | | | PM | 35.6 | D+ | 36.6 | D+ | 0.014 | 1.8 |
| 41 | Wolfe Rd. and Apple Campus Access ^h | D | AM | 18.9 | B- | 22.8 | C+ | 0.069 | 9.1 |
| | | | PM | 36.8 | D+ | 48.2 | D | 0.077 | 12.2 |

Notes: Notes: NB = northbound; SB = southbound; EB = eastbound; WB = westbound. **Bold and underlined** indicates a substandard level of service.

Bold, underlined, and shaded in gray indicates a significant project impact

a. This is a CMP intersection within the City of Cupertino. Cupertino applies its own standard of LOS D to CMP intersections.

b. This is a CMP intersection within the City of Sunnyvale. The CMP's standard of LOS E applies.

c. The City of Sunnyvale is the controlling jurisdiction for the intersection.

d. This is a CMP intersection on a County Expressway. The CMP and County's standard of LOS E applies.

e. This is a CMP intersection within the City of Santa Clara. The CMP's standard of LOS applies.

f. The City of Santa Clara is the controlling jurisdiction for the intersection.

g. The City of San Jose is the controlling jurisdiction for the intersection.

h. This is a future intersection.

As shown in Table 4.13-13, above, the proposed Project would result in *significant* impacts to seventeen (17) intersections during at least one of the peak hours.

- SR 85 Northbound Ramps and Stevens Creek Boulevard (#2): LOS E – AM Peak Hour
- Stelling Road and Stevens Creek Boulevard (#3): LOS F – PM Peak Hour
- Sunnyvale-Saratoga Road/De Anza Boulevard and Homestead Road (#5): LOS F – AM and PM Peak Hours
- De Anza Boulevard and I-280 Northbound Ramp (#6): LOS F – AM and PM Peak Hours
- De Anza Boulevard and I-280 Southbound Ramp (#7): LOS F – AM and PM Peak Hours
- De Anza Boulevard and Stevens Creek Boulevard (#8): LOS F – PM Peak Hour
- De Anza Boulevard and McClellan Road/Pacifica Drive (#9): LOS F – PM Peak Hour
- Wolfe Road and Homestead Road (#16): LOS F – PM Peak Hour
- Wolfe Road and I-280 Northbound Ramp (#18): LOS F – AM Peak Hour
- Wolfe Road and I-280 Southbound Ramp (#19): LOS F – AM and PM Peak Hours
- Stevens Creek Boulevard and Wolfe Road/Miller Avenue (#21): LOS E+ AM Peak Hour
- North Tantau Avenue/Quail Avenue and Homestead Road (#24): LOS E – AM Peak Hour and E+ – PM Peak Hour

TRANSPORTATION AND TRAFFIC

- Stevens Creek Boulevard and Tantau Avenue (#27): LOS F – PM Peak Hour
- Stevens Creek Boulevard and I-280 SB Ramps/Calvert Drive (#29): LOS F – PM Peak Hour
- Agilent Tech Drive Way and Stevens Creek Boulevard (#30): LOS F - AM Peak Hour
- Lawrence Expressway Southbound Ramp and Stevens Creek Boulevard (#31): LOS F – AM Peak Hour
- Stevens Creek Boulevard and Lawrence Expressway Northbound Ramp (#32): LOS F – AM Peak Hour

Mitigation Measures

Mitigation Measure TRAF-1: The City of Cupertino shall commit to preparing and implementing a Traffic Mitigation Fee Program to guarantee funding for roadway and infrastructure improvements that are necessary to mitigate impacts from future projects based on the then current City standards. As part of the preparation of the Traffic Mitigation Fee Program, the City shall also commit to preparing a "nexus" study that will serve as the basis for requiring development impact fees under AB 1600 legislation, as codified by California Code Government Section 66000 et seq., to support implementation of the proposed Project. The established procedures under AB 1600 require that a "reasonable relationship" or nexus exist between the traffic improvements and facilities required to mitigate the traffic impacts of new development pursuant to the proposed Project. The following examples of traffic improvements and facilities would reduce impacts to acceptable level of service standards and these, among other improvements, could be included in the development impact fees nexus study:

- **SR 85 Northbound Ramps and Stevens Creek Boulevard (#2):** An exclusive left-turn lane for the northbound leg of the intersection (freeway off-ramp) at the intersection of SR 85 and Stevens Creek Boulevard would result in one left-turn lane, one all-movement lane, and one right turn lane. The additional lane could be added within the existing Caltrans right-of-way.
- **Stelling Road and Stevens Creek Boulevard (#3):** The addition of a second exclusive left-turn lane for the eastbound leg of the intersection from Stevens Creek Boulevard to northbound Stelling Road, which could be accomplished by reworking the median. Right turns would share the bike lane.
- **Sunnyvale-Saratoga Road/De Anza Boulevard and Homestead Road (#5):** Widen De Anza Boulevard to four lanes in each direction or the installation of triple left-turn lanes.
- **De Anza Boulevard and I-280 Northbound Ramp (#6):** Restriping of De Anza Boulevard in the southbound direction to provide room for right turn vehicles to be separated from through traffic may be required. The bike lane would be maintained, and right turns would occur from the bike lane. The right turns would continue to be controlled by the signal and would need to yield to pedestrians. Painting a bike box at the front of the lane to provide space for bikes wait at red lights may enhance the bicycle experience.
- **De Anza Boulevard and Stevens Creek Boulevard (#8):** Restripe westbound Stevens Creek Boulevard to provide room for right turn vehicles to be separated from through vehicles may be required. The right turn vehicles will share the bike lane and will still be controlled by the traffic signal. Paint a bike box at the front of the lane to provide bikes a place to wait at red lights. The pedestrian crossings will not be affected may enhance the bicycling experience.

County) (#32): Redesign of the northbound leg of the intersection at the Lawrence Expressway Northbound Ramp and Stevens Creek Boulevard to provide one through-movement lane, and one exclusive right-turn lane may be required. Right-of-way acquisition would be required.

The fees shall be assessed when there is new construction, an increase in square footage in an existing building, or the conversion of existing square footage to a more intensive use. The fees collected shall be applied toward circulation improvements and right-of-way acquisition. The fees shall be calculated by multiplying the proposed square footage, dwelling unit, or hotel room by the appropriate rate. Traffic mitigation fees shall be included with any other applicable fees payable at the time the building permit is issued. The City shall use the traffic mitigation fees to fund construction (or to recoup fees advanced to fund construction) of the transportation improvements identified above, among other things that at the time of potential future development may be warranted to mitigate traffic impacts.

While implementation of Mitigation Measure TRAF-1 would secure a funding mechanism for future roadway and infrastructure improvements that are necessary to mitigate impacts from future projects based on then current standards, impacts would remain *significant and unavoidable*, because the City cannot guarantee improvements at these intersections at this time. This is in part because the nexus study has yet to be prepared and because some of the impacted intersections are under the jurisdictions of the Cities of Sunnyvale and Santa Clara and Caltrans. Specifically, the following intersections are outside the jurisdiction of Cupertino:

TRANSPORTATION AND TRAFFIC

- SR 85 Northbound Ramps and Stevens Creek Boulevard (#2)
- De Anza Boulevard and I-280 Northbound Ramp (#6)
- Wolfe Road and Homestead Road (#16)
- Wolfe Road and I-280 Northbound Ramp (#18)
- Wolfe Road and I-280 Southbound Ramp (#19)
- North Tantau Avenue/Quail Avenue and Homestead Road (#24)
- Stevens Creek Boulevard and Agilent Technologies Driveway (#30)
- Lawrence Expressway Southbound Ramp and Stevens Creek Boulevard (CMP, County)(#31)
- Lawrence Expressway Northbound Ramp and Stevens Creek Boulevard (CMP, County) (#32)

However, the City will continue to cooperate with these jurisdictions to identify improvements that would reduce or minimize the impacts to intersections and roadways as a result of implementation of future development projects in Cupertino.

Significance With Mitigation: Significant and Unavoidable.

The Vallco project would allegedly use recycled water. This would come from the Donald M Somers wastewater treatment plant up in Sunnyvale if the line was extended past Apple Campus 2's connection at the intersection of Homestead and Wolfe Rd. Apple kicked in over \$4 million, and the other agencies put up \$25 million to get the recycled line to their Apple Campus 2. We might think this recycled water comes free somehow, far from it, it is expensive to produce and it is subsidized, so while it costs more than 3 TIMES as much as potable water to produce, Sunnyvale however only charges 90% of their drinking water rate.

Sunnyvale charges \$3.95/hcf for their recycled water. This is advanced reverse osmosis tertiary treated water, and not cheap to make. Yes, we are glad it's not running into the bay, but do we need to subsidize Apple? And would it be better to use it for groundwater recharge which has also been proposed.

The Vallco green roof would consume 80,369 gallons/day, that's 90.02 acre feet per year.

This puts the not so green roof in 4th place for Sunnyvale's largest user water customers of their fancy state of the art recycled water. Behind Sunnyvale Golf Course (183.9 Acre feet/year), Moffet Field Golf Course (118.5 afy), and Baylands Park (95.5 afy) comes Vallco Green Roof at 90 afy.

(An acre foot is an acre filled with water one foot deep. So 90 acres of water one foot deep.)

Their water bill will be a whopping \$154,677 per year. And we would be first subsidizing it, and then likely paying for it outright because, looking into the City of Cupertino's "Recreation, Parks, and Services Element, Chapter 9" of their Community Vision 2040 they state **"If public parkland is not dedicated, require park fees based on a formula that considers the extent to which the publicly-accessible facilities meet community need."**

The plan even states **"Design parks to utilize natural features and the topography of the site in order to protect natural features and keep maintenance costs low"** and that parkland acquisition would be based on: **"Retaining and restoring creeks and other natural open space areas."**

Further, the roof violates the city's own policies:

Policy RPC-7.1: Sustainable Design Ensure that City facilities are sustainably designed to minimize impacts on the environment.

Policy RPC-7.2: Flexibility Design facilities to be flexible to address changing community needs.

Policy RPC-7.3: Maintenance Design facilities to reduce maintenance, and ensure that facilities are maintained and upgraded adequately

Sustainable design/minimize impacts: The Vallco project scours the entire site and encases it in concrete, EDF 43 shows 400' of mature trees to be removed for lane widening on Wolfe Road to mitigate traffic. It is highly likely a bus pull out lane would require more mature trees be removed on Stevens Creek Blvd. for the 'mobility hub' or fancy bus stop located there. And because the northbound Wolfe Road lanes were reconfigured in the Vallco plan to be only 3 lanes, and the Apple buses use northbound Wolfe Rd. to access the I-280 southbound, it is likely the trees on the east side of Wolfe Rd. would need to be cut down to add a land for the on ramp. A sustainable design would reduce the

amount of paved area and return it to a natural state. This was one of the arguments Apple Campus 2 made for removing of their sprawling buildings and parking lots.

Flexibility Design: the project cannot be converted to sports fields etc.

Maintenance: the project is as high maintenance as possible.

<http://www.cupertino.org/index.aspx?page=1275>

The recycled water isn't cheap -- about \$1,100 an acre-foot to produce, or roughly triple what it costs to buy water from the Delta, and this is a LOW ESTIMATE!!

http://www.mercurynews.com/science/ci_26160300/california-drought-san-joses-new-high-tech-water

<http://sunnyvale.ca.gov/Portals/0/Sunnyvale/ESD/Water/Recycled%20Water%20Expansion%20Report/AppI-ExistingRecycledWaterCustomers.pdf>

City of Sunnyvale - Feasibility Study for Recycled Water Expansion **Existing Recycled Water Customers**
Near-Term Demand Estimates

| APN | Zoning | Owners | Site No | St Dir | St Name | St Type | Area (Acre) | Existing RW Demand (AFY) | Average Day Demand (gpd) |
|----------|--------|---|---------|-----------------|---------|---------|-------------|--------------------------|--------------------------|
| 16539015 | PF | Sunnyvale Golf Course | 605 | Macara | | Av | 3.5 | 183.9 | 164,100 |
| | | Moffet Field Golf Course | | | | | 0.0 | 118.5 | 105,800 |
| 11005014 | PF | Santa Clara County - Baylands Park | 999 | Caribbean | | Dr | 47.0 | 95.5 | 85,200 |
| 11039001 | PF | Santa Clara County - Twin Creeks Sports Complex | 0 | | | | 18.3 | 54.5 | 48,600 |
| 11001025 | MPI | Lockheed Missiles And Space Co Inc | 1111 | Lockheed Martin | | Wy | 204.3 | 29.5 | 26,300 |
| 11045002 | MPT | Moffett Park Dr Llc | 807 | 11th A | | Av | 1.0 | 25.5 | 22,800 |
| | | Moffet Field Site | | | | | | 25.4 | 22,700 |
| 11034025 | MPT | Arden Realty Lp | 1221 | Crossman | | Av | 15.5 | 25.3 | 22,600 |
| 11035008 | MPI | Amb Property Lp | 155 | E Moffett Park | | Dr | 21.0 | 22.6 | 20,200 |
| 11002068 | MPT | Menlo & Juniper Ntwrks Llc | 1111 | Lockheed Martin | | Wy | 77.0 | 21.3 | 19,000 |
| 11032027 | MPT | Network Appliance Inc | 1375 | Crossman | | Av | 1.1 | 17.6 | 15,700 |
| 20519002 | PF | Sunnyvale City Of - Fair Oaks Park | 0 | Britton | | Av | 1.3 | 17.4 | 15,600 |
| 11044008 | MPI | Yahoo Inc | 701 | First | | Av | 24.3 | 17.2 | 15,300 |

Green roof prediction calcs:

80,369 gallons/day = 0.24664307759536294 acre feet/day x 365 days/yr = 90.02 acre feet per year

This means the green roof would be the 4th largest recycled water user behind the Sunnyvale Golf Course, Moffet Field Golf Courxe, and Baylands Park (47 acres).

Sunnyvale’s discounted recycled water rates explained:

“All agencies surveyed offer recycled water at discounted rates compared to potable water charges. Recycled water rates generally ranged from roughly 45% to 95% of potable rates. • The City of Sunnyvale’s current recycled water rates are set at 90% of potable rates for both irrigation and industrial accounts. Compared to other agencies, Sunnyvale offers one of the smallest recycled water discounts on a percentage basis.

Duration of Pricing Incentives To preserve future pricing flexibility, the City should not obligate itself to providing recycled water pricing discounts for perpetuity. For example, Redwood City’s recycled water rate resolution only obligated the City to provide pricing discounts for a minimum of five years. Also, the City could opt to implement a higher discount for some time followed by a reduced discount (e.g. 40% discount for 5 years, then 25% discount thereafter). To date, the City has maintained the discounts for all recycled customers, regardless of when they originally connected.

The City may need to charge different wholesale rates to different potential customers depending on various factors such as each customer’s alternative cost of water, infrastructure funding requirements, and other considerations of both the City and the potential wholesale customer. For example, an agency with a severe water supply shortage facing costly supplemental supply alternatives would have a substantially higher “willingness to pay” than an agency with less-expensive potable water sources. “

Sunnyvale charges \$3.95/hcf convert to acre feet

435 hcf = 1 acre foot

$\$3.95/\text{hcf} \times 435 \text{ hcf}/\text{acre foot} = \$1,718.25/\text{acre foot}$

Vallco roof uses 90.02 acre-feet /year $\times \$1,718.25/\text{acre foot}$ charged for recycled water = \$154,677/year for recycled water for the roof.

Recycled rate as % of potable rate is 90%

| Recycled Water Rate Survey - December 2012 | | | |
|---|------------------------|-------------------------|---------------------------------|
| | Potable Charge per hcf | Recycled Charge per hcf | Recycled Rate % of Potable Rate |
| City of Sunnyvale | | | |
| Agriculture & Institutional | \$2.09 | \$1.88 | 90% |
| Landscape Irrigation | \$4.38 | \$3.95 | 90% |
| City of Redwood City | | | |
| Existing Irrigation Accounts | | | |
| Tier 1: Up to 100% of water budget (most water sold in this tier) | \$4.78 | \$3.59 | 75% |
| Tier 2: From 101% - 200% of water budget | \$9.58 | \$3.59 | 37% (75% of Tier 1) |

source: http://sunnyvale.ca.gov/Portals/0/Sunnyvale/ESD/Water/Recycled%20Water%20Expansion%20Report/AppF-TM_5RecycledWaterPricing.pdf

We are in a drought, the San Jose Water Company last year imposed rate increases on anyone going over their 2013 water use and requested a 30% reduction in water use. All of this expense and effort just to get out of making a park? Next imagine the earthquake calculations for this elevated structure with trees on it. The costs to secure the structure go up.

Sources: <http://sunnyvale.ca.gov/Portals/0/Sunnyvale...>

<http://sunnyvale.ca.gov/Portals/0/Sunnyvale...>

Environmental Study provided by revitalizevallco.com water use as estimated by the water co.

The following is from the Arborist report, of the Sand Hill/Vallco provided Environmental Study:

3.5 Ion Content in Recycled Water / Standards

Many municipalities such as San Jose and Palo Alto are using recycled water as a regular component of their City parks irrigation regime. However, this does come with known drawbacks. Coast redwoods are known to be sensitive to ion concentrations in soil water per the text referenced below³. The text notes that coast redwood has low tolerance of boron ion in recycled water. Ion sensitivity of coast redwood as related to other ions such as sodium, chloride, or ammonium was not specifically noted in the text. However, per the author's conversations with numerous city arborists and consulting arborists in the Bay Area, coast redwood appears to have low tolerance of specific ionic content in water in addition to boron ion. The following table derived from information in the below-referenced text provides some guidelines for total ion content of various ions in recycled water at levels that could be deemed "safe" for trees with low tolerance (high ion sensitivity), although this is only a guideline, and was published more than 10 years ago:

³ Costello, Perry, Matheny, Henry, and Geisel (2003). *Abiotic Disorders of Landscape Plants: A Diagnostic Guide*. UC ANR Publication 3420. ANR Communications Services. Oakland, California.

13 of 42

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ASCA Registered Consulting Arborist #401 Qualified Tree Risk Assessor ISA Certified Arborist #WC-3172

| Irrigation Water Ion | Type of Measurement | Content Range Considered "Safe" | Unsafe for Tree Species with Low Tolerance to Stated Ions |
|---------------------------------------|---------------------|---------------------------------|---|
| TDS Total Dissolved Solids | Mg/l | <450 | 450 to 2,000 |
| Salinity | Mmhos/cm | <0.7 | 0.7 to 3.0 |
| Boron | Mg/l | <0.5 | 0.5 to 1.0 |
| Chloride (surface bubbler irrigation) | Mg/l | <140 | 140 to 300 |
| Chloride (sprinkler irrigation) | Mg/l | <100 | >100 |
| Sodium (surface bubbler irrigation) | SAR | <3 | 3 to 9 |
| Sodium (sprinkler irrigation) | Mg/l | <70 | >70 |

Salinity tolerance of various tree species proposed in project tree palette by the landscape architect is noted in the reference shown in this report as citation #3. WLCA is in communication with the landscape architect staff to discuss salinity tolerance issues.

EXISTING REDWOODS

The new project does not propose to use recycled water for irrigation of the existing redwoods being retained as perimeter screening (personal communication 10/23/2015, property owner). Therefore, the ionic content of irrigation water appears (at the time of writing) to be an issue with new proposed tree plantings only.

USE OF RECYCLED WATER BLEND AND FLUSHING SEQUENCES

To reduce ion content in irrigation water to acceptable levels per the above matrix guidelines, recycled water with high ion content can be blended with standard municipal drinking water prior to running it through irrigation systems for surface application to trees. Per the property owner, this blending will be performed seasonally during non water-restriction periods in order to comply with local regulations regarding potable water use for landscapes during drought periods.

Another "trick" that can be performed to reduce ionic content remaining in the root zones of trees is to use recycled water for a number of irrigation cycles (e.g. 4 to 9 cycles), then "flush" the root

zones by using a 5th or 10th irrigation cycle of 100% municipal drinking water (anecdotal reference). **This would require that a very detailed record of irrigation be maintained by a groundsperson on site, to record exactly when recycled water and drinking water was applied to very specific landscape zones. Both recycled water and drinking water would need to be available side by side as irrigation system inputs with manual levers that would be operated by the groundsperson.**

OAK TREES BEING INSTALLED

Per discussions with arborist Dave Muffly who is an expert in oak tree selection and cultivation, oak species being installed at the project should be provided with municipal drinking water as the irrigation water source, without any blending with recycled water. This is recommended to avoid potential problems with ion sensitivity by the oaks. Mr. Muffly notes that an adjacent project will not use recycled water for irrigation of the oaks (this project is also within the jurisdiction of City of Cupertino, and has recycled water piping that will be used for irrigation of non-oak landscape zones).

As regards the project roof planting area where many oak species will be installed, we may need to develop a special dual piping system which will allow for recycled water and standard drinking water sources to be piped up separately. This would allow the two water sources to be applied in an alternating manner and/or blended in a tank prior to being applied to sensitive species such as the oaks and fruit bearing orchard trees, to reduce the overall ionic content being applied to the landscape over time.

WEeping WILLOW AND FREMONT COTTONWOOD AT ROOF DRAINAGE SWALES

The Abiotic Disorders text (citation #3) noted above in this report contains a list of various tree species along with referenced scientific studies during which salinity and boron tolerance was determined for certain species. Per this list, Fremont cottonwood, proposed to be installed at The Hills in swales where runoff collection will occur, exhibit “moderate” to “high” tolerance of salinity (i.e. ionic concentrations) in recycled water, which would suggest that they can tolerate soil moisture derived from runoff water that may contain higher than normal ionic concentration.

Weeping willow, also proposed by the project team for inclusion in drainage runoff swales at our site, also appears to exhibit “moderate” to “high” tolerance of ionic concentration in irrigation water, which also suggests tolerance to runoff water as the main source of their root zone soil moisture. Even so, WLCA suggests considering removal of these two species from the proposed plant palette list, given that they require heavy irrigation year round to maintain vigor.

RECYCLED WATER EFFECTS ON FRUIT-BEARING ORCHARD TREES

Per the text referenced in citation #3 in this report, **fruit-bearing tree species proposed by the team for the rooftop orchard which will be for human consumption are noted in the text as**

exhibiting “low” relative tolerance to ionic content in recycled water used for irrigation. Given that fruit bearing orchard trees generally require heavy irrigation, this is of concern if recycled water is going to be used on the project’s greenroof where the orchard areas will be located. As noted above in this section of the report, blending recycled water with municipal drinking water can bring down ionic concentration to levels below the safe thresholds noted above in the matrix.

Flushing the tree root zones by use of 100% drinking water on a periodic basis may also be a viable method of reducing ionic concentration buildup in the root zones of the trees, such as the example WLCA noted of 4 to 9 irrigation cycles using recycled water, followed by a 5th or a 10th irrigation cycle using 100% municipal drinking water (anecdotal reference).

15 of 42

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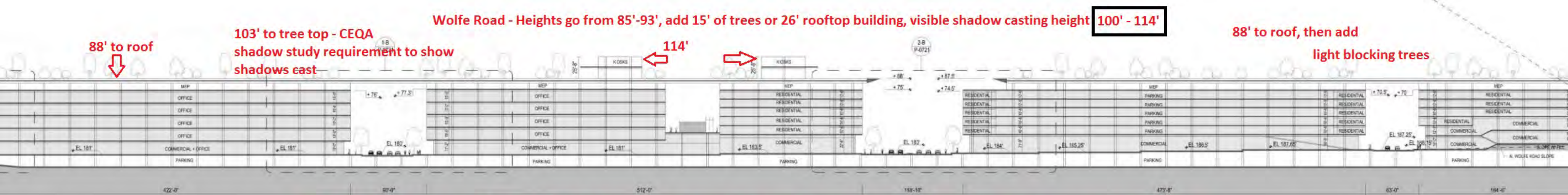
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Per the author’s recent conversation with a Northern California soil scientist who specializes in orchard soils, the inability for fruit trees such as cherry, apricot and apple to tolerate ion content in recycled water used for irrigation appears to be verified. Blending and/or other dilution is warranted.

Again, use of a **dual piping system to bring up both standard drinking water and recycled water sources to the greenroof** may be able to solve the problem of ionic content in recycled water being applied to the orchard areas, as it will allow us to blend the two sources of water and/or apply them to the landscape in an alternating manner to flush salts through the soil.

WLCA suspects that over time, municipal recycled water may become of increasingly higher quality in terms of ionic content being reduced to below the low-tolerance sensitivity threshold of 0.7 Mmhos/cm salinity. Refer to the ionic content table on page 14 above for more information.

(P 757-758 Environmental Study)



Wolfe Road will be cast in shadow from 100'-114' structure and trees, then partially covered with a roof - we did not give permission to block the sun.

BLOCK 10 - OFFICE & COMMERCIAL

6TH STREET

BLOCK 9 - COMMERCIAL & OFFICE & RESIDENTIAL

4TH STREET

BLOCK 8 - RESIDENTIAL & COMMERCIAL & PARKING

1ST STREET

BLOCK 7 - RESIDENTIAL & COMMERCIAL

RESOLUTION NO. 14-210

OF THE CITY COUNCIL OF THE CITY OF CUPERTINO
CERTIFYING AN ENVIRONMENTAL IMPACT REPORT FOR THE GENERAL PLAN
AMENDMENT, HOUSING ELEMENT UPDATE, AND ASSOCIATED REZONING PROJECT;
AND ADOPTING FINDINGS AND A STATEMENT OF OVERRIDING CONSIDERATIONS,
MITIGATION MEASURES, AND A MITIGATION MONITORING AND REPORTING
PROGRAM

SECTION I: PROJECT DESCRIPTION

Application No: EA-2013-03
Applicant: City of Cupertino
Location: Citywide

SECTION II: ENVIRONMENTAL REVIEW PROCESS

WHEREAS pursuant to City Council direction to initiate a project to replenish, reallocate and increase citywide development allocations in order to plan for anticipated future development activity while keeping with the community's character, goals, and objectives, and to consolidate development requests by several property owners for amendments to the General Plan, both under a comprehensive community vision, and

WHEREAS, pursuant to State Housing Law, the City Council has directed staff to update the Housing Element of the General Plan and make associated zoning amendments to comply with State Law; and

WHEREAS, pursuant to the provisions and requirements of the California Environmental Quality Act of 1970 (Public Resources Code Section 21000 *et seq.*) ("CEQA") and the State CEQA Guidelines (Title 14, Sections 15000 *et seq.* of the California Code of Regulations) ("CEQA Guidelines"), the City of Cupertino as lead agency caused the General Plan Amendment, Housing Element Update and Associated Rezoning Final Environmental Impact Report (SCH#20140322007) ("EIR") to be prepared; and

WHEREAS, on March 5, 2014, the City issued Notice of Preparation for the EIR for the Project. A scoping session was held on March 11, 2014 to provide the public the opportunity to comment on the topics to be studied in the Draft Environmental Impact Report ("Draft EIR"). Public comments were collected through the scoping period's conclusion on April 7, 2014; and

WHEREAS, from April 8, 2014 to June 17, 2014, the City prepared a Draft EIR pursuant to the requirements of CEQA and the CEQA Guidelines; and

WHEREAS, the Draft EIR was released for a 45-day public review/comment period beginning on June 18, 2014 and ending August 1, 2014; and

WHEREAS, the Notice of Completion of the Draft EIR was sent to the State Clearinghouse in the Governor's Office of Planning and Research on June 18, 2014 under State Clearinghouse No.

2014032007, and the Notice of Availability was filed with the Santa Clara County Clerk-Recorder on the same day and was also: (1) sent to other potentially affected agencies as required by CEQA; (2) sent to adjacent property owners as required by CEQA; and (3) posted at the Project site and at City Hall; and

WHEREAS, on June 24, 2014, the City held a duly noticed public meeting during the public comment period on the Draft EIR to allow the public an additional opportunity to provide input on the DEIR and received public testimony; and

WHEREAS, following the close of the public review and comment period on the Draft EIR, responses to written comments concerning the adequacy of the DEIR received during the public review and comment period have been prepared and compiled in the Response to Comments Document, which includes revisions to the DEIR ("RTC Document"); and

WHEREAS, the RTC Document was issued on August 28, 2014 and notice of availability was sent to the Santa Clara County Clerk Recorder's Office, posted at City Hall and the Project site, and sent to 10 local libraries and interested persons registered through the project website; and

WHEREAS, copies of the RTC Document were sent to all public agencies that commented on the Draft EIR; and

WHEREAS, the City received comments on the Draft EIR following the close of the public review and comment period ("Late Comments") and, although pursuant to Public Resources Code Section 21091(d)(1) and CEQA Guidelines Section 15088(a) written responses are not required, responses to Late Comments have been provided with staff reports; and

WHEREAS, pursuant to Cupertino Municipal Code Section 2.86.100, the Housing Commission is authorized to assist the Planning Commission and the City Council in developing housing policies and strategies for implementation of general plan housing element goals; and

WHEREAS, the necessary public notices have been given as required by the procedural ordinances of the City of Cupertino and the Government Code, the Housing Element and proposed amendments to the Cupertino Municipal Code pertaining to housing and affordable housing, were presented to the Housing Commission at a public hearing on August 28, 2014; and

WHEREAS, on August 28, 2014, the Housing Commission recommended that the City Council authorize staff to forward the Draft Housing Element to the State Department of Housing and Community Development (HCD) and use the High-Low prioritization of Potential Housing Element Sites;

WHEREAS, the necessary public notices have been given as required by the procedural ordinances of the City of Cupertino and the Government Code, the Draft EIR, the RTC Document, and all documents incorporated therein were presented to the Planning Commission on September 9, 2014 at a Planning Commission Study Session; and

WHEREAS, on October 2, 2014, City Staff presented the Draft EIR and the RTC Document, and all documents incorporated therein, to the Environmental Review Committee ("ERC") for

review and recommendation. After considering the documents, and Staff's presentation, the ERC recommended that the City of Cupertino City Council approve the Project; and

WHEREAS, Supplemental Text Revisions to the General Plan Amendment, Housing Element Update and Associated Rezoning, which is part of the Final EIR, identifies revisions which are typographical corrections, insignificant modifications, amplifications and clarifications of the Draft EIR and the RTC Document; and

WHEREAS, the "Final EIR" consisting of the Draft EIR (published in June 2013), the RTC Document (published in September 2013), and Supplemental Text Revisions (published October 8, 2014) and all documents incorporated therein was presented to the City Council on October 7, 2014 at a City Council Study Session; and

WHEREAS, the necessary public notices have been given as required by the procedural ordinances of the City of Cupertino and the Government Code, and the Planning Commission held public hearings on October 14, 2014 and October 20, 2014 to consider the project; and

WHEREAS, on October 20, 2014, the Planning Commission recommended on a 4-0-1 (Takahashi absent) vote that the City Council certify that the Final EIR has been completed in compliance with the California Environmental Quality Act, Public Resources Code Section 21000 *et seq.*, and reflects the independent judgment and analysis of the City, adopt the Findings and Statement of Overriding Considerations, and adopt the Mitigation Measures and adopt the Mitigation Monitoring and Reporting Program, in substantially similar form to the Resolution presented (Resolution no. 6760); adopt the General Plan Amendment (GPA-2013-01) (Resolution no. 6761); authorize staff to forward the Draft Housing Element to the State Department of Housing and Community Development for review and certification (GPA-2013-02); approve the prioritized list of potential Housing Element sites in the event amendments are needed to the proposed Housing Element sites upon HCD review (Resolution no. 6762); approve the Zoning Map Amendments, Z-2013-03, in substantially similar form to the Resolution presented (Resolution no. 6763); approve the Municipal Code Amendments to make changes to conform to the General Plan and Housing Element and other clean up text edits (MCA-2014-01) (Resolution no. 6764); approve the Specific Plan Amendments, SPA-2014-01, in substantially similar form to the Resolution presented (Resolution no. 6765); and

WHEREAS, on November 10, 2014, public comment was heard from the community;

WHEREAS, on December 2, 2014, the City Council held a duly noticed public hearing on the EIR (EA-2013-03); as well as the following concurrent Project applications: General Plan Amendment (GPA-2013-01), Housing Element update (GPA-2013-02), Zoning Map Amendment (Z-2013-01), Municipal Code Amendments (MCA-2014-01), Specific Plan Amendment (SPA-2014-01).

NOW, THEREFORE, BE IT RESOLVED:

That after careful consideration of maps, facts, exhibits, testimony, staff reports, public comments, and other evidence submitted in this matter, the City Council does:

1. Certify that the Final EIR for the Project has been completed in compliance with the

California Environmental Quality Act, Public Resources Code Section 21000 et seq., and reflects the independent judgment and analysis of the City.

2. Adopt the Findings and Statement of Overriding Considerations for the Project, attached hereto as "Exhibit EA-1," and incorporated herein by reference.

3. Adopt and incorporate into the Project all of the mitigation measures for the Project that are within the responsibility and jurisdiction of the City that are identified in the Findings.

4. Adopt the Mitigation Monitoring and Reporting Program for the Project, attached hereto as "Exhibit EA-2," and incorporated herein by reference.

PASSED AND ADOPTED at a Meeting of the City Council of the City of Cupertino the 2nd day of December 2014, by the following roll call vote:

Vote: Members of the City Council:

AYES:

NOES:

ABSTAIN:

ABSENT:

RECUSE:

ATTEST:

APPROVED:

Grace Schmidt
City Clerk

Mayor, City of Cupertino

EXHIBIT EA-1

**CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS
AND STATEMENT OF OVERRIDING CONSIDERATIONS FOR
GENERAL PLAN AMENDMENT, HOUSING ELEMENT UPDATE,
AND ASSOCIATED REZONING**

I. INTRODUCTION

The City of Cupertino (City), as lead agency under the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 *et seq.*, has prepared the Final Environmental Impact Report for the General Plan Amendment, Housing Element Update, And Associated Rezoning (the “Project”) (State Clearinghouse No. 2014032007) (the “Final EIR” or “EIR”). The Final EIR is a program-level EIR pursuant to Section 15168 of the State CEQA Guidelines.¹ The Final EIR consists of Volumes I and II of the June 2014 Public Review Draft Project Environmental Impact Report (the “Draft EIR”); the August 2013 Response to Comments Document; and the November 3, 2014 Supplemental Text Revisions memorandum,² which contains typographical corrections, insignificant modifications, amplifications and clarifications of the EIR.

In determining to approve the Project, which is described in more detail in Section II, below, the City makes and adopts the following findings of fact and statement of overriding considerations, and adopts and makes conditions of project approval the mitigation measures identified in the Final EIR, all based on substantial evidence in the whole record of this proceeding (administrative record). Pursuant to Section 15090(a) of the State CEQA Guidelines, the Final EIR was presented to the City Council, the City Council reviewed and considered the information contained in the Final EIR prior to making the findings in Sections II through XIII, below, and the City Council determined that the Final EIR reflects the independent judgment of the City. The conclusions presented in these findings are based on the Final EIR and other evidence in the administrative record.

II. PROJECT DESCRIPTION (the “Planning Commission Recommendation”)

As fully described in Chapter 3 of the Draft EIR, the Project involves all of the following: (1) a focused General Plan Amendment consisting of revised city-wide development allocations

¹ The State CEQA Guidelines are found at California Code of Regulations, Title 14, Section 15000 *et seq.*

² PlaceWorks, *Supplemental Text Revisions to the General Plan Amendment, Housing Element Update and Associated Rezoning Project Final Environmental Impact Report (EIR)* (November 3, 2014) (“Supplemental Text Revisions Memo”).

for office commercial, and hotel uses, as well as buildings heights and densities for Major Mixed-Use Special Areas; (2) updating the General Plan Housing Element to accommodate the Regional Housing Needs Allocation (RHNA) for the 2014-2022 planning period to meet the City's fair-share housing obligation of 1,064 units; (3) amending certain Zoning and Density Bonus portions of the City's Municipal Code to be consistent with the Housing Element and to be consistent with requirements pertaining to emergency shelters; and (4) conforming changes to the General Plan Land Use Map, Zoning Ordinance and Zoning Map for consistency and for revisions required by State law, and reorganization for purposes of increasing clarity and ease of use.

The increased development allocations would be allowed in specific locations throughout the City, which are categorized as follows and are described and depicted on figures in the EIR:

- Special Areas (including City Gateways and Nodes along major transportation corridors);
- Study Areas;
- Other Special Areas (including Neighborhoods and Non-Residential/Mixed-Use Special Areas); and
- Housing Element Sites

The buildout of the potential future development in these identified locations is based on a horizon year of 2040; therefore, the EIR analyzes growth occurring between 2014 and 2040. The 2040 horizon year is generally consistent with other key planning documents, including Plan Bay Area, which is the Bay Area's Regional Transportation Plan/ Sustainable Community Strategy to Senate Bill 375, the Sustainable Communities and Climate Protection Act.

The EIR analyzed the proposed Project (which is titled "Land Use Alternative C" in the EIR)³ and three additional alternatives (No Project Alternative, Land Use Alternative A, and Land Use Alternative B), all at the same level of detail. The Planning Commission Recommendation is for the most part a combination of Alternatives A and B. The Planning Commission Recommendation consists of development allocations that are the same or reduced from the development allocations that were analyzed in the EIR, and revisions to the prioritization of the Housing Element sites that were analyzed in the EIR along with reassignment of housing units among the Housing Element sites. On several sites/gateways, the maximum height limits are reduced or remained the same as the heights analyzed in the EIR, except at two locations where the maximum height limits are increased from 35 to 45 feet (the Glenbrook Apartments Housing Element site and the

³ Draft EIR, p. 2-5 (Table 2-1, footnote a).

Summerwinds/Granite Rock/Jack-in-the-Box Housing Element site). Residential densities also are reduced or remained the same as the densities analyzed in the EIR, except that the residential density at the Glenbrook Housing Element site are increased from 20 to 23 dwelling units per acre. The increase in the number of additional units on the Glenbrook site is limited to a maximum of 228 (100% of the remaining capacity at the site if the density is increased to 23 dwelling units per acre) to avoid increased traffic impacts. The purpose of the revisions to Alternative C in the Planning Commission Recommendation is to reduce the amount of additional office development in the City in order to reduce the regional impacts of creating jobs in Cupertino without commensurate, increased development of housing (see Section II.A, below).

A. General Plan Amendment

Every city and county in California is required to prepare and to adopt a comprehensive, long-term general plan for the physical development of the county or city and, in some cases, land outside the city or county boundaries. Government Code § 65300. The City's current, 2000-2020 General Plan controls the area and density of commercial, office, hotel, and residential uses built in the city through development allocations in terms of square feet (commercial and office), rooms (hotel), and units (residential). The allocations are geographically assigned in certain neighborhoods, commercial, and employment centers so that private development fulfills both City goals and priorities and reduces adverse impacts to the environment. The City allocates development potential on a project-by-project basis to applicants for net new office and commercial square footage, hotel rooms, and/or residential units. As a result of several recent approvals of projects, a large amount of the current office, commercial and hotel development allocation has been granted, leaving an inadequate pool to allocate to additional development in the city.

While the Project is not a complete revision of the City's 2000-2020 General Plan. The current General Plan contains many goals, policies, standards, and programs that the City and community would like to continue into the future. The Project instead focuses on identifying and analyzing potential changes along the major transportation corridors in Cupertino that have the greatest ability to evolve in the near future because the rest of the city consists primarily of single-family residential neighborhoods.

The development allocations in the Planning Commission Recommendation are as follows:

- Office allocation : 1,040,231 square feet (net increase of 500,000 square feet from the 2000-2020 General Plan)⁴

⁴ The Alternative C proposed office allocation is 4,040,231 square feet (net increase of 3,500,000 square feet from 2000-2020 General Plan).

- Commercial allocation (same as Alternative C): 1,343,679 square feet (net increase of 0 square feet from the 2000-2020 General Plan)⁵
- Hotel allocation (same as Alternative C): 1,339 rooms (net increase of 1,000 rooms from the 2000-2020 General Plan)
- Residential allocation eliminated; residential land uses permitted according to applicable General Plan land use designations and policies, Housing Element site inventory and policies, and zoning⁶

As shown above, development allocations are the same as or are reduced from Alternative C, and the residential allocation pool has been eliminated altogether. Residential development is allowed at the locations, densities and intensities as provided for in the General Plan and Zoning Ordinance. As described above, the recommended heights are lower than those analyzed in the EIR, except in two locations (Glenbrook Apartments in the Heart of the City and Summerwinds/Granite Rock/Jack in the Box Housing Element sites) at which the height limits would be increased from Alternative C (from 30 to 45 feet), and the residential density at one site are increased at one location (Glenbrook Apartments in the Heart of the City Special Area) from 20 dwelling units per acre analyzed in the EIR to 23 dwelling units per acre up to a limit of 228 units. The maximum height limits would be the same as or lower than Alternative B. See Land Use and Community Design Element, Table LU-2. The Planning Commission Recommendation provides for a reduced amount of new development and has less emphasis on office development than Alternative C. These changes in the General Plan Amendment and accompanying approvals do not create new or substantially more severe significant effects on the environment for the reasons explained below.

The 15-foot height increases at Glenbrook Apartments Housing Element site, located in the Heart of the City Special Area, and the Summerwinds/Granite Rock/Jack in the Box Housing Element site, located in the South De Anza Mixed-Use Special Area, would not block views of areas that provide or contribute to scenic vistas and/or scenic corridors or from specific

⁵ The EIR provided an analysis for the commercial development allocation of 1,343,679 square feet for Alternative C, which is an increase in commercial development allocation of 642,266 square feet over the remaining allocation of 701,413 square feet in the 2020 General Plan; however, the additional 642,266 square footage does not constitute a net increase in commercial development in Cupertino during the planning period of the General Plan Amendment (through 2040). That is because the entire 642,266 square feet of the increased allocation would come from demolition of Vallco Shopping Center and rebuilding and/or relocating that existing commercial square footage to other sites. Due to the high vacancy rate at the Vallco Shopping Mall under existing conditions, however, the EIR conservatively analyzed the total commercial development allocation of 1,343,679 square feet (642,266 existing square feet + 701,413 new square feet).

⁶ The Alternative C proposed residential allocation analyzed in the EIR is 4,421 units (net increase of 2,526 units from the 2000-2020 General Plan).

publically accessible vantage points or the alteration of the overall scenic vista/corridor itself or adversely impact the visual character of these sites or the surrounding areas. These two sites are already developed and/or underutilized, and in close proximity to existing residential and residential-serving development, where future development would have a lesser impact on scenic vistas. Neither of these locations is within the viewshed of I-280, an eligible State Scenic Highway. The topography at these locations is essentially flat and the views from street-level public viewing to the scenic resources are currently inhibited by existing conditions such as buildings, structures, and mature trees or vegetation. Similar views would continue to be visible between projects and over lower density areas. Considering this and the fact that Housing Element Sites 5 and 16 are not considered a destination public viewing points nor are they visible from scenic vistas, overall impacts to scenic vistas would be less than significant.

Furthermore, the 15-foot height increases would be subject to the City's Architectural and Site Review process, in accordance with Chapter 19.168 of the Zoning Ordinance, or would be required to comply with Design Standards outlined in the General Plan and other regulatory documents. In addition, the General Plan policies aimed at protecting scenic resources would ensure future development of these sites would conceivably reduce potential aesthetic impacts of future development under the proposed Project.

The increase in residential density at the Glenbrooks Apartments site, from 20 to 23 dwelling units per acre up to a maximum of 228 additional units, are minor, and would not cause new or substantially more severe significant environmental effects, because the number of additional units that could be developed in each Traffic Analysis Zone (TAZ), above what was analyzed in the EIR, would be 50 or fewer additional units. In addition, the site is located in either the VTA Priority Development area or adjacent to a major employment district and would provide residential development close to a large employment area, thereby potentially reducing traffic impacts.

However, like Alternative C, the Planning Commission Recommendation will continue to have significant avoidable traffic, air quality and noise impacts even after incorporation of all feasible mitigation measures.

The majority of the Planning Commission Recommendation is located in the City's Special Areas as identified in the current General Plan. The development allocations can generally be used in Special Areas, Study Areas, Housing Element Sites and Other Special Areas; however, hotel development allocations may not be used in Other Special Areas. The boundaries and proposed changes within each Special Area, Study Area and Other Special Area are described in detail in Section 3.7 (Project Components) of Chapter 3 (Project Description) of the Draft EIR.

B. Housing Element Update

The Planning Commission Recommendation includes a comprehensive update to the City's

Housing Element (the “2014-2022 Housing Element”) in compliance with State law. The Housing Element’s policies and programs are intended to guide the City’s housing efforts through the 2014 to 2022 Housing Element period. The 2014-2022 Housing Element keeps many of the existing policies and strategies in the 2007-2014 Housing Element and revises them to conform to changes in State law or based on a critical evaluation of the programs and policies. The Housing Element assesses housing needs for all income groups and establishes a program to meet these needs. The policies and strategies have also been reorganized to provide for better readability and to eliminate redundancies.

State law requires each jurisdiction to address how it will satisfy the quantified objectives for new residential units as represented by the Regional Housing Needs Allocation (RHNA). The RHNA identifies Cupertino’s housing needs by income levels. The City’s housing needs allocation for the period 2014 to 2022 is 1,064 new housing units. The income levels are separated into four categories: very low, low, moderate and above moderate, shown in Draft EIR Table 3-20. Draft EIR, p. 3-66. State law allows jurisdictions to take credit for residential projects that have been approved, building permits issued during the plan period in which the review is taking place, and second dwelling units (also known as accessory dwelling units) that are anticipated to be constructed during the plan period.

The City has issued entitlements and/or building permits for 30 units since January 1, 2014. Additionally, it is anticipated that 32 second units (on single-family lots) were constructed in the 2007-2014 plan period, 32 second units will be constructed in the current plan period as well. Therefore, the City can take credit for a total of 62 units (30 units approved and 32 second units anticipated). As a result, the City is required to identify sites for the construction of 1,064 minus 62 units, or 1,002 units.

To accommodate the current planning period’s RHNA, the Available Land Inventory in the Draft 2014-2022 Housing Element identified 19 potential housing sites, which are analyzed in the EIR. The State Department of Housing and Community Development (HCD) generally requires jurisdictions to show a surplus of sites/units in order to guarantee that the City could realistically accommodate the RHNA allocations. Of the original 19 sites identified in the Draft EIR, nine remain for consideration.⁷ If all nine potential housing sites were developed, this would result in a net increase in housing in Cupertino of 1,843 new residential units between 2014 and 2040. Draft EIR, Table 3-12, pp. 3-68 to 3-70. The

⁷ Of the 19 studied in the EIR, nine sites are available for selection. That is because the largest property owner (Valley Chuch) associated with the IntraHealth/Tennis Courts etc. site on Stelling Road, and the owners of the Cypress Building/Hall Property have notified the City that their sites should not be included in the Housing Sites Inventory, and the Planning Commission Recommendation deleted 8 sites and added the Summerwinds/Granite Rock/Jack in the Box site.

maximum number of new residential units pursuant to the Planning Commission Recommendation is 1,843 units.

These changes described above in the recommended Housing Element sites do not have the potential to create any new or substantially more severe significant effects on the environment for the following reasons. The increase of up to 228 units on the Glenbrook Apartments site would result in an increase of 135 units above the 93-unit increase that was analyzed in the Draft EIR (228 units – 93 units = 135 units). An increase of 50 or fewer units of housing is generally considered to be a negligible increase, and this increase is below that screening threshold because the Glenbrook site is adjacent to The Oaks Shopping Center Housing Element site at which where the residential units are reduced from the 235 units analyzed in the EIR to 150 units. Therefore, the total increased development in the area would be offset by the 85 units that no longer would be built at The Oaks Shopping Center site (235 units – 150 units = 85 units). This reduction at The Oaks Shopping Center Site would offset part of the 135 unit increase at the Glenbrook site, but not the full increased amount of 135 units. There would still be an increase in the area of 122 units (135 units - 85 units = 50 units), which does not exceed the screening threshold of 50 additional units. Hence, the additional density would not create a new or substantially more severe significant impact than was analyzed in the EIR.

HCD generally requires jurisdictions to show a surplus of sites/units in order to guarantee that the RHNA realistically can be accommodated. Based on consultation with HCD and the City's housing consultant expert, it is anticipated that HCD will require sites to accommodate units equivalent to a moderate surplus, between 25% and 40% above the City's housing need, or approximately between 1,250 and 1,400 units. Of the nine identified sites, the City Council has directed staff to submit six sites to HCD for review as to their adequacy under State Planning and Zoning Law.

The means of achieving the development of these units are provided for in the policies and programs described in the Housing Element. The City's quantified objectives are identified in Table 3.4 of the Housing Element. The City is not obligated to construct the housing units identified by the RHNA. Rather, the City is required to demonstrate adequate capacity for 1,064 housing units by identifying sufficient specific sites in order to satisfy the RHNA under existing zoning and land use policy.

In addition to analyzing the 2014-2022 Housing Element for the specified planning period, the Final EIR analyzes the overall environmental effects of increasing housing units on a citywide basis to address, which is necessary to address the two future housing elements that are expected to be adopted during the period between 2014 and General Plan Amendment horizon year of 2040. The Plan Bay Area (the Bay Area Region's Sustainability Communities Strategy and Regional Transportation Plan) identifies that the City of

Cupertino's housing need by 2040 will be 4,421 units.

C. Conforming General Plan Amendments, Zoning Amendments, and Density Bonus Amendments

As part of the Housing Element update process, Chapter 19.56 (Density Bonus) in Title 19 (Zoning) of the City's Municipal Code will be amended to be consistent with the 2007–2014 Housing Element Program 12 (Density Bonus Program). Chapter 19.20 (Permitted, Conditional and Excluded Uses in Agricultural and Residential Zones), Chapter 19.76 (Public Building (BA), Quasi-Public Building (BQ) and Transportation (T) Zones), and Chapter 19.84 (Permitted, Conditional And Excluded Uses In Open Space, Park And Recreation And Private Recreation Zoning Districts), also in Title 19 (Zoning) of the City's Municipal Code, will be amended to ensure conformance with SB 2 requirements pertaining to permanent emergency shelters and to comply with the State Employee Housing Act with respect to farmworker housing and employee housing. In addition, Program 17 of the Housing Element, which addresses the potential loss of multi-family housing and displacement of lower- and moderate-income households due to new development, will be amended to comply with recent legislation and to mitigate the potential displacement impacts to renters (e.g. tenant relocation benefits).

The Planning Commission Recommendation also includes revisions to the General Plan Land Use Map, Zoning Ordinance (including the Chapters listed above and 19.08 (Definitions) and 19.144 (Development Agreements), and the Zoning map to ensure consistency with the General Plan as a result of changes to Housing Element policies or to address changes required as a result of State legislation adopted since the last General Plan update (such as Assembly Bill 1358, Complete Streets), and as a result of bringing non-conforming land uses into conformance with the General Plan and Zoning Ordinance.

D. Project Objectives

The project objectives are as follows:

- Emphasize employment and a mix of economic development opportunities by replenishing, reallocating, and increasing city-wide office, commercial, and hotel, allocations in order to capture:
 - A share of the regional demand for office and hotel development, and
 - Retail sales tax leakage in the trade area.
- Address local needs and regional requirements for new housing, including affordable housing, in Cupertino by replenishing, re-allocating and increasing city-wide residential allocations to be consistent with 2040 Bay Area Plan projections to

allow flexibility for the city when future state-mandated updates are required to the Housing Element.

- Update the Housing Element as required by State law.
- Creating opportunities for mixed-use development consistent with Regional Sustainable Communities Strategies for greenhouse gas emissions reductions as required by SB 375.
- Investing in improvement to adapt to climate change over time.
- Consider increased heights in key nodes and gateways, if proposed development provides retail development and benefits directly to the community.
- Update General Plan policies to implement multi-modal traffic standards as opposed to LOS thresholds currently identified. Balancing development objectives with transportation constraints and opportunities.
- Revitalize the Vallco Shopping District by adopting policies to support its redevelopment, so it becomes a cohesive, vibrant shopping and entertainment destination that serves both the region and the local community.

III. ENVIRONMENTAL REVIEW PROCESS

A. Environmental Impact Report

On March 5, 2014, the City circulated a Notice of Preparation (NOP) of the Draft EIR to the Office of Planning and Research (OPR) State Clearinghouse and interested agencies and persons. A postcard notice had previously been delivered in February 2014 to all postal addresses in the City to announce upcoming dates for the General Plan and Housing Element projects. The NOP was circulated for comment by responsible and trustee agencies and interested parties for a total of 30 days, from March 5, 2014 through April 7, 2014, during which time the City held a public scoping meeting on March 11, 2014. Comments on the NOP were received by the City and considered during preparation of the Draft EIR.

The Draft EIR was made available for review by the public and interested parties, agencies, and organizations for a 45-day comment period starting on June 18, 2014 and ending August 1, 2014. The Draft EIR was distributed to local, regional and State agencies. Copies of the Draft EIR in paper or electronic format were available to interested parties for purchase or review at Cupertino City Hall. The Draft EIR was also available for review at libraries in the City and in surrounding communities, and an electronic version of the Draft EIR and all appendices were posted on a website the City created for the combined General Plan and Housing Element projects at www.cupertinogpa.org, which included an electronic comment portal to receive public comment 24 hours a day, seven days a week. The City continues to make these documents available on its website for the Project at the

following URL: http://www.cupertino.org/app_folders/view/1. The public was also invited to submit written comments on the Draft EIR to the City of Cupertino Community Development Department by mail or e-mail to planning@cupertino.org.

Notice of availability of the Draft EIR was made in several ways. The City sent a postcard announcing the availability of the Draft EIR and inviting attendance at the Draft EIR comment meeting to all postal addresses in Cupertino. In addition, in accordance with CEQA, the City posted the Notice of Availability (NOA) on the Project website. The City also sent emails providing notice of the Draft EIR's availability to all persons who had indicated an interest in the Project and signed up for notifications through the City's website. The local media publicized the availability of the Draft EIR and the public comment period.

The City held a Community Open House and EIR Comment Meeting during the comment period on June 24, 2014. The City solicited written comments at the meeting by distributing comment cards that were collected at the end of the evening.

The 45-day comment period on the Draft EIR ended on August 1, 2014 at 4:30 p.m. Agencies, organizations, and members of the public submitted written comments on the Draft EIR. The Responses to Comments Document, which is the third volume of the Final EIR, was issued for public review on August 28, 2014 and sent to public agencies who had commented on the Draft EIR. Chapter 5 of the Responses to Comments Document provides responses to the comments received during the comment period on the Draft EIR. Late comments received after the close of the public comment period have been addressed in memoranda submitted to the City Council.

On September 9, 2014, the Planning Commission held a Study Session on the EIR and took public comments. On October 7, 2014, the City Council held a Study Session on the Final EIR and took public comments.

On October 2, 2014, the Environmental Review Committee determined that the EIR was adequate and recommended that the City Council certify the EIR. On October 20, 2014, following a duly noticed public hearing on October 14, 2014 that was continued on October 20, 2014, the City Planning Commission, recommended that the City Council certify the Final EIR.

B. Additional Housing Element Public Review Process

The Housing Element must identify community involvement and decision-making processes and techniques that constitute affirmative steps for receiving input from all economic segments of the community, especially low-income persons and their representatives, as well as from other members of the community. Public participation, pursuant to Section 65583(c)(8) of the Government Code, was accomplished in a variety of

ways. Outreach was conducted in the form of in-person interviews with stakeholders including several housing-related non-profits and organizations that provide services to low income families and individuals in the City; and with parties interested in the Housing Element process, including property owners and community groups such as the Concerned Citizens of Cupertino and neighborhood groups. Below are some examples of outreach and noticing conducted as part of the Housing Element update.

- Notice postcard sent to every postal address in the City.
- Joint Housing Commission and Planning Commission workshop – January 23, 2014
- Housing Commission Workshop – February 12, 2014
- Open House – February 19, 2014, September 16, 2014
- Study Session held with Planning Commission – February 19, 2014
- Study Session held with City Council – March 3, 2014
- Housing Commission meeting on housing policy – March 19, 2014
- Joint Planning Commission/City meeting on housing policy – April 1, 2014
- Newspaper notices.
- Notices sent to all prospective housing element site property owners prior to City Council authorization to commence environmental review.
- Notices sent to all prospective housing element site property owners prior to Planning Commission and City Council prioritization of the sites for HCD review.
- Webpage hosted focusing on the Housing Element Update process.
- Notice of website additions and Workshop reminders e-mailed to over 300 Housing Element website subscribers.
- Staff presentations at the Chamber of Commerce.
- Housing Commission Meeting – August 28, 2014
- Planning Commission Hearing – October 14, 2014 and October 20, 2014

The City's outreach also included stakeholder meetings with non-profit and for-profit housing developers, building industry trade groups, architects, planners, and affordable housing funders. The Housing Element update process in the City has involved a number of groups and individuals in the process of reviewing current housing conditions and needs

and considering potential housing strategies. Two public workshops were held at Housing Commission meeting and at a Joint Planning Commission Housing Commission meeting. In addition, one publicly noticed Planning Commission Study Session was held and included opportunity for public comment. Feedback from these study sessions and public workshops was used to identify needs, assess constraints and develop draft programs for the Housing Element update, and are included in Section 1.3 of Appendix A of the General Plan.

IV. FINDINGS

The findings, recommendations, and statement of overriding considerations set forth below (the "Findings") are made and adopted by the Cupertino City Council as the City's findings under CEQA and the State CEQA Guidelines relating to the Project. The Findings provide the written analysis and conclusions of this City Council regarding the Project's environmental impacts, mitigation measures, alternatives to the Project, and the overriding considerations that support approval of the Project despite any remaining environmental effects it may have.

These findings summarize the environmental determinations of the Final EIR with regard to project impacts before and after mitigation, and do not attempt to repeat the full analysis of each environmental impact contained in the Final EIR. Instead, these findings provide a summary description of and basis for each impact conclusion identified in the Final EIR, describe the applicable mitigation measures identified in the Final EIR, and state the City's findings and rationale about the significance of each impact following the adoption of mitigation measures. A full explanation of these environmental findings and conclusions can be found in the Final EIR, and these findings hereby incorporate by reference the discussion and analysis in the Final EIR supporting the Final EIR's determinations regarding mitigation measures and the Project's impacts.

When evaluating cumulative impacts, CEQA allows the use of either a list of past, present, and probable future projects, including projects outside the control of the lead agency, or a summary of projections in an adopted planning document. The cumulative impacts analysis in the Final EIR uses the projections approach and takes into account growth from the Project within the Cupertino city boundary and Sphere of Influence (SOI), in combination with impacts from projected growth in the rest of Santa Clara County and the surrounding region, as forecast by the Association of Bay Area Governments (ABAG).

In adopting mitigation measures, below, the City intends to adopt each of the mitigation measures identified in the Final EIR. Accordingly, in the event a mitigation measure identified in the Final EIR has been inadvertently omitted from these findings, such mitigation measure is hereby adopted and incorporated into the Project in the findings below by reference. In addition, in the event the language of a mitigation measure set forth below fails to accurately reflect the mitigation measure in the Final EIR due to a clerical error, the language of the mitigation measure as set forth in the Final EIR shall control

unless the language of the mitigation measure has been specifically and expressly modified by these findings.

Sections V and VI, below, provide brief descriptions of the impacts that the Final EIR identifies as either significant and unavoidable or less than significant with adopted mitigation. These descriptions also reproduce the full text of the mitigation measures identified in the Final EIR for each significant impact.

V. SIGNIFICANT AND UNAVOIDABLE ADVERSE IMPACTS AND DISPOSITION OF RELATED MITIGATION MEASURES RESULTING IN SIGNIFICANT AND UNAVOIDABLE ADVERSE IMPACTS

The Final EIR identifies the following significant and unavoidable adverse impacts associated with the approval of the Project, some of which can be reduced, although not to a less-than-significant level, through implementation of mitigation measures identified in the Final EIR. Public Resources Code § 21081(a)(1). In some cases, the City cannot require or control implementation of mitigation measures for certain impacts because they are within the responsibility and jurisdiction of other public agencies. Public Resources Code § 21081(a)(2). Therefore, as explained below, some impacts will remain significant and unavoidable notwithstanding adoption of feasible mitigation measures. To the extent that these mitigation measures will not mitigate or avoid all significant effects on the environment, and because the City cannot require mitigation measures that are within the responsibility and jurisdiction of other public agencies to be adopted or implemented by those agencies, it is hereby determined that any remaining significant and unavoidable adverse impacts are acceptable for the reasons specified in Section XII, below. Public Resources Code § 21081(a)(3). As explained in Section IX, below, the findings in this Section V are based on the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

A. Impact AQ-1: Implementation of the Project would conflict with or obstruct implementation of the applicable air quality plan.

The Final EIR finds that while the Project would support the primary goals of the 2010 Bay Area Clean Air Plan, the buildout of the Project would conflict with the BAAQMD Bay Area Clean Air Plan goal for community-wide VMT to increase at a slower rate compared to population and employment growth. The rate of growth in VMT would exceed the rate of population and employment growth, resulting in a substantial increase in regional criteria air pollutant emissions in Cupertino.

There are no mitigation measures to reduce this impact to a less-than-significant level. Policies and development standards in the Project would lessen the impact, but due to the level of growth forecast in the city and the programmatic nature of the Project, the impact would be significant and unavoidable.

B. Impact AQ-2: Implementation of the Project would violate any air quality standard or contribute substantially to an existing or projected air quality violation.

The Final EIR finds that future development under the Project would result in a substantial long-term increase in criteria air pollutants over the 26-year General Plan horizon. Criteria air pollutant emissions would be generated from on-site area sources (e.g., fuel used for landscaping equipment, consumer products), vehicle trips generated by the project, and energy use (e.g., natural gas used for cooking and heating). Because cumulative development within the City of Cupertino could exceed the regional significance thresholds, the Project could contribute to an increase in health effects in the basin until such time as the attainment standards are met in the San Francisco Bay Area Air Basin (SFBAAB). The impact is considered significant and unavoidable.

Implementation of Mitigation Measures AQ-2a and AQ-2b, set forth below, which are hereby adopted and incorporated into the Project, would reduce these impacts, but not to a less-than-significant level. Due to the programmatic nature of the Project, no additional mitigation measures are available beyond Mitigation Measures AQ-2a and AQ-2b; therefore, the impact would be significant and unavoidable.

Mitigation Measure AQ-2a:

As part of the City's development approval process, the City shall require applicants for future development projects to comply with the current Bay Area Air Quality Management District's basic control measures for reducing construction emissions of PM10.

Mitigation Measure AQ-2b:

As part of the City's development approval process, the City shall require applicants for future development projects that could generate emissions in excess of the Bay Area Air Quality Management District's (BAAQMDs) current significance thresholds during construction, as determined by project-level environmental review, when applicable, to implement the current BAAQMD construction mitigation measures (e.g. Table 8-3 of the BAAQMD CEQA Guidelines) or any construction mitigation measures subsequently adopted by the BAAQMD.

C. Impact AQ-3: Implementation of the Project would result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is nonattainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors).

The Final EIR finds that the Project will combine with regional growth within the air basin to result in a cumulatively considerable net increase of pollutants for the SFBAAB, which is currently designated a nonattainment area for California and National O₃, California and

National PM_{2.5}, and California PM₁₀ ambient air quality standards (AAQS). Any project that produces a significant regional air quality impact in an area that is in nonattainment adds to the cumulative impact. Mitigation measures AQ-2a and AQ-2b, set forth and incorporated above, would reduce impacts to the extent feasible, but the Project's impacts would remain significant and unavoidable.

There are no mitigation measures to reduce the impact to a less-than-significant level. Air pollutant emissions associated with the Project would result in a cumulatively considerable contribution to air quality impacts, and the Project's impacts would be significant and unavoidable.

D. Impact AQ-6: Implementation of the Project would cumulatively contribute to air quality impacts in the San Francisco Bay Area Air Basin.

As described in the discussion of Impact AQ-3, the Final EIR finds that regional air quality impacts will be significant. Implementation of the Project, in combination with past, present, and reasonably foreseeable projects, would result in a significant cumulative impact with respect to air quality even with the applicable regulations, as well as the Mitigation Measures AQ-2a, AQ-2b, AQ-4a and AQ-4b and the General Plan policies outlined in Impact AQ-1 through AQ-5. Therefore, this cumulative impact would be significant and unavoidable.

There are no mitigation measures to reduce the impact to a less-than-significant level. Implementation of Mitigation Measures AQ-2a, AQ-2b, AQ-4a and AQ-4b and the General Plan policies outlined in Impact AQ-1 through AQ-5, would lessen the impact, but not to a less-than-significant level. Because the San Francisco Bay Area Air Basin is currently designated as a nonattainment area for California and National O₃, California and National PM_{2.5}, and California PM₁₀ AAQS, the Project's cumulative impact would be significant and unavoidable.

E. Impact NOISE-3: Implementation of the Project would result in a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project.

The Final EIR finds that implementation of the Project would have a significant impact if it results in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the Project. The Final EIR anticipates that there would be substantial permanent increases to ambient noise levels throughout Cupertino as a result of implementation of the Project and ongoing regional growth, and that these increases would result primarily from increases in transportation-related noise, especially noise from automobile traffic.

Although the Project contains policies that could in certain cases reduce or prevent significant increases in ambient noise at sensitive land uses upon implementation (e.g.,

noise-reducing technologies, rubberized asphalt, soundwalls, berms, and improved building sound-insulation), the measures described in these policies would not be universally feasible, and some of the most effective noise-attenuation measures, including sound walls and berms, would be infeasible or inappropriate in a majority of locations where sensitive land uses already exist.

There are no mitigation measures to reduce the impact to a less-than-significant level. All conceivable mitigations would be either economically impractical, scientifically unachievable, outside the City's jurisdiction, and/or inconsistent with City planning goals and objectives. Therefore, even after the application of relevant, feasible regulations and General Plan policies, the impact to ambient noise levels would remain significant and unavoidable.

F. Impact NOISE-5: Implementation of the Project, in combination with past, present, and reasonably foreseeable projects, would result in significant cumulative impacts with respect to noise.

The Final EIR finds that the analysis of the Project, as described in the discussions of Impact NOISE-3, addresses cumulative noise impacts from implementation of the Project. Similarly, the noise contours and traffic-related noise levels developed for the Project include and account for regional travel patterns as they affect traffic levels in the City. Thus, the future noise modeling which served as the foundation for the overall Project analysis was based on future, cumulative conditions, and finds that implementation of the Project would result in significant cumulative impacts.

The Final EIR finds that even after the application of pertinent policies and strategies of the General Plan Amendment cumulative noise impacts of the Project, as described in the discussion of Impact NOISE-3, would remain significant and unavoidable. Thus, implementation of the Project would result in a significant and unavoidable cumulative impact with respect to noise.

There are no feasible mitigation measures to reduce the impact to a less-than-significant level. As explained in the discussion of Impact NOISE-3, all conceivable cumulative noise mitigations would be economically impractical, scientifically unachievable, outside the City's jurisdiction, and/or inconsistent with City planning goals and objectives, and would be infeasible. Therefore, even after the application of relevant, feasible regulations and General Plan policies, the cumulative impact would remain significant and unavoidable.

G. Impact TRAF-1: Implementation of the Project would conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not

limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit.

The Final EIR finds that implementation of the Project would generate additional motor vehicle trips on the local roadway network, resulting in significant impacts to sixteen (16) out of 41 study intersections during at least one of the AM or PM peak hours. See Draft EIR, Table 4.13-13.⁸

Implementation of Mitigation Measure TRAF-1, set forth below, which is hereby adopted and incorporated into the Project, would secure a funding mechanism for future roadway and infrastructure improvements that are necessary to mitigate impacts from future projects based on then current standards, but not to a less-than-significant level. Impacts would remain significant and unavoidable because the City cannot guarantee improvements at these intersections at this time. This is in part because the nexus study has yet to be prepared and because some of the impacted intersections are within the jurisdiction of the City of Sunnyvale, the City of Santa Clara, and Caltrans. The City will continue to cooperate with these jurisdictions to identify improvements that would reduce or minimize the impacts to intersections and roadways as a result of implementation of future development projects in Cupertino, but, because many of the improvements in Mitigation Measure TRAF-1 are within the responsibility and jurisdiction of other agencies and not the City of Cupertino, this impact would remain significant and unavoidable.

Mitigation Measure TRAF-1:

The City of Cupertino shall commit to preparing and implementing a Transportation Mitigation Fee Program to guarantee funding for roadway and infrastructure improvements that are necessary to mitigate impacts from future projects based on the then current City standards. As part of the preparation of the Transportation Mitigation Fee Program, the City shall also commit to preparing a "nexus" study that will serve as the basis for requiring development impact fees under AB 1600 legislation, as codified by California Code Government Section 66000 et seq., to support implementation of the Project. The established procedures under AB 1600 require that a "reasonable relationship" or nexus exist between the transportation improvements and facilities required to mitigate the transportation impacts of new development pursuant to the Project. The following examples of transportation improvements and facilities would reduce impacts to acceptable level of service standards and these, among other improvements, could be included in the development impact fees nexus study:

- ◆ **SR 85 Northbound Ramps and Stevens Creek Boulevard (#2):** *An exclusive left-turn lane for the northbound leg of the intersection (freeway off-ramp) at the intersection of SR 85 and*

⁸ Following completion of the Draft EIR, the impacts to Intersection #29 were determined to be less-than-significant rather than significant. See Supplemental Text Revisions Memo.

Stevens Creek Boulevard would result in one left-turn lane, one all-movement lane, and one right turn lane. The additional lane could be added within the existing Caltrans right-of-way.

- ◆ ***Stelling Road and Stevens Creek Boulevard (#3):*** *The addition of a second exclusive left-turn lane for the eastbound leg of the intersection from Stevens Creek Boulevard to northbound Stelling Road, which could be accomplished by reworking the median. Right turns would share the bike lane.*
- ◆ ***Sunnyvale-Saratoga Road/De Anza Boulevard and Homestead Road (#5):*** *Widen De Anza Boulevard to four lanes in each direction or the installation of triple left-turn lanes.*
- ◆ ***De Anza Boulevard and I-280 Northbound Ramp (#6):*** *Restriping of De Anza Boulevard in the southbound direction to provide room for right turn vehicles to be separated from through traffic may be required. The bike lane would be maintained, and right turns would occur from the bike lane. The right turns would continue to be controlled by the signal and would need to yield to pedestrians.*
- ◆ ***De Anza Boulevard and Stevens Creek Boulevard (#8):*** *Restripe westbound Stevens Creek Boulevard to provide room for right turn vehicles to be separated from through vehicles may be required. The right turn vehicles will share the bike lane and will still be controlled by the traffic signal. Paint a bike box at the front of the lane to provide bikes a place to wait at red lights. The pedestrian crossings will not be affected may enhance the bicycling experience.*
- ◆ ***De Anza Boulevard and McClellan Road/Pacifica Drive (#9):*** *Realign the intersection that is currently offset resulting in inefficient signal timing such that the McClellan Road and Pacifica Drive legs are across from each other may be required. In addition, double left turn lanes may be required to be added to De Anza Boulevard with sections of double lanes on McClellan Road and Pacifica Drive to receive the double left turn lanes. These improvements will require the acquisition of right-of-way and demolition of existing commercial buildings. However, some existing right-of-way could be abandoned, which would reduce the net right-of-way take.*
- ◆ ***Wolfe Road and Homestead Road (#16):*** *The addition of a third southbound through lane to the southbound approach of the intersection of Wolfe Road and Homestead Road may be required, as well as the addition of a southbound exclusive right-turn lane. Three southbound receiving lanes on the south side of the intersection currently exist. An additional westbound through lane for a total of three through-movement lanes, an additional receiving lane on Homestead westbound to receive the additional through lane, as well as the addition of a westbound exclusive right-turn lane may be required. This will require widening Homestead Road. An additional eastbound through lane for a total of three through-movement lanes, an additional receiving lane on Homestead eastbound to receive the additional through lane, as well as the addition of an eastbound exclusive left-turn lane for a total of two left-turn lanes may be required. These improvements will require the acquisition of right-of-way and demolition of parking areas.*

- ◆ **Wolfe Road and I-280 Northbound Ramp (#18):** *The Apple Campus 2 project will be adding a third northbound through lane starting at the northbound on ramp. This third lane will need to be extended farther south to effectively serve the additional northbound traffic due to the General Plan development. This could require widening the Wolfe Road overcrossing. Right-of-way acquisition may be required. In accordance with Caltrans procedures, a Project Study Report (PSR) will need to be prepared. The PSR will look at all interchange improvement options, which may include widening the overcrossing and may also include a redesign of the interchange to go from a partial cloverleaf design to a diamond design. This could help with heavy volumes in the right lane, which contributes to the level-of-service deficiency.*
- ◆ **Wolfe Road and I-280 Southbound Ramp (#19):** *An additional through lane for a total of three through-movement lanes for the northbound leg of the intersection at the Wolfe Road and I-280 Southbound Ramp may be required. This additional northbound through lane would require widening to the freeway overcrossing. In addition to widening the overcrossing, the City may wish to pursue a redesign of the interchange to go from a partial cloverleaf design to a diamond design. This could help with the problem of heavy volume in the right lane, which contributes to the level of service deficiency.*
- ◆ **Wolfe Road/Miller Avenue and Stevens Creek Boulevard (#21):** *The restriping of the westbound leg of the intersection to provide room so that right turn vehicles can be separated from through vehicles may be required. Right turn vehicles would share the bike lane. Right turn vehicles would still be controlled by the signal, and pedestrian crossings would not be affected. Paint a bike box at the front of the lane to provide bikes a place to wait at red lights may enhance the bicycling experience.*
- ◆ **North Tantau Avenue/Quail Avenue and Homestead Road (#24):** *Restriping of the southbound leg of the intersection (Quail Avenue) to provide a separate left turn lane may be required. This will require the removal of on-street parking near the intersection. The level-of-service calculations show that with implementation of these improvements, the intersection would operate at an acceptable LOS D.*
- ◆ **Tantau Avenue and Stevens Creek Boulevard (#27):** *The addition of a separate left-turn lane to northbound Tantau Avenue may be required. Right-of-way acquisition and demolition of existing commercial buildings would be required.*
- ◆ **Stevens Creek Boulevard and Agilent Technologies Driveway (#30):** *The restriping of the westbound leg of the intersection to provide room so that right turn vehicles can be separated from through vehicles may be required. Right turn vehicles would share the bike lane. Right turn vehicles would still be controlled by the signal, and pedestrian crossings would not be affected. Paint a bike box at the front of the lane to provide bikes a place to wait at red lights may enhance the bicycling experience.*

- ◆ **Lawrence Expressway Southbound Ramp and Stevens Creek Boulevard (CMP, County)(#31):** *The addition of a second right-turn lane for the southbound leg of the intersection at the Lawrence Expressway Southbound Ramp and Stevens Creek Boulevard may be required. Both lanes would need to be controlled by the signal, and disallow right turns on red. Right-of-way acquisition may be required.*
- ◆ **Lawrence Expressway Northbound Ramp and Stevens Creek Boulevard (CMP, County) (#32):** *Redesign of the northbound leg of the intersection at the Lawrence Expressway Northbound Ramp and Stevens Creek Boulevard to provide one through-movement lane, and one exclusive right-turn lane may be required. Right-of-way acquisition would be required.*

The fees shall be assessed when there is new construction, an increase in square footage in an existing building, or the conversion of existing square footage to a more intensive use. The fees collected shall be applied toward circulation improvements and right-of-way acquisition. The fees shall be calculated by multiplying the proposed square footage, dwelling unit, or hotel room by the appropriate rate. Traffic mitigation fees shall be included with any other applicable fees payable at the time the building permit is issued. The City shall use the traffic mitigation fees to fund construction (or to recoup fees advanced to fund construction) of the transportation improvements identified above, among other things that at the time of potential future development may be warranted to mitigate traffic impacts.

H. Impact TRAF 2: Implementation of the Project would conflict with an applicable congestion management program, including, but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways.

The Final EIR finds that of the 41 intersections studied in the EIR traffic analysis, 21 are included in Santa Clara County’s Congestion Management Program (CMP). See Table 4.3-13, Draft EIR. The Project would result in significant impacts to 11 CMP intersections during at least one of the peak hours. Implementation of Mitigation Measure TRAF-1, set forth and incorporated above, would reduce these impacts, but not to a less-than-significant level.

Mitigation Measure:

Implement Mitigation Measure TRAF-1.

As described in the discussion of Impact TRAF-1, because many of the improvements in Mitigation Measure TRAF-1 are within the responsibility and jurisdiction of other agencies and not the City of Cupertino, these impacts would remain significant and unavoidable.

I. Impact TRAF-6: Implementation of the Project, in combination with past, present, and reasonably foreseeable projects, would result in additional cumulatively considerable impacts.

The Final EIR finds that the analysis of the Project, as described in the discussions of Impact TRAF-1 and Impact TRAF-2, addresses cumulative impacts to the transportation network in the city and its surroundings; accordingly, cumulative impacts would be the same as Project-specific impacts. Therefore, the cumulative impacts to the City's transportation network resulting from the Project would be significant and unavoidable.

Mitigation Measure:

Implement Mitigation Measure TRAF-1.

As discussed under TRAF-1, because many of the improvements in Mitigation Measure TRAF-1 are within the responsibility and jurisdiction of other agencies and not the City of Cupertino, this cumulative impact would remain significant and unavoidable.

VI. SIGNIFICANT ADVERSE IMPACTS IDENTIFIED IN THE FINAL EIR THAT ARE REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL BY MITIGATION MEASURES ADOPTED AND INCORPORATED INOT THE PROJECT

The Final EIR identifies the following significant impacts associated with the Project. It is hereby determined that the impacts addressed by these mitigation measures will be mitigated to a less than significant level or avoided by adopting and incorporating these mitigation measures conditions into the Project. Public Resources Code § 21081(a)(1). As explained in Section IX, below, the findings in this Section VI are based on the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

A. Impact AQ-4: Implementation of the Project would expose sensitive receptors to substantial concentrations of air pollution.

The Final EIR finds that the Project could result in locating sensitive receptors in proximity to major sources of air pollution or the siting of new sources of air pollution in proximity to sensitive receptors in the city. Nonresidential land uses that generate truck trips may generate substantial quantities of air pollutants within 1,000 feet of off-site sensitive receptors. In addition, proposed sensitive land uses in Cupertino may be within 1,000 feet of major sources of air pollutants, which would create a significant and unavoidable impact.

Implementation of the Mitigation Measures AQ-4a and AQ-4b, set forth below, which are hereby adopted and incorporated into the Project, would reduce this impact to a less-than-significant level.

Mitigation Measure AQ-4a:

Applicants for future non-residential land uses within the city that: 1) have the potential to generate 100 or more diesel truck trips per day or have 40 or more trucks with operating diesel-powered Transport Refrigeration Units (TRUs), and 2) are within 1,000 feet of a sensitive land use (e.g. residential, schools, hospitals, nursing homes), as measured from the property line of the Project to the property line of the nearest sensitive use, shall submit a health risk assessment (HRA) to the City of Cupertino prior to future discretionary Project approval. The HRA shall be prepared in accordance with policies and procedures of the State Office of Environmental Health Hazard Assessment and the Bay Area Air Quality Management District. If the HRA shows that the incremental cancer risk exceeds ten in one million (10E-06), PM_{2.5} concentrations exceed 0.3 µg/m³, or the appropriate noncancer hazard index exceeds 1.0, the applicant will be required to identify and demonstrate that Best Available Control Technologies for Toxics (T-BACTs) are capable of reducing potential cancer and noncancer risks to an acceptable level, including appropriate enforcement mechanisms. T-BACTs may include but are not limited to:

- *Restricting idling on-site.*
- *Electrifying warehousing docks.*
- *Requiring use of newer equipment and/or vehicles.*
- *Restricting offsite truck travel through the creation of truck routes.*

T-BACTs identified in the HRA shall be identified as mitigation measures in the environmental document and/or incorporated into the site development plan as a component of the Project.

Mitigation Measure AQ-4b:

Applicants for residential and other sensitive land use projects (e.g. hospitals, nursing homes, day care centers) in Cupertino within 1,000 feet of a major sources of TACs (e.g. warehouses, industrial areas, freeways, and roadways with traffic volumes over 10,000 vehicle per day), as measured from the property line of the project to the property line of the source/edge of the nearest travel lane, shall submit a health risk assessment (HRA) to the City of Cupertino prior to future discretionary Project approval. The HRA shall be prepared in accordance with policies and procedures of the State Office of Environmental Health Hazard Assessment (OEHHA) and the Bay Area Air Quality Management District. The latest OEHHA guidelines shall be used for the analysis, including age sensitivity factors, breathing rates, and body weights appropriate for children age 0 to 16 years. If the HRA shows that the incremental cancer risk exceeds ten in one million (10E-06), PM_{2.5} concentrations exceed 0.3 µg/m³, or the appropriate noncancer hazard index exceeds 1.0, the applicant will be required to identify and demonstrate that mitigation measures are capable of reducing potential cancer and non-cancer risks to an acceptable level (i.e. below ten in one million or a hazard index of 1.0), including appropriate enforcement mechanisms. Measures to reduce risk may include but are not limited to:

- *Air intakes located away from high volume roadways and/or truck loading zones.*

- Heating, ventilation, and air conditioning systems of the buildings provided with appropriately sized Maximum Efficiency Rating Value (MERV) filters.

Mitigation measures identified in the HRA shall be identified as mitigation measures in the environmental document and/or incorporated into the site development plan as a component of the Project. The air intake design and MERV filter requirements shall be noted and/or reflected on all building plans submitted to the City and shall be verified by the City's Planning Division.

B. Impact BIO-1: Implementation of the Project would have a substantial adverse effect, either directly or through habitat modifications, on a plant or animal population, or essential habitat, defined as a candidate, sensitive or special-status species.

The Final EIR finds that some special-status bird species such as Cooper's hawk and white-tailed kite could utilize the remaining riparian corridors and heavily wooded areas for nesting, dispersal and other functions when they pass through urbanized areas. More common birds protected under MBTA may nest in trees and other landscaping on the Project Component locations. Given the remote potential for occurrence of nesting birds at one or more of the Project Component locations and possibility that nests could be inadvertently destroyed or nests abandoned as a result of construction activities, this would be considered a potentially significant impact.

Implementation of Mitigation Measure BIO-1, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure BIO-1:

Nests of raptors and other birds shall be protected when in active use, as required by the federal Migratory Bird Treaty Act and the California Department of Fish and Game Code. If construction activities and any required tree removal occur during the breeding season (February 1 and August 31), a qualified biologist shall be required to conduct surveys prior to tree removal or construction activities. Preconstruction surveys are not required for tree removal or construction activities outside the nesting period. If construction would occur during the nesting season (February 1 to August 31), preconstruction surveys shall be conducted no more than 14 days prior to the start of tree removal or construction. Preconstruction surveys shall be repeated at 14-day intervals until construction has been initiated in the area after which surveys can be stopped. Locations of active nests containing viable eggs or young birds shall be documented and protective measures implemented under the direction of the qualified biologist until the nests no longer contain eggs or young birds. Protective measures shall include establishment of clearly delineated exclusion zones (i.e. demarcated by identifiable fencing, such as orange construction fencing or equivalent) around each nest location as determined by a qualified biologist, taking into account the species of birds nesting, their tolerance for disturbance and proximity to existing development. In general, exclusion zones shall be a minimum

of 300 feet for raptors and 75 feet for passerines and other birds. The active nest within an exclusion zone shall be monitored on a weekly basis throughout the nesting season to identify signs of disturbance and confirm nesting status. The radius of an exclusion zone may be increased by the qualified biologist if project activities are determined to be adversely affecting the nesting birds. Exclusion zones may be reduced by the qualified biologist only in consultation with California Department of Fish and Wildlife. The protection measures shall remain in effect until the young have left the nest and are foraging independently or the nest is no longer active.

C. Impact BIO-6: Implementation of the Project, in combination with past, present, and reasonably foreseeable projects, would result in significant cumulative impacts with respect to biological resources.

The Final EIR finds that implementation of the Project could result in further conversion of existing natural habitats to urban and suburban conditions, limiting the existing habitat values of the surrounding area and potentially resulting in significant cumulative impacts with respect to biological resources.

With implementation of Mitigation Measure BIO-1, set forth and incorporated above, the Project would not make a cumulatively considerable contribution to this cumulative impact, and the impact would be less than significant.

Mitigation Measure:

Implement Mitigation Measure BIO-1.

D. Impact HAZ-4: Implementation of the Project would be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment.

The Final EIR finds that because hazardous materials are known to be present in soil, soil gas, and/or groundwater due to past land uses at certain sites that may be redeveloped as part of the Project, the direct contact, inhalation, or ingestion of hazardous materials could potentially cause adverse health effects to construction workers and future site users. The severity of health effects would depend on the contaminant(s), concentration, use of personal protective equipment during construction, and duration of exposure. The disturbance and release of hazardous materials during earthwork activities, if present, could pose a hazard to construction workers, nearby receptors, and the environment and impacts could be potentially significant.

Implementation of Mitigation Measures HAZ-4a and HAZ-4b, set forth below, which are hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure HAZ-4a:

Construction at the sites with known contamination shall be conducted under a project-specific Environmental Site Management Plan (ESMP) that is prepared in consultation with the Regional Water Quality Control Board (RWQCB) or the Department of Toxic Substances Control (DTSC), as appropriate. The purpose of the ESMP is to protect construction workers, the general public, the environment, and future site occupants from subsurface hazardous materials previously identified at the site and to address the possibility of encountering unknown contamination or hazards in the subsurface. The ESMP shall summarize soil and groundwater analytical data collected on the project site during past investigations; identify management options for excavated soil and groundwater, if contaminated media are encountered during deep excavations; and identify monitoring, irrigation, or other wells requiring proper abandonment in compliance with local, State, and federal laws, policies, and regulations.

The ESMP shall include measures for identifying, testing, and managing soil and groundwater suspected of or known to contain hazardous materials. The ESMP shall: 1) provide procedures for evaluating, handling, storing, testing, and disposing of soil and groundwater during project excavation and dewatering activities, respectively; 2) describe required worker health and safety provisions for all workers potentially exposed to hazardous materials in accordance with State and federal worker safety regulations; and 3) designate personnel responsible for implementation of the ESMP.

Mitigation Measure HAZ-4b:

For those sites with potential residual contamination in soil, gas, or groundwater that are planned for redevelopment with an overlying occupied building, a vapor intrusion assessment shall be performed by a licensed environmental professional. If the results of the vapor intrusion assessment indicate the potential for significant vapor intrusion into an occupied building, project design shall include vapor controls or source removal, as appropriate, in accordance with regulatory agency requirements. Soil vapor mitigations or controls could include vapor barriers, passive venting, and/or active venting. The vapor intrusion assessment and associated vapor controls or source removal can be incorporated into the ESMP (Mitigation Measure HAZ-4a).

- E. Impact HAZ-7: Implementation of the Project, in combination with past, present, and reasonably foreseeable projects, would result in less than significant cumulative impacts with respect to hazards and hazardous materials.**

The Final EIR takes into account growth projected by the Project within the Cupertino city boundary and Sphere of Influence (SOI), in combination with impacts from projected growth in the rest of Santa Clara County and the surrounding region, as forecast by the Association of Bay Area Governments (ABAG). Potential cumulative hazardous materials impacts could arise from a combination of the development of the Project together with the

regional growth in the immediate vicinity of the Project Study Area. As discussed under Impact HAZ-4, disturbance and release of hazardous materials during earthwork activities, if present, could pose a hazard to construction workers, nearby receptors, and the environment and impacts could be potentially significant.

With implementation of Mitigation Measures HAZ-4a and HAZ-4b, set forth and incorporated above, in conjunction with compliance with General Plan policies and strategies, other local, regional, State, and federal regulations, the Project would not make a cumulatively considerable contribution to this cumulative impact, and the impact would be less than significant.

Mitigation Measure:

Implement Mitigation Measures HAZ-4a and HAZ-4b.

- F. Impact UTIL-6: Implementation of the Project would result in a determination by the wastewater treatment provider, which serves, or may serve the project, that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.**

Buildout of the Project would have a significant impact if future projected demand exceeds the wastewater service capacity of the San Jose/Santa Clara Water Pollution Control Plan (SJ/SCWPCP) or the Sunnyvale Water Pollution Control Plan (SWPCP), or the Cupertino Sanitary District (CSD) or City of Sunnyvale collection systems.

Implementation of Mitigation Measures UTIL-6a, UTIL-6b, and UTIL-6c, set forth below, which are hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

Mitigation Measure UTIL-6a:

The City shall work with the Cupertino Sanitary District to increase the available citywide treatment and transmission capacity to 8.65 million gallons per day, or to a lesser threshold if studies justifying reduced wastewater generation rates are approved by CSD as described in Mitigation Measure UTIL-6c.

Mitigation Measure UTIL-6b:

The City shall work to establish a system in which a development monitoring and tracking system to tabulate cumulative increases in projected wastewater generation from approved projects for comparison to the Cupertino Sanitary District's treatment capacity threshold with San Jose/Santa Clara Water Pollution Control Plant is prepared and implemented. If it is anticipated that with approval of a development project the actual system discharge would exceed the contractual treatment

threshold, no building permits for such project shall be issued prior to increasing the available citywide contractual treatment and transmission capacity as described in Mitigation Measure UTIL-6a.

Mitigation Measure UTIL-6c:

The City shall work with the Cupertino Sanitary District to prepare a study to determine a more current estimate of the wastewater generation rates that reflect the actual development to be constructed as part of Project implementation. The study could include determining how the green/LEED certified buildings in the City reduce wastewater demands.

G. Impact UTIL-7: Implementation of the Project, in combination with past, present, and reasonably foreseeable projects, would not result in significant cumulative impacts with respect to wastewater treatment.

The Final EIR finds that buildout of the Project would generate a minor increase in the volume of wastewater delivered for treatment at SJ/SCWPCP and SWPCP, representing less than 1 percent of the available treatment capacity at the SJ/SCWPCP and SWPCP, and it would occur incrementally over a period of 26 years. Based on the recent trends of diminishing wastewater treatment demand and the projected population growth in the service areas, cumulative wastewater treatment demand over the Project buildout period is far below the excess capacity of the SJ/SCWPCP and SWPCP. Because the cumulative demand would not substantially impact the existing or planned capacity of the wastewater treatment systems, which have sufficient capacity for wastewater that would be produced by the Project, the construction of new wastewater treatment facilities would not be necessary.

With implementation of Mitigation Measures UTIL-6a, UTIL-6b and UTIL-6c, set forth and incorporated above, cumulative development combined with the Project would not exceed wastewater treatment requirements. Therefore, the Project would not make a cumulatively considerable contribution to this cumulative impact, and the impact would be less than significant.

Mitigation Measure:

Implement Mitigation Measures UTIL-6a, UTIL-6b, and UTIL-6c.

H. Impact UTIL-8: The Project would not be served by a landfill(s) with sufficient permitted capacity to accommodate the Project's solid waste disposal needs.

The Final EIR finds that anticipated rates of solid waste disposal would have a less-than-significant impact with regard to target disposal rates, and that the City would continue its current recycling ordinances and zero-waste policies. Nevertheless, the 2023 termination of

the agreement between the Newby Island Landfill facility, as well as that facility's estimated closure date in 2025, would result in insufficient solid waste disposal capacity at buildout of the Project, resulting in a significant impact.

Implementation of Mitigation Measure UTIL-8, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impacts to a less-than-significant level.

Mitigation Measure UTIL-8:

The City shall continue its current recycling ordinances and zero-waste policies in an effort to further increase its diversion rate and lower its per capita disposal rate. In addition, the City shall monitor solid waste generation volumes in relation to capacities at receiving landfill sites to ensure that sufficient capacity exists to accommodate future growth. The City shall seek new landfill sites to replace the Altamont and Newby Island landfills, at such time that these landfills are closed.

- I. Impact UTIL-10: Implementation of the Project, in combination with past, present and reasonably foreseeable projects, would result in significant cumulative impacts with respect to solid waste.**

The Final EIR finds that buildout of the Project will increase the quantity of solid waste for disposal. AB 939 established a goal for all California cities to provide at least 15 years of ongoing landfill capacity; however, growth from other cities in the region may exceed the growth that was taken into account when determining landfill capacity. Also, because the Newby Island Landfill facility, which currently takes approximately 92 percent of the City's solid waste, is expected to close in 2025, Cupertino may eventually experience insufficient landfill capacity to accommodate existing or increased population and employment levels. Although implementation of existing waste reduction programs and diversion requirements would reduce the potential for exceeding existing capacities of landfills, the potential lack of landfill capacity for disposal of solid waste would be a significant cumulative impact.

With implementation of Mitigation Measure UTIL-8, set forth and incorporated above, the Project would not make a cumulatively considerable contribution to this cumulative impact, and the impact would be less than significant.

Mitigation Measure

Implement Mitigation Measure UTIL-8.

VII. GROWTH INDUCING IMPACTS

An EIR is required to discuss growth inducing impacts, which consist of the ways in which the project could foster economic or population growth, or the construction of additional

housing, either directly or indirectly, in the surrounding environment. State CEQA Guidelines § 15126.2(d); Public Resources Code § 21100(b)(5). Direct growth inducement would result, for example, if a project involves the construction of substantial new housing that would support increased population in a community or establishes substantial new permanent employment opportunities. This additional population could, in turn, increase demands for public utilities, public services, roads, and other infrastructure. Indirect growth inducement would result if a project stimulates economic activity that requires physical development or removes an obstacle to growth and development (e.g., increasing infrastructure capacity that would enable new or additional development). It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment. State CEQA Guidelines § 15126.2(d). Section 6.3 of the Draft EIR analyzes the growth inducing impacts of the Project. As explained in Section IX, below, the findings in this Section VII are based on the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

Implementation of the Project would directly induce population, employment and economic growth by replenishing the commercial, residential, hotel, and office space allocation within some areas of the city. The Project would result in the following growth patterns based on the expected growth assumptions for the city boundary:

- Implementation of the Project to the year 2040 would result in increased office space development allocation of approximately 500,000 square feet for a total office allocation of 1,040,231 square feet. This would result in a total anticipated office space of approximately 11,470,005 square feet by 2040.⁹
- Implementation of the Project to the year 2040 would result in a commercial space development allocation of approximately 1,343,679 square feet, which is an increase of 642,266 square feet in the allocation pool but a net increase of 0 square feet. That is because all 642,266 square feet of increase allocation would come from demolition and rebuilding of existing commercial square footage (see footnote 5, above). This would result in a total anticipated commercial space of approximately 4,430,982 square feet by 2040.¹⁰
- Implementation of the Project to the year 2040 would result in increased hotel room development allocation of approximately 1,000 rooms for a total hotel room allocation of 1,339 rooms. This would result in a total anticipated hotel room inventory of approximately 2,429 rooms by 2040.¹¹

⁹ Existing built/approved office space was 8,929,774 square feet in 2013.

¹⁰ Existing built/approved commercial space was 3,729,569 square feet in 2013. With the remaining commercial allocation, commercial buildout by 2040 is estimated to be 4,430,982 square feet. Cupertino Community Development Department (October 31, 2014).

¹¹ Existing built/approved hotel rooms was 1,090 rooms in 2013.

State law requires the City to promote the production of housing to meet its Regional Housing Needs Allocation made by ABAG. The housing and commercial/ industrial growth in Cupertino would allow the City to address its regional fair-share housing obligations.

The Project is considered growth inducing because it encourages new growth in the urbanized areas of Cupertino. Development in these areas would consist of infill development on underutilized sites, sites that have been previously developed, and sites that are vacant and have been determined to be suitable for development. However, because infrastructure is largely in place and commercial or office growth would be required to comply with the City's General Plan, Zoning regulations and standards for public services and utilities; secondary or indirect effects associated with this growth do not represent a new significant environmental impact which has not already been addressed in the individual resource chapters of this EIR.

VIII. ALTERNATIVES

The Final EIR analyzed four alternatives, examining the environmental impacts and feasibility of each alternative, as well as the ability of the alternatives to meet project objectives. The project objectives are listed in Chapter 3 (Project Description) of the Draft EIR; the potentially significant environmental effects of the Project, including feasible mitigation measures identified to avoid these impacts, are analyzed in Chapter 4 (Environmental Evaluation) of the Draft EIR; and the alternatives are described in detail in Chapter 5 (Alternatives to the Proposed Project) of the Draft EIR.

Brief summaries of the alternatives are provided below. A brief discussion of the Environmentally Superior Alternative follows the summaries of the alternatives. As explained in Section IX, below, the findings in this Section VII are based on the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

A. The No Project Alternative

CEQA requires evaluation of the "no project" alternative. State CEQA Guidelines § 15126.6(e). Consistent with State CEQA Guidelines section 15126.6(e)(3)(A), the No Project Alternative assumes that growth and development would continue to occur under the provisions of the current 2000-2020 General Plan, including the development allocations for office and commercial space, and hotel and residential unit allocations. Thus, no new development potential beyond what is currently permitted in the 2000-2020 General Plan would occur.

As shown in Draft EIR Table 5-1, the No Project Alternative would allow for the following new development allocations:

- **Office allocation: 540,231 square feet** (no net increase from 2000-2020 General Plan)

- **Commercial allocation: 701,413 square feet** (no net increase from 2000-2020 General Plan)
- **Hotel allocation: 339 rooms** (no net increase from 2000-2020 General Plan)
- **Residential allocation: 1,895 units** (no net increase from 2000-2020 General Plan)

As discussed in Section 5.1.7 of the Draft EIR, the No Project Alternative would not achieve any of the City's project objectives, which are as follows, except that it would provide for the RHNA for the 20014-2022 planning period:

- Emphasize employment and a mix of economic development opportunities by replenishing, reallocating, and increasing city-wide office, commercial, and hotel, allocations in order to capture:
 - A share of the regional demand for office and hotel development, and
 - Retail sales tax leakage in the trade area.
- Address local needs and regional requirements for new housing, including affordable housing, in Cupertino by replenishing, re-allocating and increasing city-wide residential allocations to be consistent with 2040 Bay Area Plan projections to allow flexibility for the city when future state-mandated updates are required to the Housing Element.
- Update the Housing Element as required by State law.
- Creating opportunities for mixed-use development consistent with Regional Sustainable Communities Strategies for greenhouse gas emissions reductions as required by SB 375.
- Investing in improvement to adapt to climate change over time.
- Consider increased heights in key nodes and gateways, if proposed development provides retail development and benefits directly to the community.
- Update General Plan policies to implement multi-modal traffic standards as opposed to LOS thresholds currently identified. Balancing development objectives with transportation constraints and opportunities.
- Revitalize the Vallco Shopping District by adopting policies to support its redevelopment, so it becomes a cohesive, vibrant shopping and entertainment destination that serves both the region and the local community.

For the foregoing reasons, the No Project Alternative is hereby rejected as infeasible.

B. Land Use Alternative A

Land Use Alternative A identifies how growth would occur if the City largely continues the policies of the current 2005 General Plan, while making minor development allocation and boundary changes. The 2005 General Plan land use standards would continue to apply to Vallco Shopping Mall, and it would not be redeveloped in any substantial manner. Alternative A would increase city-wide office and hotel allocation but would not increase allocations for commercial and residential uses. No maximum height increases are proposed under this alternative.

As shown in Draft EIR Table 5-1, the Land Use Alternative A would allow for the following new development allocations:

- **Office allocation: 1,040,231 square feet** (net increase of 500,000 square feet from the 2000-2020 General Plan)
- **Commercial allocation: 701,413 square feet** (no net increase from the 2000-2020 General Plan)
- **Hotel allocation: 600 rooms** (net increase of 261 rooms from the 2000-2020 General Plan)
- **Residential: 1,895 units** (no net increase from the 2000-2020 General Plan)

As discussed in Section 5.2.8 of the Draft EIR, Alternative A would not achieve the project objectives concerning local needs and regional requirements for new housing, including affordable housing, in Cupertino, because it would not provide sufficient residential units to meet the City's Regional Housing Needs Allocation (RHNA) of 1,064 units minus 62, or 1,002 units. In order to fully comply with the RHNA, the City would need to provide a moderate surplus of 25% to 40% in addition to the 1,002 units or approximately 1,400 units. Alternative A only allows for a surplus of only eight units, however. Alternative A also would not increase the allocation of residential units to accommodate Plan Bay Area projections for residential growth by 2040 (4,421 units).

Alternative A fails to meet project objectives with regard to reallocating, replenishing and increasing city-wide office, commercial and hotel allocations for purposes of economic development, because Alternative A does not allow for any commercial growth beyond that allocated under the 2000-2020 General Plan and allows in insufficient amount of office and hotel growth. Further, Alternative A does not meet the project objective to consider increased heights in key Nodes and Gateways, because no maximum height increases are proposed under this alternative.

Alternative A also does not meet the City’s objective of creating mixed use development consistent with Plan Bay Area and SB 375, because it would not concentrate development in major transportation corridors to the same degree as Alternatives B and C. Alternative A does not envision a complete redevelopment for Vallco Shopping District that would involve adding office and residential uses as in Alternatives B and C. This would not completely meet the project objective to revitalize the Shopping District so it becomes a cohesive, vibrant shopping and entertainment destination that serves both the region and the local community.

For the foregoing reasons, Land Use Alternative A is hereby rejected as infeasible.

C. Land Use Alternative B

Land Use Alternative B identifies how the City can focus development along major mixed-use corridors in order to create more complete commercial, office and entertainment areas, and to address mid-term housing needs. It would increase development allocations for office, commercial and hotel land uses in order to better capture retail sales leakage and regional demand for office development. Alternative B also envisions the transformation of the Vallco Shopping Mall into a retail, employment, housing and entertainment destination. Alternative B would allow for revised height standards at key Gateways and Nodes within Special Areas along major transportation corridors. Alternative B also would increase residential allocations to the amount necessary to meet the City’s housing need of 1,002 units plus a moderate surplus of 25% to 40%, or approximately 1,250 to 1,400 units, but would increase the allocation of residential units to accommodate only 75 percent of Plan Bay Area projections for residential growth by 2040.

As shown in Draft EIR Table 5-1 and the Supplemental Text Revisions, the Land Use Alternative B would allow for the following new development allocations:

- **Office allocation: 2,540,231 square feet** (net increase of 2,000,000 square feet from the 2000-2020 General Plan)
- **Commercial allocation: 1,343,679 square feet** (net increase of 0 square feet from 2000-2020 General Plan)¹²
- **Hotel allocation: 839 rooms** (net increase of 500 rooms from the 2000-2020 General Plan)
- **Residential allocation: 3,316 units** (net increase of 1,421 units from the 2000-2020 General Plan)

¹² See footnote 5, above.

While Alternative B meets all of the project objectives, in comparison with the Planning Commission Recommendation, described in Section II.A, above, Alternative B would not reduce the amount of additional office development in the City sufficiently to further reduce the regional traffic impacts of creating jobs in Cupertino without commensurate, increased development of housing. Furthermore, as described in Section 5.3.8 of the Draft EIR, Alternative B would not go as far as Alternative C in meeting project objectives with regard to reallocating, replenishing and increasing city-wide commercial and hotel allocations for purposes of economic development, and replenishment of the residential allocation. Alternative B envisions that the Vallco Shopping District will be completely, but does not specifically allocate any development potential to that Special Area. Alternative B allows for 500 fewer hotel rooms and 1,105 fewer residential units than the Planning Commission Recommendation, however.

The City commissioned a Market Study¹³ which indicates that the City has a strong market for office, hotel room and residential development. An allocation of only 500 hotel rooms and only 75 percent of the Plan Bay Area projection for residential development by 2040 would not achieve the City's goal of capturing a share of the regional demand for hotel development or meeting the City's goals of providing fewer affordable housing options.

For the foregoing reasons, Land Use Alternative B is hereby rejected as infeasible.

D. Land Use Alternative C

Land Use Alternative C identifies a way to transform the Vallco Shopping Mall into a locally and regionally significant retail, employment, housing and entertainment destination, and account for a large portion of the City's RHNA. Similar to the Planning Commission Recommendation, Alternative C envisions that the Vallco Shopping District will be completely redeveloped. In addition, under Alternative C, the Vallco area would become the "downtown" of Cupertino, serving the mixed-use hub for residents, workers and the larger region. Alternative C would increase development allocations to levels higher than those that would be allowed under either Land Use Alternative A or Land Use Alternative B in order to fully capture retail sales leakage and regional demand for office and hotel development. Alternative C would allow for revised height standards at key Gateways and Nodes within Special Areas along major transportation corridors at heights greater than those allowed under Alternative B. The increases in heights and densities in key Nodes, Gateways and Sub-areas are consistent with the City's goals of concentrating development along the five mixed-use corridors. Alternative C also would increase residential allocations to the amount necessary to meet the City's housing need of 1,002 units plus a moderate surplus of 25% to 40%, or approximately 1,400 units, and would increase the allocation of residential units to accommodate 100 percent of Plan Bay Area projections for residential growth by 2040.

¹³ BAE Urban Economics, General Plan Amendment Market Study (February 13, 2014).

As shown in Draft EIR Table 5-1 and the Supplemental Text Revisions, the Land Use Alternative C (the “proposed Project” in the EIR) would allow for the following new development allocations:

- **Office allocations: 4,040,231 square feet** (net increase of 3,500,000 square feet from the 2000-2020 General Plan)
- **Commercial allocation: 1,343,679 square feet** (net increase of 0 square feet from the 2000-2020 General Plan)¹⁴
- **Hotel allocation: 1,339 rooms** (net increase of 1,000 rooms from the 2000-2020 General Plan)
- **Residential allocation: 4,421 units** (net increase of 2,526 units from the 2000-2020 General Plan)

While Land Use Alternative C would meet all of the project objectives, the combination of the office allocation in Alternative C together with the other land use allocations in Alternative C would not be as effective as the Planning Commission Recommendation in providing for new hotel space or as balanced as the Planning Commission Recommendation, which includes the lower office allocation in Alternative A, in achieving the project objective of creating a mix of economic development opportunities.

Furthermore, the environmental effects from the larger office allocation in Alternative C would be marginally greater than the environmental effects from the office allocation in the Planning Commission Recommendation (which has the same office allocation as Alternative A). That is because the Alternative C office allocation is 3.8 times greater than the office allocation in the Planning Commission Recommendation. Increased allocation to office development would mean more jobs and, as people move to Cupertino to fill those jobs, a higher population. For example, Draft EIR Table 5-2 projects a 70 percent greater increase in jobs and a 75 percent greater increase in population under Alternative C compared to the increases under Alternative B. The increased development and population growth resulting from the Alternative C office allocation would have greater effects on the environment than the office allocation component of the Planning Commission Recommendation and Alternative B. Alternative B would reduce air quality impacts, as described in the analysis of Impact AIR-1, because the Vehicle Miles Traveled (VMT) for Alternative B is lower and reduces the impact to less than significant. See Draft EIR Table 5.5. The VMT for the Planning Commission Recommendation would be similar to Alternative A, with some increase due to the increased hotel allocation. This is because the mix of development in the Planning Commission Recommendation, which includes the same office allocation as Alternative A, has a similar balance of development. In categories where all of the

¹⁴ See footnote 5, above.

alternatives were found to have significant and unavoidable impacts, namely air quality, noise, and traffic, Land Use C's office allocation would result in greater environmental impacts, as it represents the greatest amount of development, which would result in higher consumption of non-renewable resources, generate the greatest amount of waste and pollutants, and increase the demand of public facilities and infrastructure.

For the foregoing reasons, Land Use Alternative C is hereby rejected as infeasible.

E. Environmentally Superior Alternative

In addition to the discussion and comparison of impacts of the Planning Commission Recommendation and the Alternatives, Section 15126.6(e)(2) of the State CEQA Guidelines requires that an "environmentally superior" alternative be selected and the reasons for such a selection be disclosed. The environmentally superior alternative is the alternative that would be expected to create the least significant environmental effects. Identification of the environmentally superior alternative is an informational procedure and the alternative selected may not be the alternative that best meets the goals or needs of Cupertino.

As shown in Draft EIR Table 5-5, the impacts associated with each of the four land use scenarios analyzed in this EIR would essentially be the same. As previously stated, this is because the recommended mitigation measures would apply to all of the alternatives, and compliance with the General Plan policies designed to reduce environmental impacts would also apply to all future development in Cupertino. However, as shown in Draft EIR Table 5-5, for Land Use Alternative B air quality Impact AQ-1 (Conflict with or obstruct implementation of the applicable air quality plan) would be less than significant for Alternative B but would be significant and unavoidable for the other alternatives. That is because the mix of development in Alternative B would increase office square footage, but to all lesser extent than Alternative C, while at the same time increasing the residential allocation unlike Alternative A and the No Project Alternative.

While Alternative C represents the maximum extent of residential development anticipated by the Plan Bay Area for Cupertino by 2040, Alternative C's higher increase in office square footage (4,040,231 square feet compared to the lower office increase in Alternative B of 2,540,231 square feet), together with the total increase in residential allocation, does not reflect a balanced jobs-housing ratio that results in lower per capita VMT when compared to Alternative B. Under Alternative C, land uses allocations in the General Plan would generate 897,419 VMT per day (10.47 miles per service population per day in 2013). Based on the future estimates of VMT per person for Cupertino for year 2040, 1,264,271 VMT per day (10.94 miles per service population per day in 2040) would be generated in Cupertino. Accordingly, the daily VMT in the Project Study Area under Alternative C would increase at a slightly greater rate (40.9 percent) between 2013 and 2040 than would the service population of the Project Study Area (34.8 percent). In comparison, under Alternative B, based on the future estimates of VMT per person for Cupertino for year 2040, 1,097,596 VMT

per day (10.24 miles per service population per day in 2040) would be generated in the City. Under Alternative B, daily VMT in the Project Study Area would increase at a slower rate (22.3 percent) between 2013 and 2040 than would the service population of the Project Study Area (25.0 percent). When the VMT increase is less than or equal to the projected population increase, this represents a balanced jobs-housing ratio.

In identifying an Environmental Superior Alternative, the analysis in the EIR is based on the principle that less development would mean reduced effects on the environment. Each incremental increase in development allocations among the alternatives represents increased population and activity which would result in increased noise, air quality, greenhouse gas, traffic, and utilities impacts. Although a number of these impacts would be significant and unavoidable under every alternative, the severity of the significant and unavoidable impacts would vary according to the development allocations within a given alternative. For example, while Land Use Alternative B would reduce Air Quality Impact AQ-1, as described above in Section VIII.D, the No Project Alternative would be the environmentally superior alternative because it would not allow for new development to occur beyond what is currently planned for in the 2000-2020 General Plan, which would result in the least amount of development in the City and thereby reduce the consumption of renewable resources (e.g., lumber and water) and nonrenewable resources (e.g., fossil fuels, natural gas, and gasoline). Less development would place fewer demands on public service providers (which could require new facilities), would require fewer road, sewer, water and energy infrastructure improvements, and would generate less waste, which would overall reduce impacts on the environment.

In accordance with State CEQA Guidelines Section 15126.6(e)(2), if the environmentally superior alternative is the No Project alternative, the EIR shall also identify an environmentally superior alternative from among the other alternatives. Accordingly, the environmentally superior alternative would be Land Use Alternative A, because less development would occur compared to Land Use Alternative B, Land Use Alternative C, and the Planning Commission Recommendation. Under Land Use Alternative A, no new commercial space, hotel rooms or residential units would be permitted beyond the allocations in the current General Plan.

For the foregoing reasons, Alternative A is considered the environmentally superior alternative.

IX. INCORPORATION BY REFERENCE

These findings incorporate the text of the Final EIR for the Project, the Mitigation Monitoring and Reporting Program, City staff reports relating to the Project and other documents relating to public hearings on the Project, by reference, in their entirety. Without limitation, this incorporation is intended to elaborate on the scope and nature of mitigation measures, project and cumulative impacts, the basis for determining the significance of

impacts, the comparison of the alternatives to the Project, the determination of the environmentally superior alternative, and the reasons for approving the Project.

X. RECORD OF PROCEEDINGS

Various documents and other materials related to the Project constitute the record of proceedings upon which the City bases its findings and decisions contained herein. Those documents and materials are located in the offices of the custodian for the documents and materials, which is the City of Cupertino Community Development Department, Cupertino City Hall, 10300 Torre Avenue, Cupertino, CA 95014-3202.

XI. NO RECIRCULATION REQUIRED

State CEQA Guidelines Section 15088.5 requires a lead agency to recirculate an EIR for further review and comment when “significant new information” is added to the EIR after public notice is given of the availability of the Draft EIR but before certification. No significant new information was added to the Draft EIR as a result of the public comment process. The Final EIR responds to comments, and clarifies, amplifies and makes insignificant modifications to the Draft EIR. The Final EIR does not identify any new significant effects on the environment or a substantial increase in the severity of an environmental impact.

The EIR analyzes full buildout of 2040 growth for Cupertino as projected in Plan Bay Area. The Planning Commission Recommendation consists of the same commercial and hotel development allocations that were analyzed in the EIR for Alternative C, the same office allocation as the amount analyzed in the EIR for Alternative A, and no residential allocation.

The Housing Element sites in the Planning Commission Recommendation are nine of the 19 sites analyzed in the EIR. In addition, some development is reassigned among the sites resulting in fewer units than analyzed in the EIR on some sites and more on one other site, the maximum height limits are either the same as or reduced from Alternative C except at two locations where they are increased by a minor amount, and the maximum densities are either the same as or reduced from Alternative C except at two locations where they are increase by a minor amount.

Accordingly, most portions of the Planning Commission Recommendation were analyzed in the EIR, either as part of Alternative C or as part of Alternative A. The elimination of the residential allocation will not have a new or substantially more severe significant effect on the environment because residential development will be allowed at the locations, densities and intensities as provided for in the existing General Plan and Zoning Ordinance, as amended by the Project and analyzed in the EIR. The minor increases in maximum building heights at two locations and densities at one location will not have any new significant

effects on the environment or a substantial increase in the severity of an environmental impact for the reasons stated in Section II.A and II.B, above.

For the foregoing reasons, recirculation of the Final EIR is not required.

XII. STATEMENT OF OVERRIDING CONSIDERATIONS

As set forth above, the City has found that the Project will result in project and cumulative significant adverse environmental impacts related to air quality, noise, and traffic and transportation that cannot be avoided following adoption, incorporation into the Project, and implementation of mitigation measures described in the EIR. In addition, there are no feasible project alternatives that would mitigate or avoid all of the Project's significant environmental impacts. Section 15093(b) of the State CEQA Guidelines provides that when the decision of the public agency results in the occurrence of significant impacts that are not avoided or substantially lessened, the agency must state in writing the reasons to support its actions. See also Public Resources Code Section 21081(b). Having balanced the economic, legal, social, technological or other benefits of the Project, including region-wide or statewide environmental benefits, against its significant and unavoidable environmental impacts, the City finds that the Project benefits outweigh its unavoidable adverse environmental effects, and that the adverse environmental effects are therefore acceptable.

The following statement identifies the reasons why, in the City's judgment, specific benefits of the Project outweigh the significant and unavoidable effects. The substantial evidence supporting the benefits of the Project can be found in the preceding sections of these Findings, in the Project itself, and in the record of proceedings as defined in Section X, above. The City further finds that each of the project benefits discussed below is a separate and independent basis for these findings. The reasons set forth below are based on the Final EIR and other information in the administrative record.

- 1) The Vision Statement in the General Plan states that "Cupertino aspires to be a balanced community with quiet and attractive residential neighborhoods; exemplary parks and schools; accessible open space areas, hillsides and creeks; and a vibrant, mixed use 'Heart of the City.' Cupertino will be safe, friendly, healthy, connected, walkable, bikeable and inclusive for all residents and workers, with ample places and opportunities for people to interact, recreate, innovate and collaborate." In incorporating the office allocation from Land Use Alternative A and the commercial and hotel allocations from Land Use Alternative C, the Project provides the City with a balanced mix of economic development opportunities while seeking to lessen significant impacts by pursuing the highest possible levels of development.
- 2) The Project provides the City with the commercial development allocation it needs to increase sales and avoid retail leakage in the trade area, as recommended on page 50

of the General Plan Amendment Market Study (BAE Urban Economics, February 13, 2014), and as set forth in the project objectives.

- 3) The Project provides for economic growth by creating employment-related land uses. This will attract new businesses and allow existing businesses to stay and grow within the City, improve sales tax and property tax revenue to help the City maintain a healthy fiscal balance to provide its residents with high quality services.
- 4) The Project concentrates growth along the City's major transportation corridors and in the City's employment centers, which are areas that are within walking distance/bus distance of large employment areas. Encouraging development in existing urbanized areas results in fewer impacts from the construction of new infrastructure, maximizes use of existing impervious surfaces, provides multi-modal transportation opportunities, and reduces miles traveled, which translates into air quality benefits.
- 5) The Project concentrates growth at locations with existing uses and, as a result, potential future development under the Project would consist largely of either redevelopment of existing building, selective demolition of existing structures and replacement with new construction, or new infill development adjacent to existing uses, all of which would serve to lessen environmental impacts.
- 6) The Project policies concentrating growth along transportation corridors and in employment centers contributes to community goals of protecting the City's neighborhoods and connectivity.
- 7) The Project includes policies that encourage conservation of water and energy resources in conformance with the City's sustainability goals.
- 8) The Project is in conformance with the principles of planning sustainable communities by meeting both the present and future housing needs of the City, and fulfills the City Council's charge to prepare a Housing Element.
- 9) The Project is consistent with key planning documents, including Plan Bay Area, which is the Bay Area's Regional Transportation Plan (RTP)/Sustainable Community Strategy (SCS), as well as SB 375, the Sustainable Communities and Climate Protection Act.
- 10) The Project meets the City's Regional Housing Needs Allocation (RHNA) of 1,064 units, and provides a moderate surplus above the City's housing need of 1,002 units, or approximately 1,400 units.
- 11) The Project provides opportunities for increased building heights in key Nodes and Gateways.

- 12) The Project provides for revitalizing the Vallco Shopping Mall and transforming it into a locally and regionally significant retail, employment, and entertainment destination, which would become the “downtown” of Cupertino.
- 13) The Gateways and Nodes located within some of the Project’s Special Areas represent key locations in the City that, with the use of design elements, such as buildings, arches, fountains, banners, signage, special lighting, landscaping and public art, have the opportunity to create a memorable impression of Cupertino. These key locations are essential for providing residents, visitors, and workers an attractive, friendly, and comfortable place with inviting active pedestrian spaces and services.

XIII. SUMMARY

1. Based on the foregoing Findings and the information contained in the record, the City has made one or more of the following Findings with respect to each of the significant environmental effects of the Project:
 - a. Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effects identified in the Final EIR.
 - b. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other public agency.
 - c. Specific economic, legal, social, technological, or other considerations, make infeasible the mitigation measures or alternatives identified in the Final EIR that would otherwise avoid or substantially lessen the identified significant environmental effects of the Project.
2. Based on the foregoing Findings and the information contained in the record, the City determines that:
 - a. All significant effects on the environment due to the approval of the Project have been eliminated or substantially lessened where feasible.
 - b. Any remaining significant effects on the environment found to be unavoidable are acceptable due to the factors described in the Statement of Overriding Considerations, above.

635366.5

Mitigation Monitoring and Reporting Program

This Mitigation Monitoring and Reporting Program (MMRP) has been prepared for the General Plan Amendment, Housing Element Update and Associated Rezoning Project. The purpose of the MMRP is to ensure the implementation of mitigation measures identified as part of the environmental review for the proposed Project. The MMRP includes the following information:

- The full text of the mitigation measures;
- The party responsible for implementing the mitigation measures;
- The timing for implementation of the mitigation measure;
- The agency responsible for monitoring the implementation; and
- The monitoring action and frequency.

The City of Cupertino must adopt this MMRP, or an equally effective program, if it approves the proposed Project with the mitigation measures that were adopted or made conditions of project approval.

MITIGATION MONITORING AND REPORTING PROGRAM

TABLE 1 MITIGATION MONITORING AND REPORTING PROGRAM

| Mitigation Measures | Party Responsible for Implementation | Implementation Timing | Agency Responsible for Monitoring | Monitoring Action | Monitoring Frequency |
|--|--------------------------------------|--|--|-----------------------------|---|
| AIR QUALITY | | | | | |
| AQ-2a: As part of the City’s development approval process, the City shall require applicants for future development projects to comply with the current Bay Area Air Quality Management District’s basic control measures for reducing construction emissions of PM ₁₀ . | City of Cupertino | Prior to Construction During Construction | City of Cupertino Department of Public Works | Plan Review and Approval | During scheduled construction site inspections. |
| AQ-2b: As part of the City’s development approval process the City shall require applicants for future development projects that could generate emissions in excess of the Bay Area Air Quality Management District’s (BAAQMDs) current significance thresholds during construction, as determined by project-level environmental review, when applicable, to implement the current BAAQMD construction mitigation measures (e.g. Table 8-3 of the BAAQMD CEQA Guidelines) or any construction mitigation measures subsequently adopted by the BAAQMD. | City of Cupertino | Prior to Construction | City of Cupertino Department of Public Works | Plan Review and Approval | During scheduled construction site inspections. |
| AQ-4a: Applicants for future non-residential land uses within the city that: 1) have the potential to generate 100 or more diesel truck trips per day or have 40 or more trucks with operating diesel-powered Transport Refrigeration Units (TRUs), and 2) are within 1,000 feet of a sensitive land use (e.g. residential, schools, hospitals, nursing homes), as measured from the property line of the proposed Project to the property line of the nearest sensitive use, shall submit a health risk assessment (HRA) to the City of Cupertino prior to future discretionary Project approval. The HRA shall be prepared in accordance with policies and procedures of the State Office of Environmental Health Hazard Assessment and the Bay Area Air Quality Management District. If the HRA shows that the incremental cancer risk exceeds ten in one million (10E-06), PM _{2.5} concentrations exceed 0.3 µg/m ³ , or the appropriate noncancer hazard index exceeds 1.0, the | City of Cupertino | Prior to future project approval | City of Cupertino Department of Public Works | HRA Review and Approval | Once |

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| <p>applicant will be required to identify and demonstrate that Best Available Control Technologies for Toxics (T-BACTs) are capable of reducing potential cancer and noncancer risks to an acceptable level, including appropriate enforcement mechanisms. T-BACTs may include but are not limited to:</p> <ul style="list-style-type: none"> ▪ Restricting idling on-site. ▪ Electrifying warehousing docks. ▪ Requiring use of newer equipment and/or vehicles. ▪ Restricting offsite truck travel through the creation of truck routes. ▪ T-BACTs identified in the HRA shall be identified as mitigation measures in the environmental document and/or incorporated into the site development plan as a component of the proposed Project. | | | | | |
| <p>AQ-4b: Applicants for residential and other sensitive land use projects (e.g. hospitals, nursing homes, day care centers) in Cupertino within 1,000 feet of a major sources of TACs (e.g. warehouses, industrial areas, freeways, and roadways with traffic volumes over 10,000 vehicle per day), as measured from the property line of the project to the property line of the source/edge of the nearest travel lane, shall submit a health risk assessment (HRA) to the City of Cupertino prior to future discretionary Project approval. The HRA shall be prepared in accordance with policies and procedures of the State Office of Environmental Health Hazard Assessment (OEHHA) and the Bay Area Air Quality Management District. The latest OEHHA guidelines shall be used for the analysis, including age sensitivity factors, breathing rates, and body weights appropriate for children age 0 to 16 years. If the HRA shows that the incremental cancer risk exceeds ten in one million (10E-06), PM_{2.5} concentrations exceed 0.3 µg/m³, or the appropriate noncancer hazard index exceeds 1.0, the applicant will be required to identify and demonstrate that</p> | City of Cupertino | Prior to future project approval | City of Cupertino Department of Public Works | HRA review and approval | Once |

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| <p>mitigation measures are capable of reducing potential cancer and non-cancer risks to an acceptable level (i.e. below ten in one million or a hazard index of 1.0), including appropriate enforcement mechanisms. Measures to reduce risk may include but are not limited to:</p> <ul style="list-style-type: none"> ▪ Air intakes located away from high volume roadways and/or truck loading zones. ▪ Heating, ventilation, and air conditioning systems of the buildings provided with appropriately sized Maximum Efficiency Rating Value (MERV) filters. <p>Mitigation measures identified in the HRA shall be identified as mitigation measures in the environmental document and/or incorporated into the site development plan as a component of the proposed Project. The air intake design and MERV filter requirements shall be noted and/or reflected on all building plans submitted to the City and shall be verified by the City’s Planning Division.</p> | City of Cupertino | Prior to Construction | California Department of Fish and Wildlife | Preconstruction Survey | Once |
| BIOLOGICAL RESOURCES | | | | | |
| <p>BIO-1: Nests of raptors and other birds shall be protected when in active use, as required by the federal Migratory Bird Treaty Act and the California Department of Fish and Game Code. If construction activities and any required tree removal occur during the breeding season (February 1 and August 31), a qualified biologist shall be required to conduct surveys prior to tree removal or construction activities. Preconstruction surveys are not required for tree removal or construction activities outside the nesting period. If construction would occur during the nesting season (February 1 to August 31), preconstruction surveys shall be conducted no more than 14 days prior to the start of tree removal or construction. Preconstruction surveys shall be repeated at 14-day intervals until construction has been initiated in the area after which</p> | City of Cupertino | Prior to Construction | California Department of Fish and Wildlife | Preconstruction Survey | Once |

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| <p>surveys can be stopped. Locations of active nests containing viable eggs or young birds shall be documented and protective measures implemented under the direction of the qualified biologist until the nests no longer contain eggs or young birds. Protective measures shall include establishment of clearly delineated exclusion zones (i.e. demarcated by identifiable fencing, such as orange construction fencing or equivalent) around each nest location as determined by a qualified biologist, taking into account the species of birds nesting, their tolerance for disturbance and proximity to existing development. In general, exclusion zones shall be a minimum of 300 feet for raptors and 75 feet for passerines and other birds. The active nest within an exclusion zone shall be monitored on a weekly basis throughout the nesting season to identify signs of disturbance and confirm nesting status. The radius of an exclusion zone may be increased by the qualified biologist if project activities are determined to be adversely affecting the nesting birds. Exclusion zones may be reduced by the qualified biologist only in consultation with California Department of Fish and Wildlife. The protection measures shall remain in effect until the young have left the nest and are foraging independently or the nest is no longer active.</p> | | | | | |
| HAZARDS AND HAZARDOUS MATERIALS | | | | | |
| <p>HAZ-4a: Construction at the sites with known contamination shall be conducted under a project-specific Environmental Site Management Plan (ESMP) that is prepared in consultation with the Regional Water Quality Control Board (RWQCB) or the Department of Toxic Substances Control (DTSC), as appropriate. The purpose of the ESMP is to protect construction workers, the general public, the environment, and future site occupants from subsurface hazardous materials previously identified at the site and to address the</p> | City of Cupertino | Prior to Construction | City of Cupertino Department of Public Works | Environmental Site Management Plan | Once |

MITIGATION MONITORING AND REPORTING PROGRAM

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|--|--------------------------------------|------------------------|--|----------------------------|----------------------|
| <p>possibility of encountering unknown contamination or hazards in the subsurface. The ESMP shall summarize soil and groundwater analytical data collected on the project site during past investigations; identify management options for excavated soil and groundwater, if contaminated media are encountered during deep excavations; and identify monitoring, irrigation, or other wells requiring proper abandonment in compliance with local, State, and federal laws, policies, and regulations.</p> | | | | | |
| <p>The ESMP shall include measures for identifying, testing, and managing soil and groundwater suspected of or known to contain hazardous materials. The ESMP shall: 1) provide procedures for evaluating, handling, storing, testing, and disposing of soil and groundwater during project excavation and dewatering activities, respectively; 2) describe required worker health and safety provisions for all workers potentially exposed to hazardous materials in accordance with State and federal worker safety regulations; and 3) designate personnel responsible for implementation of the ESMP.</p> | | | | | |
| <p>HAZ-4b: For those sites with potential residual contamination in soil, gas, or groundwater that are planned for redevelopment with an overlying occupied building, a vapor intrusion assessment shall be performed by a licensed environmental professional. If the results of the vapor intrusion assessment indicate the potential for significant vapor intrusion into an occupied building, project design shall include vapor controls or source removal, as appropriate, in accordance with regulatory agency requirements. Soil vapor mitigations or controls could include vapor barriers, passive venting, and/or active venting. The vapor intrusion assessment and associated vapor controls or source removal can be incorporated into the ESMP (Mitigation Measure HAZ-4a).</p> | City of Cupertino | Prior to redevelopment | City of Cupertino Department of Public Works | Vapor Intrusion Assessment | |

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| TRANSPORTATION AND TRAFFIC | | | | | |
| <p>TRAF-1: The City of Cupertino shall commit to preparing and implementing a Transportation Mitigation Fee Program to guarantee funding for roadway and infrastructure improvements that are necessary to mitigate impacts from future projects based on the then current City standards. As part of the preparation of the Transportation Mitigation Fee Program, the City shall also commit to preparing a "nexus" study that will serve as the basis for requiring development impact fees under AB 1600 legislation, as codified by California Code Government Section 66000 et seq., to support implementation of the proposed Project. The established procedures under AB 1600 require that a "reasonable relationship" or nexus exist between the transportation improvements and facilities required to mitigate the transportation impacts of new development pursuant to the proposed Project. The following examples of transportation improvements and facilities would reduce impacts to acceptable level of service standards and these, among other improvements, including multimodal improvements that reduce automobile trips and relieve congestion, could be included in the development impact fees nexus study:</p> <ul style="list-style-type: none"> ▪ SR 85 Northbound Ramps and Stevens Creek Boulevard (#2): An exclusive left-turn lane for the northbound leg of the intersection (freeway off-ramp) at the intersection of SR 85 and Stevens Creek Boulevard would result in one left-turn lane, one all-movement lane, and one right turn lane. The additional lane could be added within the existing Caltrans right-of-way. ▪ Stelling Road and Stevens Creek Boulevard (#3): The addition of a second exclusive left-turn lane for the eastbound leg of the intersection from Stevens Creek Boulevard to northbound Stelling Road, which could be | City of Cupertino | Upon adoption of proposed Project | City of Cupertino Department of Public Works | Transportation Mitigation Fee Program | Once |

MITIGATION MONITORING AND REPORTING PROGRAM

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| <p>accomplished by reworking the median. Right turns would share the bike lane.</p> <ul style="list-style-type: none"> ▪ Sunnyvale-Saratoga Road/De Anza Boulevard and Homestead Road (#5): Widen De Anza Boulevard to four lanes in each direction or the installation of triple left-turn lanes. ▪ De Anza Boulevard and I-280 Northbound Ramp (#6): Restriping of De Anza Boulevard in the southbound direction to provide room for right turn vehicles to be separated from through traffic may be required. The bike lane would be maintained, and right turns would occur from the bike lane. The right turns would continue to be controlled by the signal and would need to yield to pedestrians. ▪ De Anza Boulevard and Stevens Creek Boulevard (#8): Restripe westbound Stevens Creek Boulevard to provide room for right turn vehicles to be separated from through vehicles may be required. The right turn vehicles will share the bike lane and will still be controlled by the traffic signal. Paint a bike box at the front of the lane to provide bikes a place to wait at red lights. The pedestrian crossings will not be affected may enhance the bicycling experience. ▪ De Anza Boulevard and McClellan Road/Pacifica Drive (#9): Realign the intersection that is currently offset resulting in inefficient signal timing such that the McClellan Road and Pacifica Drive legs are across from each other may be required. In addition, double left turn lanes may be required to be added to De Anza Boulevard with sections of double lanes on McClellan Road and Pacifica Drive to receive the double left turn lanes. These improvements will require the acquisition of right-of-way and demolition of existing commercial buildings. However, some existing right-of-way could be abandoned, which would reduce | | | | | |

MITIGATION MONITORING AND REPORTING PROGRAM

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| <p>the net right-of-way take.</p> <ul style="list-style-type: none"> <p>Wolfe Road and Homestead Road (#16): The addition of a third southbound through lane to the southbound approach of the intersection of Wolfe Road and Homestead Road may be required, as well as the addition of a southbound exclusive right-turn lane. Three southbound receiving lanes on the south side of the intersection currently exist. An additional westbound through lane for a total of three through-movement lanes, an additional receiving lane on Homestead westbound to receive the additional through lane, as well as the addition of a westbound exclusive right-turn lane may be required. This will require widening Homestead Road. An additional eastbound through lane for a total of three through-movement lanes, an additional receiving lane on Homestead eastbound to receive the additional through lane, as well as the addition of an eastbound exclusive left-turn lane for a total of two left-turn lanes may be required. These improvements will require the acquisition of right-of-way and demolition of parking areas.</p> <p>Wolfe Road and I-280 Northbound Ramp (#18): The Apple Campus 2 project will be adding a third northbound lane starting at the northbound on ramp. This third lane will need to be extended farther south to effectively serve the additional northbound traffic due to the General Plan development. This could require widening the Wolfe Road overcrossing. Right-of-way acquisition may be required. In accordance with Caltrans procedures, a Project Study Report (PSR) will need to be prepared. The PSR will look at all interchange improvement options, which may include widening the overcrossing and may include redesign of the interchange to go from a partial cloverleaf design to a diamond design. This could help</p> | | | | | |

MITIGATION MONITORING AND REPORTING PROGRAM

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| Mitigation Measures | Party Responsible for Implementation | Implementation Timing | Agency Responsible for Monitoring | Monitoring Action | Monitoring Frequency |
|--|--------------------------------------|-----------------------|-----------------------------------|-------------------|----------------------|
| <p>with heavy volumes in the right lane, which contributes to the level-of-service deficiency.</p> <ul style="list-style-type: none"> ▪ Wolfe Road and I-280 Southbound Ramp (#19): An additional through lane for a total of three through-movement lanes for the northbound leg of the intersection at the Wolfe Road and I-280 Southbound Ramp may be required. This additional northbound through lane would require widening to the freeway overcrossing. In addition to widening the overcrossing, the City may wish to pursue a redesign of the interchange to go from a partial cloverleaf design to a diamond design. This could help with the problem of heavy volume in the right lane, which contributes to the level of service deficiency. ▪ Wolfe Road/Miller Avenue and Stevens Creek Boulevard (#21): The restriping of the westbound leg of the intersection to provide room so that right turn vehicles can be separated from through vehicles may be required. Right turn vehicles would share the bike lane. Right turn vehicles would still be controlled by the signal, and pedestrian crossings would not be affected. Paint a bike box at the front of the lane to provide bikes a place to wait at red lights may enhance the bicycling experience. ▪ North Tantau Avenue/Quail Avenue and Homestead Road (#24): Restriping of the southbound leg of the intersection (Quail Avenue) to provide a separate left turn lane may be required. This will require the removal of on-street parking near the intersection. The level-of-service calculations show that with implementation of these improvements, the intersection would operate at an acceptable LOS D. ▪ Tantau Avenue and Stevens Creek Boulevard (#27): The addition of a separate left-turn lane to northbound Tantau Avenue may be required. Right-of-way acquisition and demolition of existing commercial buildings would be | | | | | |

MITIGATION MONITORING AND REPORTING PROGRAM

TABLE 1 MITIGATION MONITORING AND REPORTING PROGRAM

| Mitigation Measures | Party Responsible for Implementation | Implementation Timing | Agency Responsible for Monitoring | Monitoring Action | Monitoring Frequency |
|--|--------------------------------------|-----------------------|-----------------------------------|-------------------|----------------------|
| <p>required.</p> <ul style="list-style-type: none"> ▪ Stevens Creek Boulevard and Agilent Technologies Driveway (#30): The restriping of the westbound leg of the intersection to provide room so that right turn vehicles can be separated from through vehicles may be required. Right turn vehicles would share the bike lane. Right turn vehicles would still be controlled by the signal, and pedestrian crossings would not be affected. Paint a bike box at the front of the lane to provide bikes a place to wait at red lights may enhance the bicycling experience. ▪ Lawrence Expressway Southbound Ramp and Stevens Creek Boulevard (CMP, County)(#31): The addition of a second right-turn lane for the southbound leg of the intersection at the Lawrence Expressway Southbound Ramp and Stevens Creek Boulevard may be required. Both lanes would need to be controlled by the signal, and disallow right turns on red. Right-of-way acquisition may be required. ▪ Lawrence Expressway Northbound Ramp and Stevens Creek Boulevard (CMP, County) (#32): Redesign of the northbound leg of the intersection at the Lawrence Expressway Northbound Ramp and Stevens Creek Boulevard to provide one through-movement lane, and one exclusive right-turn lane may be required. Right-of-way acquisition would be required. <p>The fees shall be assessed when there is new construction, an increase in square footage in an existing building, or the conversion of existing square footage to a more intensive use. The fees collected shall be applied toward circulation improvements and right-of-way acquisition. The fees shall be calculated by multiplying the proposed square footage, dwelling unit, or hotel room by the appropriate rate.</p> | | | | | |

MITIGATION MONITORING AND REPORTING PROGRAM

TABLE 1 MITIGATION MONITORING AND REPORTING PROGRAM

| Mitigation Measures | Party Responsible for Implementation | Implementation Timing | Agency Responsible for Monitoring | Monitoring Action | Monitoring Frequency |
|--|--------------------------------------|-----------------------------------|--|--|---------------------------|
| <p>Transportation mitigation fees shall be included with any other applicable fees payable at the time the building permit is issued. The City shall use the transportation mitigation fees to fund construction (or to recoup fees advanced to fund construction) of the transportation improvements identified above, among other things that at the time of potential future development may be warranted to mitigate transportation impacts.</p> | | | | | |
| UTILITIES AND SERVICE SYSTEMS | | | | | |
| <p>UTIL-6a: The City shall work with the Cupertino Sanitary District to increase the available citywide treatment and transmission capacity to 8.65 million gallons per day, or to a lesser threshold if studies justifying reduced wastewater generation rates are approved by CSD as described in Mitigation Measure UTIL-6c.</p> | City of Cupertino | Upon Adoption of proposed Project | City of Cupertino Department of Public Works | Increase treatment and transmission capacity | Once |
| <p>UTIL-6b: The City shall work to establish a system in which a development monitoring and tracking system to tabulate cumulative increases in projected wastewater generation from approved projects for comparison to the Cupertino Sanitary District’s treatment capacity threshold with San Jose/Santa Clara Water Pollution Control Plant is prepared and implemented. If it is anticipated that with approval of a development project the actual system discharge would exceed the contractual treatment threshold, no building permits for such project shall be issued prior to increasing the available citywide contractual treatment and transmission capacity as described in Mitigation Measure UTIL-6a.</p> | City of Cupertino | Upon Adoption of proposed Project | City of Cupertino Department of Public Works | No building permits issued for projects anticipated to exceed CSD treatment capacity | Once per approved project |

MITIGATION MONITORING AND REPORTING PROGRAM

TABLE 1 MITIGATION MONITORING AND REPORTING PROGRAM

| Mitigation Measures | Party Responsible for Implementation | Implementation Timing | Agency Responsible for Monitoring | Monitoring Action | Monitoring Frequency |
|--|--------------------------------------|---------------------------------------|--|---|----------------------|
| <p>UTIL-6c: The City shall work with the Cupertino Sanitary District to prepare a study to determine a more current estimate of the wastewater generation rates that reflect the actual development to be constructed as part of Project implementation. The study could include determining how the green/LEED certified buildings in the City reduce wastewater demands.</p> | City of Cupertino | Upon Adoption of the proposed Project | City of Cupertino Department of Public Works | Study of Wastewater Generation Rates | Once |
| <p>UTIL-8: The City shall continue its current recycling ordinances and zero-waste policies in an effort to further increase its diversion rate and lower its per capita disposal rate. In addition, the City shall monitor solid waste generation volumes in relation to capacities at receiving landfill sites to ensure that sufficient capacity exists to accommodate future growth. The City shall seek new landfill sites to replace the Altamont and Newby Island landfills, at such time that these landfills are closed.</p> | City of Cupertino | Ongoing | City of Cupertino Department of Public Works | Secure new landfill options prior to close of Altamont and Newby Island landfills | Ongoing |

Appendix

City Attorney's Ballot Title and Summary for Proposed Initiative Submitted on March 3, 2016
"Measure D"

RECEIVED

MAR 18 2016

CUPERTINO CITY CLERK

CITY ATTORNEY'S BALLOT TITLE AND SUMMARY FOR PROPOSED INITIATIVE
SUBMITTED ON MARCH 3, 2016

TITLE: Initiative adopting the Vallco Town Center Specific Plan to (1) provide that the Vallco Shopping District Special Area ("Area") contains a mixture of residential, office, retail, civic and education uses; (2) require any development to fund or provide community benefits such as transit, schools, a green roof, and recycled water; and (3) grant the property owner initial entitlements to develop in accordance with the Initiative and establish a process for future approvals; and making related amendments to Cupertino's General Plan and Municipal Code.

SUMMARY: The Initiative involves the property designated in Cupertino's General Plan (Community Vision 2015 – 2040) as the Vallco Shopping District Special Area. Fifty-one acres of the 58-acre property are currently occupied by the Vallco Shopping Mall. The General Plan envisions redevelopment of the Area as a mixed-use project, sets forth development allocations, goals, policies and strategies, and requires adoption of a specific plan prior to any development.

The Initiative states that it implements and fulfills the requirements of the General Plan and the vision of the community by approving the Vallco Town Center Specific Plan ("Specific Plan") establishing a mix of retail, dining, entertainment, recreation, offices, housing, hotel, education, civic, public open space, and amenities. The Initiative includes associated amendments to the General Plan and City of Cupertino Municipal Code.

The Initiative:

(1) States that it would entitle the property owners to develop the Area in accordance with the Specific Plan, exempt the Area from provisions of the Municipal Code not provided in the Specific Plan, and establish process for future approvals;

(2) Adopts a Specific Plan establishing development features for the Area including:

- (a) 389 residential units (minimum 20% senior apartments), which may be increased through a Conditional Use Permit process up to the General Plan allocations if there are no significant and unavoidable impacts beyond those identified in the General Plan Environmental Impact Report;
- (b) 2,000,000 square feet ("sf") of office space (minimum of 100,000 sf of incubator space for businesses);
- (c) 640,000 sf of commercial space (regional retail, entertainment, and personal service);
- (d) 100,000 (minimum 50,000) sf of public/civic space;
- (e) Two Town Centers (3-acre minimum);

- (f) 30 acres minimum of Community Park and Nature Area or “green roof” (3.8 miles minimum to be publicly accessible trails), with drought tolerant landscaping and recycled water infrastructure;
- (g) 9,060 parking spaces below, above, and at grade level;
- (h) 80 feet (maximum) building height west of Wolfe Road and 95 feet (maximum) building height east of Wolfe Road, scaled to minimize impacts on residential; and
- (i) 191 hotel rooms (in addition to a previously approved hotel).

(3) Requires any development, other than on two sites proposed for hotels, to fund community benefits which may be incorporated into a development agreement, including transportation improvements (\$30 million for I-280, a free shuttle, transit center, and bike/pedestrian trails), 5,000 square feet of charitable civic space, and no less than 10 times what is legally required for schools (approximately \$40 million);

(4) Changes standards for “parcelization” (division of the property into smaller parcels);
and

(5) States that, until January 1, 2027, its provisions may only be amended or repealed by the voters.

Traffic Studies

San Jose Envision 2040 General Plan TIA for the DEIR:

<http://www.sanjoseca.gov/DocumentCenter/View/2198>

- The broad-brush program-level traffic study shows 73% of Cupertino's lane miles are impacted by San Jose's GP. Stevens Creek Blvd. will be deficient.
- San Jose indicates they altered their policy to no longer driver comfort and convenience, yet this is not holding up to CEQA scrutiny due to other concerns such as greenhouse gas emissions.

adjacent jurisdiction are attributable to San Jose. The 25 percent threshold represents what would be a noticeable change in traffic by San José General Plan.

**TABLE 15
 ADJACENT JURISDICTION IMPACTS SUMMARY
 (BASED ON AM PEAK 4-HOUR PERIOD VOLUMES)**

| City | Existing Conditions | | | Proposed General Plan Update | | |
|----------------------------------|--|--|---|---|--|---|
| | Total Lane Miles with Deficient V/C Ratio ¹ | Impacted Lane Miles (San Jose traffic ≥ 10% of volume) | Percent of Impacted Lane Miles Affected | Total Lane Miles with Deficient V/C Ratio | Impacted Lane Miles (San Jose traffic ≥ 10% of volume) | Percent of Impacted Lane Miles Affected |
| Campbell | 0.13 | 0.13 | 100 | 0.42 | 0.42 | 100 |
| Cupertino | 0.67 | 0.67 | 100 | 7.52 | 5.45 | 73 |
| Gilroy | 0.00 | 0.00 | 0 | 1.65 | 1.65 | 100 |
| Los Altos | 0.78 | 0.78 | 100 | 2.52 | 2.52 | 100 |
| Los Altos Hills | 0.17 | 0.02 | 14 | 3.61 | 3.00 | 83 |
| Los Gatos | 0.12 | 0.12 | 100 | 0.90 | 0.90 | 100 |
| Milpitas | 0.73 | 0.73 | 100 | 22.17 | 22.17 | 100 |
| Monte Sereno | 0.00 | 0.00 | 0 | 0.00 | 0.00 | 0 |
| Morgan Hill | 0.00 | 0.00 | 0 | 1.97 | 1.97 | 100 |
| Mountain View | 0.72 | 0.65 | 90 | 11.76 | 10.83 | 92 |
| Palo Alto | 0.48 | 0.16 | 33 | 7.58 | 4.76 | 63 |
| Santa Clara | 0.17 | 0.17 | 100 | 1.95 | 1.95 | 100 |
| Saratoga | 1.26 | 1.26 | 100 | 5.71 | 5.71 | 100 |
| Sunnyvale | 0.00 | 0.00 | 0 | 1.45 | 1.42 | 98 |
| Caltrans Facilities ² | 5,093.26 | 4,391.72 | 86 | 4,951.58 | 4,584.04 | 93 |
| Santa Clara County Facilities | 3.01 | 3.01 | 100 | 21.33 | 21.33 | 100 |

Notes: Impacts are identified in **bold** text.
 1 Lane miles of less than 0.5 were rounded to 0. For evaluating significant impacts, if impacted lane miles attributable to the City are less than 0.5, impacts are considered *less-than-significant*.
 2 Includes all Caltrans facilities within Santa Clara County.
 Source: Fehr & Peers, 2010.

The following roadways were analyzed to determine impacts presented in **Table 15**. CMP system roadways are identified in *italicized* text. Minor arterials were also analyzed to determine impacts presented in **Table 15**; however, they are not specifically identified below.

- **Campbell:** *Hamilton Avenue*, Campbell Avenue, Winchester Boulevard
- **Cupertino:** Homestead Road, Foothill Boulevard, Bubb Road, *Stevens Creek Boulevard*, Pruneridge Avenue, North Wolfe Road, *De Anza Boulevard*, Stelling Road
- **Gilroy:** Monterey Street, Leavesley Road, Hecker Pass Highway, East 10th Street, Monterey Street, East Luchessa Avenue

**TABLE 14
 TRANSIT PRIORITY CORRIDOR IMPACT SUMMARY**

| Roadway Segment | Cross Street | Cross Street | Distance (Miles) | AM Peak Hour Travel Speed (MPH) | |
|-----------------------------------|-------------------|------------------|------------------|---------------------------------|----------------------------------|
| | | | | Existing Conditions | Proposed General Plan Conditions |
| Second St. | San Carlos St. | St. James St. | 0.6 | 11.5 | 11.4 |
| Alum Rock Ave. | Capitol Ave. | US 101 | 3.4 | 20.0 | 12.9 |
| Camden Ave. | SR 17 | Meridian Ave. | 5.2 | 24.0 | 18.0 |
| Capitol Ave. | S. Milpitas Blvd. | Capital Expwy. | 7.6 | 24.1 | 17.5 |
| Hillsdale Ave./ Capitol Expwy. | Capitol Ave. | Meridian Ave. | 19.8 | 28.6 | 23.8 |
| E. Santa Clara St. | US 101 | Delmas Ave. | 4.6 | 20.4 | 16.2 |
| Meridian Ave. | Park Ave. | Blossom Hill Rd. | 12.2 | 25.5 | 19.6 |
| Monterey Rd. | Keyes St. | Metcalf Rd. | 18.2 | 24.6 | 17.0 |
| First St. | CA 237 | Keyes St. | 17.2 | 22.6 | 13.4 |
| San Carlos St. | Bascom Ave. | SR 87 | 4.2 | 24.3 | 19.7 |
| Stevens Creek Blvd. | Bascom Ave. | Tantau Ave. | 8.2 | 23.1 | 16.8 |
| Tasman Dr. | Lick Mill Blvd. | McCarthy Ln. | 5.0 | 24.3 | 9.5 |
| The Alameda | Alameda Wy. | Delmas Ave. | 4.2 | 22.6 | 14.2 |
| W. San Carlos St. | SR 87 | Second St. | 1.3 | 19.9 | 17.5 |

Note: The values shown have been rounded for presentation purposes.
 Source: Fehr & Peers, 2010.

g. Adjacent Jurisdictions

Operations of adjacent jurisdiction roadway segments outside the City of San José boundaries were reviewed to determine the potential impacts of the proposed General Plan Update. **Table 15** summarizes these results.

Given changes in land use, trip patterns, and behavior between the two scenarios, vehicular traffic on roadway segments within several jurisdictions is projected to increase with the proposed General Plan Update land uses as compared to existing conditions.

A roadway segment within adjacent jurisdictions is considered to be deficient if the future volume-to-capacity (V/C) ratio is 1.0 or greater during the AM peak 4-hour period in the year 2035. Given the large population and employment projected to reside in the region, and the complex travel patterns created by the large population and employment numbers, only a portion of trips on any roadway segment in adjacent jurisdictions are expected to have originated from a resident or job within City of San José. Therefore, a deficient roadway segment in adjacent jurisdictions is attributed to City of San José General Plan when the trips from the City are 10 (ten) percent or more on the deficient segment. The impact to an adjacent jurisdiction is considered significant when 25 percent or more of total deficient lane miles in that

Adjacent Jurisdiction Impacts

Impact TRANS-4. Motor vehicle traffic and congestion resulting from implementation of the proposed General Plan Update would increase on roadway segments outside of the City of San Jose. (Significant)

Roadways within adjacent jurisdictions are considered to be deficient if the volume to capacity (V/C) ratio under proposed General Plan Update conditions is 1.0 or greater, and is considered an impact when the trips from the City are 10 (ten) percent or more of the total traffic on these roadways. The impact is considered significant when the impacted roadway lane miles are 25 percent of the deficient lane miles.

With implementation of the proposed General Plan Update, 15 adjacent jurisdictions would have impacts on greater than one lane mile of roadways. These impacts are the aggregate of the major roadways within the adjacent jurisdiction boundaries of Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Mountain View, Palo Alto, Saratoga, Sunnyvale, Milpitas, Morgan Hill, Santa Clara, Caltrans facilities, and Santa Clara County facilities.

The traditional response to mitigate significant traffic-related impacts, or increases in automobile trips on street segments, is to increase roadway capacity by providing additional lanes or facilities. In Santa Clara County, widening roads to provide additional travel lanes is no longer feasible in most cases because available right-of-way is already constrained and utilized by other land uses or transportation facilities. Dedication of additional land to paved roadways decreases landscaping, eliminates street trees/bus stops/bicycle lanes, reduces sidewalk widths, increases intersection sizes, and moves vehicular traffic (with associated noise and pollution) closer to residences and businesses.

The proposed General Plan Update recognizes and acknowledges that there will be increased levels of congestion resulting from new development, both within San Jose and elsewhere in the Bay Area. This reflects a change in policy for the City to acknowledge that transportation planning based solely on roadway traffic operations (i.e. analysis based on traffic level of service and volume to capacity ratios), which considers only driver comfort and convenience, is not desirable since it fails to acknowledge other users of the circulation system and other community values. In evaluating the roadway system, an impact to adjacent roadways may be desired when balanced against other community values related to resource protection, social equity, economic development, and consideration of pedestrians, bicyclists, and transit users.

Widening a road to achieve a lower volume to capacity ratio results in higher expenditure of infrastructure dollars for wider roadways that do not necessarily serve all users of the circulation system. Roadway widening also provides capacity that is excess for the majority of the day outside the peak periods. Furthermore wider roadways, in general, are inconsistent with goals promoting a more livable city, cause greater impacts to biological resources and discourage roadway use by pedestrians and bicyclists. In addition, mitigating impacts to affected roadway segments can have high infrastructure costs.

The proposed General Plan update contains several policies and actions that seek to reduce automobile travel. They include TR 1.1 through TR-1.9, TR 2.1 through 2.11, TR-3.1 through 3.4, TR-4.1 through 4.4, and TR-8.1 through 8.4. Implementation of these policies and actions would help reduce the magnitude of traffic impacts on adjacent jurisdictions.

The proposed General Plan update also includes an implementing action to encourage coordination with other jurisdictions:

- CR-1.8 **Interagency Participation and Coordination.** Actively coordinate with regional transportation, land use planning, and transit agencies to ensure development and maintenance of a transportation network with complementary land uses that encourage travel by bicycle, walking, and transit, and ensure regional greenhouse gas emission standards are met

Based on the considerations above, no mitigation measures are feasible to reduce adjacent jurisdiction impacts to a less than significant level. With adoption of the new policies and implementing actions contained in the General Plan Update, this impact would be reduced but could remain significant. Therefore, impacts to adjacent jurisdictions would remain **significant and unavoidable**.

City of Cupertino General Plan 2040 EIR

See Appendix G: Transportation and Traffic Data:

Cupertino presents that 11 of 16 intersections would operate at unacceptable level of service due to the proposed project. 9 out of 16 intersections are outside of Cupertino jurisdiction.

Jennifer Griffin expressed her concern that the vacation of Finch Avenue would be determined before an EIR is completed or permits for Main Street have been pulled. She said that she felt Main Street and the vacation of Finch Avenue should be separate items.

Director of Public Works Timm Borden said that the vacation would not be approved until Main Street is approved and that Council is only setting May 1 as the date for a public hearing to coincide with the hearing regarding Main Street.

Wong moved and Mahoney seconded to adopt Resolution No. 12-029 as amended with the correct hearing date of May 1. The motion carried unanimously.

SECOND READING OF ORDINANCES - None

PUBLIC HEARINGS - None

ORDINANCES AND ACTION ITEMS

13. Subject: Annual Status report of the General Plan and Housing Element
Recommended Action: Approve for submission to the California Department of Housing & Community Development (HCD) by April 1, 2012
Description: Review of the General Plan progress and program implementation as required by State Law

Community Development Director Aarti Shrivastava reviewed the staff report.

Jennifer Griffin said that developments such as Main Street, Biltmore, Rose Bowl, Apple, and the IHOP development are coming up. She noted that the General Plan says the City can't approve additional housing if road intersections can't maintain above a D grade level of service. She said she is concerned that Stevens Creek Blvd. will take the brunt of the traffic with these new developments. She urged Council to take a look at this when approving the projects.

Shrivastava explained that the General Plan does talk about maintaining a level of service D for all intersections. She said that this will be looked at during the environmental review of the projects. She noted that the City will review and get a chance to provide comments regarding the IHOP development, but since it's in a different city, they can only comment. She said that staff would make sure that none of Cupertino's intersections would be impacted above level service D when the projects are approved.

Wong moved and Mahoney seconded to approve the submission of the General Plan and Housing Element annual status report. The motion carried unanimously.

TRANSPORTATION AND TRAFFIC

Five (5) of the sixteen (16) intersections that would operate at an unacceptable level of service for at least one peak hour under the proposed Project were also predicted to operate at an unacceptable level of service under the No Project scenario.

The intersections that would operate at an unacceptable level of service are bolded and underlined in Table 4.13-13. All other study intersections would continue to operate at acceptable levels of service under the proposed Project conditions. The LOS calculation sheets are included in Appendix G, Transportation and Traffic Data, of this Draft EIR.

TABLE 4.13-13 PROPOSED PROJECT INTERSECTION LEVELS OF SERVICE TABLE

| # | Intersection | LOS Standard | Peak Hour | No Project | | Proposed Project | | | |
|----|---|--------------|-----------|-------------|-----------|------------------|----------|---------------------|-----------------------|
| | | | | Avg. Delay | LOS | Avg. Delay | LOS | Change in Crit. V/C | Change in Crit. Delay |
| 1 | SR 85 SB Ramps and Stevens Creek Blvd. ^a | D | AM | 29.2 | C | 31.9 | C | 0.127 | 4.6 |
| | | | PM | 29.1 | C | 32.2 | C- | 0.103 | 4.4 |
| 2 | SR 85 NB Ramps and Stevens Creek Blvd. ^a | D | AM | 51.1 | D- | 65.1 | E | 0.084 | 25.3 |
| | | | PM | 20.9 | C+ | 21.5 | C+ | 0.110 | 2.2 |
| 3 | Stelling Rd. and Stevens Creek Blvd. ^a | E+ | AM | 46.2 | D | 47.7 | D | 0.050 | -0.7 |
| | | | PM | 52.9 | D- | 88.2 | F | 0.240 | 71.7 |
| 4 | Sunnyvale-Saratoga Rd. and Fremont Ave. ^a | E | AM | 42.8 | D | 44.5 | D | 0.054 | 3.1 |
| | | | PM | 52.5 | D- | 63.0 | E | 0.075 | 17.6 |
| 5 | Sunnyvale-Saratoga Rd./De Anza Blvd. and Homestead Rd. ^a | D | AM | 51.2 | D- | 101.5 | F | 0.273 | 88.4 |
| | | | PM | 66.1 | E | 181.4 | F | 0.486 | 214.8 |
| 6 | De Anza Blvd. and I-280 NB Ramp ^a | D | AM | 46.4 | D | 100.0 | F | 0.393 | 170.6 |
| | | | PM | 71.7 | E | 162.2 | F | 0.623 | 274.1 |
| 7 | De Anza Blvd. and I-280 SB Ramp ^a | D | AM | 47.0 | D | 110.9 | F | 0.345 | 142.6 |
| | | | PM | 35.3 | D+ | 99.9 | F | 0.550 | 237.3 |
| 8 | De Anza Blvd. and Stevens Creek Blvd. ^a | E+ | AM | 45.8 | D | 53.6 | D- | 0.079 | 10.8 |
| | | | PM | 76.2 | E- | 160.4 | F | 0.445 | 188.9 |
| 9 | De Anza Blvd. and McClellan Rd./Pacifica Dr. | D | AM | 33.0 | C- | 39.3 | D | 0.138 | 9.3 |
| | | | PM | 70.7 | E | 108.8 | F | 0.153 | 57.3 |
| 10 | De Anza Blvd. and Bollinger Rd. ^a | E+ | AM | 44.0 | D | 51.4 | D- | 0.067 | 10.7 |
| | | | PM | 25.1 | C | 22.6 | C+ | 0.029 | -1.3 |
| 11 | De Anza Blvd. and SR 85 NB Ramp ^a | D | AM | 32.9 | C- | 37.6 | D+ | 0.099 | 5.9 |
| | | | PM | 16.4 | B | 27.8 | C | 0.130 | 18.2 |
| 12 | De Anza Blvd. and SR 85 SB Ramp ^a | D | AM | 23.9 | C | 26.2 | C | 0.063 | 3.6 |
| | | | PM | 22.2 | C+ | 29.5 | C | 0.148 | 13.7 |
| 13 | Blaney Ave. and Homestead Rd. | D | AM | 34.9 | C- | 52.9 | D- | 0.205 | 26.5 |
| | | | PM | 16.4 | B | 25.0 | C | 0.187 | 10.7 |
| 14 | Wolfe Rd. and El Camino Real (SR 82) ^b | E | AM | 47.6 | D | 48.0 | D | 0.016 | 0.7 |
| | | | PM | 51.8 | D- | 53.2 | D- | 0.027 | 1.4 |
| 15 | Wolfe Rd. and Fremont Ave. ^c | E | AM | 45.8 | D | 47.4 | D | 0.045 | -1.5 |
| | | | PM | 51.8 | D- | 59.3 | E+ | 0.060 | 7.1 |

The impacts are primarily on the east side of Cupertino compounding the effects of Apple Park when it fully occupies with 14,200 employees.

i. Multiple projects including 239 acre “City Place” in Santa Clara, Valley Fair Expansion, Google in Mountain View and Diridon Station have added tens of thousands of employees which were not studied nor anticipated in the EIR.

San Jose's Envision 2040 EIR showed they would impact 73% of vehicle lane miles in Cupertino. This was not studied in the Cupertino General Plan 2040 EIR.

County) (#32): Redesign of the northbound leg of the intersection at the Lawrence Expressway Northbound Ramp and Stevens Creek Boulevard to provide one through-movement lane, and one exclusive right-turn lane may be required. Right-of-way acquisition would be required.

The fees shall be assessed when there is new construction, an increase in square footage in an existing building, or the conversion of existing square footage to a more intensive use. The fees collected shall be applied toward circulation improvements and right-of-way acquisition. The fees shall be calculated by multiplying the proposed square footage, dwelling unit, or hotel room by the appropriate rate. Traffic mitigation fees shall be included with any other applicable fees payable at the time the building permit is issued. The City shall use the traffic mitigation fees to fund construction (or to recoup fees advanced to fund construction) of the transportation improvements identified above, among other things that at the time of potential future development may be warranted to mitigate traffic impacts.

While implementation of Mitigation Measure TRAF-1 would secure a funding mechanism for future roadway and infrastructure improvements that are necessary to mitigate impacts from future projects based on then current standards, impacts would remain *significant and unavoidable*, because the City cannot guarantee improvements at these intersections at this time. This is in part because the nexus study has yet to be prepared and because some of the impacted intersections are under the jurisdictions of the Cities of Sunnyvale and Santa Clara and Caltrans. Specifically, the following intersections are outside the jurisdiction of Cupertino:

TRANSPORTATION AND TRAFFIC

- SR 85 Northbound Ramps and Stevens Creek Boulevard (#2)
- De Anza Boulevard and I-280 Northbound Ramp (#6)
- Wolfe Road and Homestead Road (#16)
- Wolfe Road and I-280 Northbound Ramp (#18)
- Wolfe Road and I-280 Southbound Ramp (#19)
- North Tantau Avenue/Quail Avenue and Homestead Road (#24)
- Stevens Creek Boulevard and Agilent Technologies Driveway (#30)
- Lawrence Expressway Southbound Ramp and Stevens Creek Boulevard (CMP, County)(#31)
- Lawrence Expressway Northbound Ramp and Stevens Creek Boulevard (CMP, County) (#32)

However, the City will continue to cooperate with these jurisdictions to identify improvements that would reduce or minimize the impacts to intersections and roadways as a result of implementation of future development projects in Cupertino.

Significance With Mitigation: Significant and Unavoidable.

Letters to and from City and Developer

Page 1

From: "Reed Moulds" <rmoulds@shpco.com>
To: "Aarti Shrivastava" <AartiS@cupertino.org>
Date: 12/23/2013 3:43:34 PM
Subject: Fwd: Height

This is one of our preferred office architects. He is doing our Netflix HQ expansion as well as our Stanford RP project. He is active in the valley and in the city. As you can see, he suggests 159.5' all in below.

However, if I reduce the upper floors to 14' (as Jay Paul did) and use his shorter notion of a penthouse (13') I am down to 155'. Of course, 9.5' of that penthouse is mechanical and elevator overrun screening, so the 3.5' parapet really is what gives the appearance as the building's max height. So, if we don't have to include the rooftop elements in the height calc, we can live with 145.5' and up.

Of course 159.5' gives us the greatest flexibility for interesting design and tenant desired qualities.

Begin forwarded message:

From: Bob Giannini <bgiannini@form4inc.com>
Date: December 23, 2013 at 10:17:01 AM PST
To: Reed Moulds <rmoulds@shpco.com>
Subject: Re: Height

Hi Reed: Floors in a building like that can go anywhere from 13'-6" floor to floor, to 14'-6". You can get about a 9'-6" floor in 13'-6" which some developers are OK with (like Hines), but most like at least 10'.

So for your estimate we assume this: 16' first floor (to give the building a good base proportion, and to accommodate some higher uses on the ground floor), then 14'-6" upper floors, plus a 3.5 foot parapet, or 13' for a penthouse.

So: $16 + 9 \times 14.5 + 13 = 159' - 6"$

Thanks

Bob Giannini, AIA
President
Form4 Architecture, Inc.
126 Post Street, 3rd floor
San Francisco, Ca, 94108
415 254 7515

On Dec 20, 2013, at 3:27 PM, Reed Moulds <rmoulds@shpco.com> wrote:

Bob, a seemingly random question for you for which I am hoping you can provide a quick answer.

If we asked you to design a first class office building in 10 stories, how tall would it be (at parapet and then all-in with rooftop components)?

Reed Moulds
Managing Director
Sand Hill Property Company
203 Redwood Shores Parkway, Suite 200
Redwood City, CA 94065
650-344-1500 x110

October 13, 2014

Via Overnight Delivery and E-Mail

Chair Brophy and Members of the Planning Commission
Cupertino City Hall
10300 Torre Avenue
Cupertino, CA 95014-3202

Re: General Plan Amendment: Office Allocation for Vallco Shopping District

Dear Chair Brophy and Members of the Planning Commission:

I am writing on behalf of Sand Hill Property Company (“Sand Hill”) regarding the treatment of the Vallco Shopping District (“Vallco”) in the General Plan Amendment. Sand Hill is in the midst of acquiring the Vallco parcels for potential redevelopment, so we are keenly interested in working with the City of Cupertino (“City”) to develop a feasible plan that can benefit all stakeholders. I am writing to request that the Planning Commission recommends to the City Council that the General Plan include an office allocation for Vallco of 2,000,000 square feet and the height limits set out in “Alternative C,” as analyzed in the draft General Plan’s environmental review. Without this specific office allocation, as well as the necessary retail and housing components, there will not be adequate critical mass to make it possible for Sand Hill, or any other prospective developer, to successfully redevelop Vallco.

Vallco presents a unique opportunity for redevelopment and revitalization that is unmatched in the City of Cupertino. The site sits at a prime location in the City, yet for many reasons, it has long been neglected and numerous redevelopment efforts were either abandoned or have failed. Sand Hill has the financial capacity and proven track record with such projects and is poised to bring to the City what its citizens have long yearned for: a dynamic downtown where the community can live, work and play. Sand Hill plans to completely transform the current derelict site by redeveloping it with a vibrant, sustainable mixed-use neighborhood. Our plan envisions a balanced mix of 600–700 residential units, approximately 600,000 square feet of retail, a full service hotel, and 2,000,000 square feet of office space. The overarching vision is to create a pedestrian oriented “town center” consistent with the General Plan vision that will have synergies between the uses and nearby projects, such as Main Street.

sf-3467260

882 SAND HILL ROAD, SUITE 241 • MENLO PARK, CA 94025 • (650) 344-1500 • FAX (650) 344-0652

The benefits to the City of such a project go well beyond creating a sense of place. With 600,000 square feet, the retail component of the project would be the same size as Santana Row and would generate millions in sales tax revenues way in excess of what is being collected today. Property taxes would also increase significantly, perhaps by 800%, given the billion-dollar plus investment Sand Hill is prepared to make in the City of Cupertino. In addition, we recognize that in order to obtain increased height limits for Vallco under Alternative C, projects must comply with the new General Plan's community benefits program. Although our specific project plans are still developing, the community benefits we anticipate providing include ground floor retail components and [transit improvements and amenities, space for public entities, senior housing, construction of a new, or expansion to, a community facility/community gathering place, creation or dedication of new or expanded park, cash in-lieu contribution for such community benefits]. We would also be amenable to exploring, with other property developers, the potential of providing a community shuttle program in order to provide transportation between employment and community centers. As required by the General Plan, these community benefits will be equivalent to at least 15 percent in value of the parcel attributed to the increase in height.

The opportunity to transform the Vallco site is now. Sand Hill has a real plan, the capabilities to implement it, and the history of working closely with the City and the community. Prior attempts at Vallco redevelopment have all run into the same problem: full ownership of the site is needed for a successful project, and the current split and passive ownership structure has made parcel assemblage extremely difficult. After nearly three years of intensive negotiations with the various Vallco ownership entities, Sand Hill is now in the process of completing purchases for the entire mall. Single ownership will remove the key barrier to redevelopment that has hampered the site for decades. However, in order to close on the Vallco parcels, Sand Hill needs assurance now that it can build a project that is financially viable. At present, the development allocation recommended in the Staff Report precludes such a project, and thus, a feasible redevelopment of the property. In particular, the Staff Report's recommendations to limit office to 1,000,000 square feet and heights to 75 feet (west of Wolfe Road) and 90 feet (east of Wolfe Road) does not work for our plan, or any plan for that matter.

Redevelopment of Vallco is a substantial undertaking. It entails demolition of approximately 1.2 million square feet of existing buildings and construction of an entire new downtown over 50 acres. The General Plan's vision for a redeveloped Vallco is ambitious: a "town center" layout, a newly configured street grid, an expanded Wolfe Road bridge of I-280 to accommodate a bikeable and walkable "boulevard," a new town square and plazas interspersed throughout. The General Plan calls for high-quality architecture and materials befitting a gateway site. Sand Hill shares this vision, but such elements are all very costly. While retail uses are critical for completing the overall vision, such uses do not support the type of amenities we and the City want to provide. In order for complete redevelopment to

Chair Brophy and Members of the Planning Commission
October 13, 2014
Page Three

be financially feasible, the project must include 2,000,000 square feet of office already studied in the EIR. Further, in order to provide this office square footage, while also respecting the neighborhoods to the west, increased height must be allowed, including up to 160 feet on the east side of Wolfe Road.

For these reasons, we respectfully request that the Planning Commission recommend to the City Council that the General Plan allocate to the Vallco Shopping District:

- 2,000,000 square feet of office space;
- Include the site in the Housing Element, including at least 600 units of housing;
- 600,000 square feet of retail; and
- Heights analyzed in "Alternative C" be permitted (i.e., up to 85 feet west of Wolfe Road and up to 160 feet east of Wolfe Road, with community benefits).

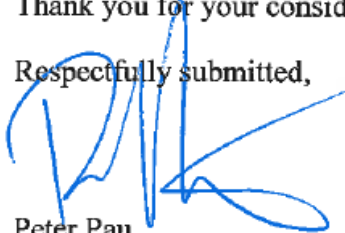
* * * * *

Sand Hill is proud of what it has done in the City of Cupertino. We have partnered with the City and the community on a number of successful commercial, retail and residential projects since the 1990's. As with those prior projects, we view Vallco as a long-term investment. We are a local owner and take pride in our commitment to the community and the City. Main Street is now under construction and will open as a new gathering place in 2015-2016. We look forward to continued collaboration with the City and community in the redevelopment of Vallco.

Sand Hill hopes it can build on its previous successes and realize a long-term community vision for a revitalized Vallco. The development team and funding is in place to move forward now. However, we want to be clear with the Planning Commission and City Council that without the necessary office, residential and retail allocations outlined above, we will not be in a position to redevelop Vallco and it will likely continue to languish for decades to come.

Thank you for your consideration.

Respectfully submitted,



Peter Pau
Principal and Founder

Apple Comments on DEIR to General Amendment:

COMMENT LETTER # B16



July 31, 2014

Piu Ghosh
Senior Planner
City of Cupertino
10300 Torre Avenue
Cupertino, CA 95014

Re: Apple Comments on DEIR for General Plan Amendment

Dear Piu:

This letter sets forth Apple's comments on the Draft Environmental Impact Report ("EIR") prepared for the General Plan Amendment, Housing Element Update, and associated Rezoning Project (collectively, the "General Plan Amendment").

Apple has a strong interest in the City's future growth and development. We are investing billions of dollars to remain in our hometown. As a general matter, Apple supports the increases in office and hotel development allocations in the General Plan Amendment. The positive impact of Apple Campus 2 on the area is already apparent. We believe Apple Campus 2 and Apple's continued presence in the area will continue to drive demand for new office space and generate additional visitors to the area. We support the City's efforts to accommodate economic development and reasonable growth.

We also value our good relations with The Irvine Company. We have worked cooperatively on a number of initiatives. We understand The Irvine Company's desire to update and densify the Hamptons, and we are not opposed to reasonable development on that site.

However, we have grave concerns about the dramatic increases in density and height the General Plan Amendment would allow at the Hamptons. Such increases are unprecedented in Cupertino. The impact of these increases on the unique privacy and security needs of Apple Campus 2, which the City has acknowledged in the EIR for the campus, have not been considered. We also have concerns about the impact buildings of this height will have on view corridors, sunlight and emission of light and glare. ***For the reasons outlined below, we respectfully request that the updated General Plan maintain the longstanding height limit of 60 feet for the Hamptons site, for all structures located within 50 feet of the parcel line abutting Apple Campus 2 or***

B16-01

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Pruneridge. The height limit should remain at 60 feet for the remainder of the Hamptons site, unless the City makes special findings that an increased height, up to 75 feet, would not infringe on the privacy and security needs of Apple Campus 2, nor unreasonably impact view corridors or sunlight, or create light or glare trespass. We also request that setbacks, transitions, landscaping, or other mitigations be imposed, unless the City makes the special findings specified above.

B16-01
cont.

1. The Proposed Height Increase and Elimination of Setbacks for the Hamptons Site Threatens the Security of Apple Campus 2

As we have discussed extensively in the past, the key purpose of Apple Campus 2 is to provide a single, unified and secure campus where Apple will invent future generations of Apple products. The Apple Campus 2 Environmental Impact Report ("AC2 EIR") acknowledges that security is one of the Project's two "primary objectives": "[a]chiev[ing] the security and privacy required for the invention of new products by eliminating any public access through the site, and protecting the perimeters against unauthorized persons." AC 2 DEIR, page 63. The AC2 EIR followed this imperative in its analysis. For example, it concluded that the Mobility and Park alternative, which would have placed a public trail along the southern portion of the site, was such a threat to security that it was not even studied. According to the AC2 EIR, "[a] public trail traversing the project site and Calabazas Creek would conflict with Apple's safety and security needs" and even security measures would be insufficient "because Apple is under intense scrutiny." AC 2 DEIR, page 626. Likewise, the Pruneridge Open alternative was rejected because it posed too much of a security threat.

B16-02

Placing 85-foot residential towers immediately adjacent to Apple Campus 2 poses the same security concerns as a trail through the site. A penthouse at that height along the perimeter of the campus would provide a direct view into the activities and patterns of behavior at the campus. Even allowing lower heights with no setbacks, transitions or landscaping jeopardizes the privacy and security of Apple Campus 2. It's inconsistent with the AC2 EIR's acknowledgment of Apple's security and privacy needs to permit a building envelope that would breach those needs. The only way to remedy the issue is to limit heights and impose setbacks, transitions, landscaping or other mitigations, and require special findings that security and privacy at Apple Campus 2 will not be compromised if the City approves a larger building envelope at the Hamptons site.

2. Apple Designed the Apple Campus 2 Project Assuming Compliance with Existing General Plan Policies

While Apple's goals for the campus are hugely ambitious, Apple carefully stayed within the existing General Plan development standards, and went to great lengths to respect our neighbors. None of the buildings exceed 60 feet, even though taller buildings would have been a logical choice. The parking garage is setback from the Hamptons and

B16-03

screened from view. Other setbacks were greatly increased over the previously existing condition. Where our campus comes closest to residential neighbors – along the eastern boundary adjacent to Santa Clara – great attention has been paid to ensure that our neighbors' privacy is protected and impacts minimized. We made these investments at a considerable cost.

Our multi-billion dollar investment was based on the good faith understanding that adjacent land uses would not be dramatically changed to the detriment of our campus. We recognize that land use policies may evolve, but we never anticipated a wholesale rewrite of the rules targeted solely for our most immediate neighbor, which would more than triple the permitted density and increase height limits by more than 40%.

3. The General Plan Amendment Proposes a Dramatic Increase in Density and Height at the Hamptons Site

The Hamptons site currently is developed with 342 apartment units, built at a density of approximately 27 units/acre and at a height of about 45 feet. This is already considered high density in Cupertino. The General Plan Amendment proposes to dramatically increase the permitted density to 110 units/acre, which would allow up to 1,368 units, a 300% increase and over 1,000 new units. While the General Plan Amendment states that the "realistic" yield is 1,162 units, which would be an increase of 820, for EIR purposes the maximum, not the "realistic", density should be analyzed. Further, by taking advantage of the State Density Bonus Law, a project could exceed even this higher limit, and require the City to waive development standards, such as height, to achieve the desired density. Government Code § 65915. The result would be to take control of development on this site out of the City's hands.

Currently, the greatest density allowed anywhere in the City is 35 units/acre; the proposal would allow over three times that density on this single site. The Hamptons site is the only site in the City proposed for such a dramatic increase. The next densest sites under the new General Plan would allow only 40 units/acre and most multi-family residential sites are proposed at 25 to 35 units/acre. In addition to density, the General Plan Amendment would allow residential towers of up to 85 feet at the Hamptons, an increase of more than 40% over the current 60 foot height limit. Further, unlike other areas in the City where a "bonus" height requires inclusion of a retail component and "community benefits," neither are required for the Hamptons.

Finally, the General Plan Amendment appears to abandon longstanding setback requirements, and where setbacks may be required, they must account only for impacts to residential uses. For example, the current General Plan includes setback ratios in the Vallco area, including a 1:1 slope line drawn from the Wolfe Road curb line. General Plan, Figure 2-D. According to the EIR Appendix I, it appears the General Plan Amendment would delete the setback ratios, and instead require unspecified "appropriate setbacks" to promote active uses along street frontage and "minimize potential conflict with adjacent

B16-03
cont.

B16-04

low-density single-family neighborhoods." Appendix I, Revised Policy 2-15. It appears that setbacks would be determined during the project entitlement process, yet there is no General Plan language that requires any consideration of impacts to or privacy concerns of adjacent commercial uses. There is nothing currently in the General Plan to prevent approval of an 85 foot residential tower that immediately abuts Apple Campus 2.

B16-04
cont.

The General Plan Amendment needs to better balance the desire for increased density at the Hamptons with Apple's security needs and rational planning. These needs are well documented in the AC2 EIR and in City findings for the campus, and must be respected.

4. The General Plan Amendment EIR Should Acknowledge the Environmental Impacts of the Increased Height and Density

Greatly increasing height, and eliminating setbacks at The Hamptons would result in adverse environmental impacts. In addition to amending the General Plan to limit height, as described above, we also request that the EIR impose setbacks, transitions, landscaping and other mitigations to reduce the environmental impacts of tall structures. The following discusses areas of the EIR where this should be addressed.

In the discussion of AES-2 (impacts to scenic resources), the EIR notes that as part of the Architecture and Site Approval process, the City "could" require "suitable setbacks for buildings along the public rights-of-way and appropriate buffers and/or height transitions adjacent to low-density residential development." EIR, at 4.1-30. However, the General Plan does not mention the Hamptons' nearest neighbor, Apple, the party most likely to be impacted by the Hamptons' development. Moreover, the EIR appears to rely on the *potential* for setbacks as the basis for its less than significant conclusion. Without an actual setback requirement, the EIR should assume that residential buildings will be built to the maximum height on the parcel lines. For the EIR to rely on setbacks as mitigating the impact, it should in fact require setbacks. We request that the General Plan either include policy language requiring adequate setbacks, to protect Apple's privacy and security needs, view corridors and sunlight, and eliminate light and glare trespass, or add such requirements as mitigation.

B16-05

As for the analysis of impacts to Apple Campus 2 in particular, the EIR is conclusory when it simply states that "the taller heights may marginally impede views of the Santa Cruz mountains for the users of the Apple Campus." EIR, at 4.1-30. There is no data or analysis to support this statement. The EIR contains no visual simulation, shade and shadow study, lighting study, or the like. We request that the City prepare a visual simulation and shade and shadow study and analyze the impacts of light and glare from the Hamptons, assuming a project built within the maximum envelope permitted. We believe these will show that 85-foot towers along the parcel lines would have significant impacts, which could be mitigated by reasonable measures.

B16-06

Impact AES-3 is also conclusory. It states in a single sentence that the prior analysis in the EIR showed that future development in the North Vallco Park Special Area, as well as in several other large portions of the City, would not result in a substantial change to the existing visual character or its surroundings. However, the prior analysis did not look at this question. The discussion in AES-2, which is the only portion of the chapter with any substance, looked at impacts to scenic resources, not changes to the existing visual character or surroundings. These are distinct questions. We believe there will be a dramatic change in the existing visual character and surroundings. In order to build out the Hamptons site at the proposed density of 110 units/acre, the buildings must grow taller, must be closer together and must move closer to the lot lines. To fully appreciate the extent of the change to the existing visual character, we request that the City prepare visual simulations.

B16-07

We also note that the General Plan Amendment proposes to delete existing Policy 2-14, Strategy 6, View Preservation. That Strategy requires that the City “[d]evelop and implement a policy to encourage developers to limit building heights in order to preserve hillside views throughout the City.” Deletion of Policy 2-14, Strategy 6 paves the way for allowing taller buildings that impede hillside views, but the EIR fails to even mention the deletion. The EIR should be revised to either delete, or to acknowledge and study, the impact of this very significant policy change. Further, although the EIR recognizes that the impact of shade and shadow “is an important environmental issue,” it contains no analysis of such impacts. EIR, at 4.1-21. When describing this issue, the EIR identifies certain land uses as being “shadow-sensitive” because they have “expectations for direct sunlight and warmth from the sun.” EIR, at 4.1-21. The list of such sensitive uses includes private enterprises, such as outdoor restaurants. However, it fails to recognize that corporate campuses, such as Apple Campus 2, may similarly be “shadow-sensitive” and have an expectation of sunlight. One of the signature features of Apple Campus 2 is its extensive outdoor space. This space is designed to invite employees to interact in a relaxed, park-like setting. Creating this open space comes at an enormous cost, particularly the elimination of impervious spaces for surface parking by constructing high cost underground and structured parking. The value of that investment and the healthy lifestyle amenity to Apple employees would be threatened by new residential towers casting long shadows across this key campus feature. Apple’s expectation of sunlight clearly warrants at least the same attention as an outdoor restaurant, and the EIR should address this potential impact.

B16-08

B16-09

Likewise, the EIR doesn’t mention the light and glare trespass resulting from residential towers within this building envelope. We were very careful to avoid any light or glare trespass from Apple Campus 2 (see *Apple Campus 2 Project Environmental Impact Report Lighting Technical Report*, October 29, 2012, by Arup and AC2 EIR, Section V.B.2.b.(4)). We request the City to study this topic in connection with the proposed building envelope.

5. Apple Requests Additional Changes and Corrections to the General Plan Amendment

B16-10

Below are minor additional changes that we request be made to the General Plan Amendment and the EIR:

- Remove Pruneridge. The EIR acknowledges that Pruneridge has been vacated for Apple Campus 2, but it remains depicted in all figures. The General Plan and its figures should reflect the vacation of Pruneridge and the amendment to the General Plan's Circulation Element effected as part of the Apple Campus 2 approvals.
- Acknowledge the Development Agreement. A key entitlement for Apple Campus 2 is the Development Agreement, which vested Apple's right to build out the campus under the policies, plans and regulations that were in place at the time of the Development Agreement, including the General Plan. This General Plan Amendment should acknowledge that, so long as the Development Agreement is in place, the prior General Plan policies apply to Apple Campus 2. We note that the current General Plan takes this approach with respect to Hewlett-Packard's development agreement.
- Clarify "Major Employer." We believe the entities that qualify for the "major employer" pool of development allocations should be clarified. First, we note that Appendix I mistranscribes the existing General Plan language. Policy 2-44 describes "major employers" as those "companies with sales offices and corporate headquarters in Cupertino," but EIR Appendix I shows this as companies with "sales offices or corporate headquarters." This needs to be corrected. However, we think the definition could be further clarified. The purpose of the "major employer" category is to encourage large, established companies to stay and grow in Cupertino. We believe that only requiring a sales office and corporate headquarters is too broad.
- Assumption for Hamptons. Table 3-5 indicates a net increase of 528 units within the North Vallco Special Area, but elsewhere the EIR states that redevelopment of The Hamptons will result in a net increase of 820 units. The full density anticipated in the EIR should be assumed. Further, we were unable to determine in the traffic section how many units were assumed at that site. Please clarify this issue.
- I-280 Northbound Ramp Improvements. It appears that the EIR does not assume some of the improvements Apple is making to the Wolfe Road and I-280 northbound ramp. We believe this accounts for the discrepancy between the finding in the AC2 EIR that with mitigation, that intersection would operate at LOS B (see MM TRANS-5, pg. 404) and the finding in the General Plan Amendment EIR that the same intersection would operate at LOS F in the "no project" scenario. In particular, the Transportation Impact Analysis for Apple Campus 2 assumed widening the northbound Wolfe approach to three lanes (see AC2 TIA, pg. 3-10, Intersection #21, Wolfe Road and I-280 NB Ramps providing data for Cumulative

B16-10
cont.

B16-11

B16-12

plus Project conditions, for both AM and PM traffic), but the General Plan Amendment EIR assumed only two lanes for this approach (see EIR, Appendix G, pg. 231-76). Apple is, in fact, constructing this third northbound approach lane, so it should be assumed.

B16-12
cont.

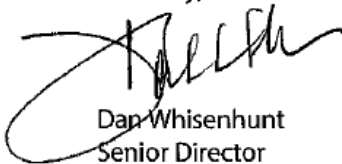
- Bridge Widening Should Not be Assumed. Mitigation Measure TRAF-1 commits the City to preparing and implementing a Traffic Mitigation Fee Program and then identifies several improvements that would mitigate the impacts. EIR, at 4.13-53. Several of these improvements are ambitious, particularly the potential for widening the Wolfe Road overcrossing. These very substantial improvements have not been studied. Please clarify in the text of the EIR that there may be other solutions available and that any mitigation measures will be identified and fully studied when preparing the Fee Program. There should be no assumption at this point that the bridge may need to be widened.

B16-13

Apple has made an unprecedented investment in Cupertino and the decision to do so was based on certain understandings about our neighborhood. We respectfully request that the City continue to collaborate with Apple and The Irvine Company to identify appropriate development standards for the Hamptons site, including 60-foot height limits along the property lines, reasonable setbacks, transitions, landscaping or other mitigations, and findings that any structure will not breach the privacy and security needs of Apple Campus 2, and that the impacts of any project on view corridors, sunlight, and emission of light and glare will be thoroughly studied and adverse impacts mitigated.

B16-14

Sincerely,



Dan Whisenhunt
Senior Director
Real Estate & Development
Apple

cc: Mayor and City Council of Cupertino
David Brandt, City Manager
Aarti Shrivastava, Director of Community Development

Future Noise Contours

FUTURE NOISE CONTOURS

Ensuring that future land use and infrastructure decisions consider the potential adverse impacts of noise is a key concern for the City of Cupertino. **Figure D-2** identifies future noise contours within the city, and in combination with the policies included in the Health and Safety Element, will be used to help reduce future noise impacts.

FIGURE D-2
FUTURE NOISE CONTOURS

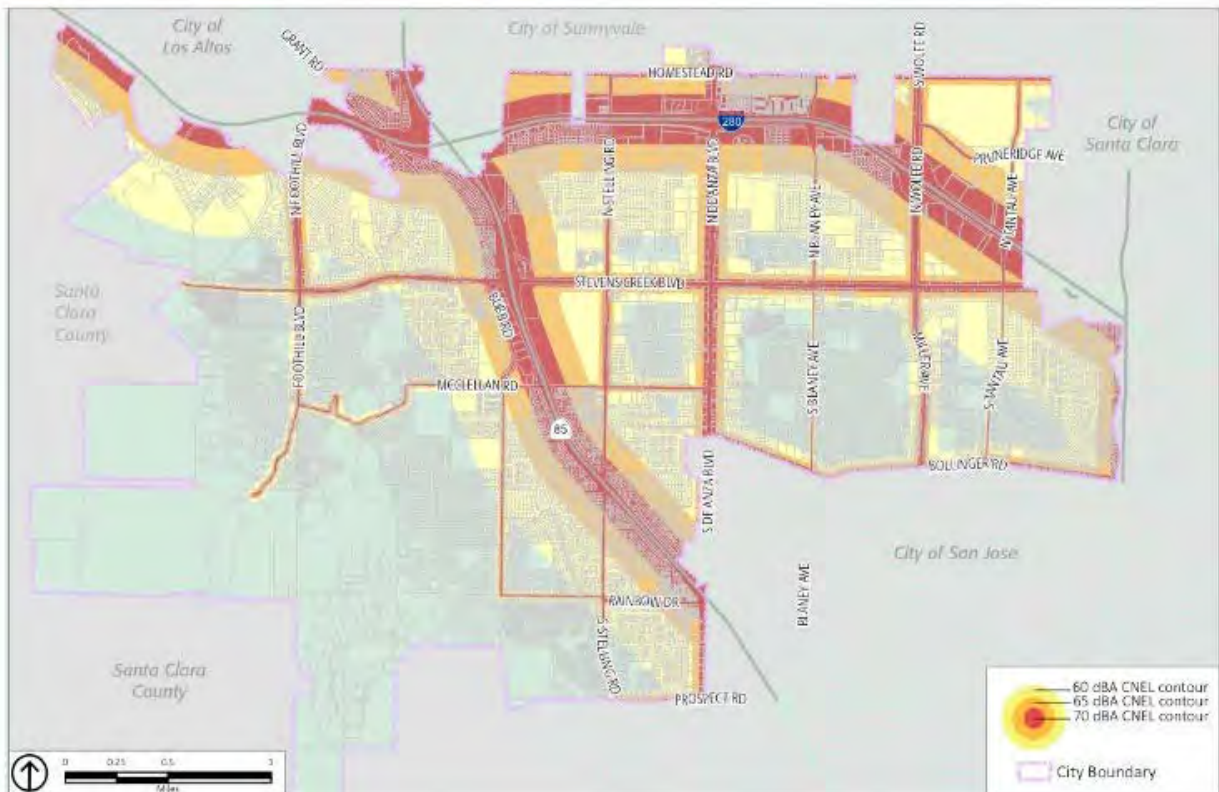


Table V.J-9: City of Cupertino Noise and Land Use Compatibility Standards

| Land Use Category | Community Noise Exposure in Decibels (CNEL) or Day/Night Average Noise Level in Decibels (Ldn) | | | | | |
|---|---|----|----|---|----|----|
| | 55 | 60 | 65 | 70 | 75 | 80 |
| Residential – Low Density (Single-Family, Duplex, Mobile Homes) | | | | | | |
| Residential – Multi-Family | | | | | | |
| Transient Lodging (Motels, Hotels) | | | | | | |
| Schools, Libraries, Churches, Hospitals, Nursing Homes | | | | | | |
| Auditoriums, Concert Halls, Amphitheaters | | | | | | |
| Sports Arena, Outdoor Spectator Sports | | | | | | |
| Playgrounds, Neighborhood Parks | | | | | | |
| Golf Courses, Riding Stables, Water Recreation, Cemeteries | | | | | | |
| Office Buildings, Business Commercial and Professional Centers | | | | | | |
| Industrial, Manufacturing, Utilities, Agriculture | | | | | | |
| | NORMALLY ACCEPTABLE Specified land use is satisfactory, based upon the assumption that any buildings involved are of normal conventional construction, without any special noise insulation requirements. | | | NORMALLY UNACCEPTABLE New construction or development should generally be discouraged. If new construction or development does proceed, a detailed analysis of the noise reduction requirements must be made and needed noise insulation features included in the design. | | |
| | CONDITIONALLY ACCEPTABLE New construction or development should be undertaken only after a detailed analysis of the noise reduction requirements is made and needed noise reduction features included in the design. Conventional construction, but with windows closed and fresh air supply systems or air conditioning will normally suffice. | | | CLEARLY UNACCEPTABLE New construction or development should generally not be undertaken. | | |

Source: Cupertino, City of, 2005. *Cupertino General Plan 2000 – 2020*. Figure 6-L. November 15.

Connection between Cal/EPA Strategic Vision Goals and Goals in ARB's Strategic Plan

| Cal/EPA Vision Goals ARB Strategic Plan Goals | Goal 1 Clean Air | Goal 2 Clean River, Lake, Estuary, and Marine Waters | Goal 3 Clean Drinking Water | Goal 4 Communities Free from Toxic Risk | Goal 5 Reduce or Eliminate Disproportionate Pollution Impacts | Goal 6 Efficient Use of Natural Resources | Goal 7 Continuous Improvement | Goal 8 Efficient and Effective Cal/EPA |
|---|----------------------------|--|---------------------------------------|---|---|---|---|--|
| Goal 1 New Strategies to Effectively Reduce Air Pollution | X | X | X | X | X | | X | X |
| Goal 2 Environmental Justice Principles | X | | | X | X | | X | X |
| Goal 3 Zero-Emission Technologies | X | X | X | X | X | X | X | X |
| Goal 4 Effective Compliance Assistance and Enforcement | X | X | X | X | X | | X | X |
| Goal 5 Sound Understanding of Health Effects | X | | | | | | X | X |
| Goal 6 Sound Technical Tools | X | X | | | | | X | X |
| Goal 7 Recognize ARB's Employee's Strengths | | | | | | | X | X |

Comments for Vallco Shopping District Specific Plan Environmental Impact Report NOP File Number EA- 2017-05

Contents

| | |
|--|----|
| Potential to Cease EIR Mid-Stream:..... | 2 |
| Similarity of “Proposed Project” to Failed Ballot Initiative Measure D, Nov. 8, 2016 Should Disqualify It | 3 |
| General Plan Directive to Create a Vallco Shopping District Specific Plan: | 4 |
| General Plan Internal Inconsistency in Table LU-1 | 7 |
| Insufficient and Conflicting Information Presented in NOP EIR Scoping Meeting, with Infeasible “Proposed Project” due to Inconsistency with General Plan & Initiative Vote Results | 21 |
| Proposed Project and Project Alternatives:..... | 22 |
| Proposed Project: | 22 |
| Alternatives to Project:..... | 24 |
| Occupied/Re-tenanted Mall is Not “No Project”, does Not Attain “Proposed Project” Objectives..... | 25 |
| Alternative B is Not Consistent with the General Plan, Does Not Attain “Proposed Project” Objectives..... | 26 |
| Alternative C is Insufficiently Described – Does Not attain “Proposed Project” Objectives - May be inconsistent..... | 27 |
| Conclusions:..... | 27 |
| Table of Proposed Project and Alternatives: | 28 |
| Comments For Environmental Impact Report Given Proposed Project and Alternatives A-D ... | 29 |
| Proposed Project EIR Topics and Problems | 29 |
| Consistency..... | 29 |
| Traffic | 29 |
| Student Generation Impacts to other..... | 31 |
| Physical Environment/Shadow/Light/View/Vegetation..... | 32 |
| Air Quality | 38 |
| Water Usage..... | 41 |
| Noise | 43 |

| | |
|--|----|
| Green Roof Policy Inconsistencies | 44 |
| Parking | 45 |
| Population | 45 |
| Soil Contamination | 46 |
| Groundwater | 46 |
| Hydrology | 46 |
| Storm Water Runoff..... | 47 |
| Sewage Capacity..... | 47 |
| Thresholds and Standards | 47 |
| Alternative A: Occupied/Re-Tenanted Mall: EIR Topics and Problems..... | 47 |
| Alternative B: 2/3 Residential, 1/3 non-Residential Mix: EIR Topics and Problems | 48 |
| Alternative C: Retail and Residential (no office): EIR Topics and Problems | 49 |

Potential to Cease EIR Mid-Stream:

The EIR scoping meeting provided inadequate and conflicting information with an infeasible “Proposed Project” and infeasible alternatives.

According to [“CEQA Does Not Apply to Project Disapproval, Even if the EIR is Underway,”](#) by [Abbott & Kindermann](#) Leslie Z. Walker, on September 22, 2009, the EIR process may be stopped mid-stream:

According to [Las Lomas Land Co., LLC v. City of Los Angeles](#) (Sept. 17, 2009, B213637) ___ Cal.App.4th ___, the long standing rule that CEQA does not apply to projects rejected or disapproved by a public agency, allows a public agency to reject a project before completing or considering the EIR. In Las Lomas, the Court of Appeals for the Second Appellate District made clear that a city may stop environmental review mid-stream and reject a project without awaiting the completion of a final EIR. While this holding may avoid wasting time and money on an EIR for a dead-on-arrival project, it will also make it harder for projects to stay in play until the entire environmental document is complete.

The article continues:

One of the City's council members opposed the project and asked the City to cease its work on it. The City attorney advised the council members that the City was required to continue processing and completing the EIR. Nonetheless, the objecting council member introduced a motion to suspend the environmental review process until the city council made "a policy decision" to resume the process. The city council ultimately approved a modified motion which also called for the City to cease work on the proposed project.

Should the City Council find reason to cease the EIR, such as the "Proposed Project" being inconsistent with the General Plan (explained on the following pages), or that in light of its' similarity to failed Cupertino ballot Measure D: The Vallco Initiative November 8, 2016, there is precedent as demonstrated above, to do so.

Similarity of "Proposed Project" to Failed Ballot Initiative Measure D, Nov. 8, 2016 Should Disqualify It

The Vallco Measure D Initiative is described in the following: [CITY ATTORNEY'S BALLOT TITLE AND SUMMARY FOR PROPOSED INITIATIVE SUBMITTED ON MARCH 3, 2016](#) and would consist of:

- 2,000,000 SF office
- 640,000 SF retail
- 191 additional hotel rooms, bringing the site total to 339 hotel rooms
- 389 residential units with a Conditional Use Permit bringing the total to 800 residential units

The [November 8, 2016 Election results for Measure D](#) were 55% No. Advertising for the initiative obscured the office and focused on the retail portions. The actual square footage percentages for the Measure D Initiative were:

- 56% office
- 22% residential
- 16% retail
- 6% hotel

Notice these above percentages result in 84% non-retail uses and would be a majority office park. The "Proposed Project" for the EIR has less retail (600,000 SF) and other uses the same as Measure D.

The EIR process is not intended to be a disregard of the city's General Plan to "try out" alternative concepts which have no consistency with the General Plan. This creates a great deal of confusion and distrust.

General Plan Directive to Create a Vallco Shopping District Specific Plan:

This section amasses the multiple sections of the General Plan which reference the Vallco Shopping District and describe what it is planned to become.

Refer to: [Cupertino General Plan Vision 2040](#):

In Chapter 2 of the Cupertino General Plan Vision 2040: Planning Areas: Vallco Shopping District is described as: "...Cupertino's most significant commercial center..." and that "...Reinvestment is needed...so that this **commercial center** is more competitive and better serves the community." It is referred to as a "shopping district", not an office park, or a residential community. Following is the actual page from the General Plan describing Vallco Shopping District:

VALLCO SHOPPING DISTRICT

CONTEXT

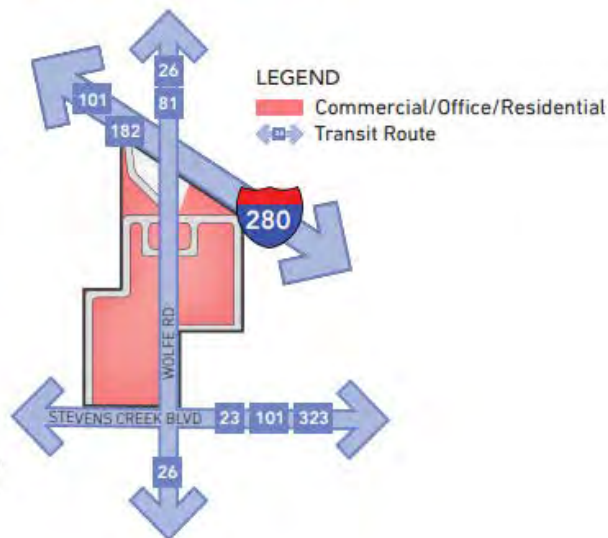
The Vallco Shopping District Special Area encompasses Cupertino's most significant commercial center, formerly known as the Vallco Fashion Park. This Special Area is located between Interstate 280 and Stevens Creek Boulevard in the eastern part of the city. The North Blaney neighborhood, an established single-family area, is adjacent on the west side of the Vallco Shopping District. Wolfe Road bisects the area in a north-south direction, and divides Vallco Shopping District into distinct subareas: Vallco Shopping District Gateway West and Vallco Shopping District Gateway East. In recent years there has been some façade improvement to the Vallco Fashion Mall; however, there has been no major reinvestment in the mall for decades. Reinvestment is needed to upgrade or replace older buildings and make other improvements so that this commercial center is more competitive and better serves the community. Currently, the major tenants of the mall include a movie theater, bowling alley and three national retailers. The Vallco Shopping District is identified as a separate Special Area given its prominence as a regional commercial destination and its importance to future planning/redevelopment efforts expected over the life of the General Plan.



VISION

The Vallco Shopping District will continue to function as a major regional and community destination. The City envisions this area as a new mixed-use "town center" and gateway for Cupertino. It will include an interconnected street grid network of bicycle and pedestrian-friendly streets, more pedestrian-oriented buildings with active uses lining Stevens Creek Boulevard and Wolfe Road, and publicly-accessible parks and plazas that support the pedestrian-oriented feel of the revitalized area. New development in the Vallco Shopping District should be required to provide buffers between adjacent single-family neighborhoods in the form of boundary walls, setbacks, landscaping or building transitions.

VALLCO SHOPPING DISTRICT SPECIAL AREA DIAGRAM



PA-8

Figure 1

Vallco Shopping District is further described in the [General Plan Vision 2040 Land Use Element](#) through goals, policies, and strategies:

GOAL LU-19 Create a distinct and memorable mixed-use "town center" that is a regional destination and a focal point for the community

VALLCO SHOPPING DISTRICT SPECIAL AREA The City envisions a complete redevelopment of the existing Vallco Fashion Mall into a vibrant mixed-use "town center" that is a focal point for regional visitors and the community. This new Vallco Shopping District **will become a destination for shopping, dining and entertainment in the Santa Clara Valley.**

POLICY LU-19.1: SPECIFIC PLAN Create a **Vallco Shopping District Specific Plan** prior to any development on the site that lays out the land uses, design standards and guidelines, and infrastructure improvements required. The Specific Plan will be based on the following strategies:

STRATEGIES: LU-19.1.1: Master Developer. Redevelopment will require a master developer in order to remove the obstacles to the development of a cohesive district with the highest levels of urban design.

LU-19.1.2: Parcel Assembly. Parcel assembly and a plan for complete redevelopment of the site is required prior to adding residential and office uses. Parcelization is highly discouraged in order to preserve the site for redevelopment in the future.

LU-19.1.3: Complete Redevelopment. The "town center" plan should be based on complete redevelopment of the site in order to ensure that the site can be planned to carry out the community vision.

LU-19.1.4: Land Use. The following uses are allowed on the site (see Figure LU-2 for residential densities and criteria):

1. Retail: High-performing retail, restaurant and entertainment uses. **Maintain a minimum** of 600,000 square feet of retail that provide a good source of sales tax for the City. Entertainment uses may be included but shall consist of no more than 30 percent of retail uses.

2. Hotel: **Encourage** a business class hotel with conference center and active uses including main entrances, lobbies, retail and restaurants on the ground floor.

3. Residential: **Allow** residential on upper floors with retail and active uses on the ground floor. Encourage a mix of units for young professionals, couples and/or active seniors who like to live in an active “town center” environment.

4. Office: **Encourage** high-quality office space arranged in a pedestrian-oriented street grid with active uses on the ground floor, publicly-accessible streets and plazas/green space.

General Plan Internal Inconsistency in Table LU-1

The allocations shown in Table LU-1: Citywide Development Allocation Between 2014-2040, on the following page, for Vallco Shopping District are inconsistent with the objectives outlined, to become a “...shopping, dining, and entertainment...” destination. The policy language in LU-19.1.4, clearly indicates the Vallco Shopping District’s primary objective is to have a minimum amount of 600,000 SF of retail. Other uses such as office, hotel, or residential, had no such minimum requirements, and Table LU-1 footnote indicates the residential and office allocations sunset May 31, 2018 if no Vallco Shopping District Specific Plan is in approved.

The allocation of office space should have been worded such that commercial totals would be greater than 50% of the total of commercial SF, office SF, hotel SF, and residential units SF including all amenity space SF for each category assigned to their respective category. This is an internal inconsistency in the General Plan in this deceptive chart which contradicts the text. The text provides the guidance and meaning for Vallco Shopping District, the chart is not a directive to become an office park. Vallco Shopping District is not listed as a Major Employer in the General Plan. 2 million SF of office would accommodate a Major Employer, the absence of this designation if further proof the Vallco Shopping District is not intended to become an office park.

| Table LU-1: Citywide Development Allocation Between 2014-2040 | | | | | | | | | | | | |
|---|--------------------------------|------------------|----------------|--------------------------------|-------------------|------------------|--------------------------------|--------------|------------|--------------------------------|---------------|--------------|
| | commercial (s.f.) | | | office (s.f.) | | | hotel (rooms) | | | residential (units) | | |
| | current built (Oct 7, 2014) | buildout | available | current built (Oct 7, 2014) | buildout | available | current built (Oct 7, 2014) | buildout | available | current built (Oct 7, 2014) | buildout | available |
| Heart of the City | 1,351,730 | 214,5000 | 793,270 | 2,447,500 | 2,464,613 | 17,113 | 404 | 526 | 122 | 1,336 | 1,805 | 469 |
| Vallco Shopping District** | 1,207,774 | 120,7774 | - | - | 2,000,000 | 2,000,000 | 148 | 339 | 191 | - | 389 | 389 |
| Homestead | 291,408 | 291,408 | - | 69,550 | 69,550 | - | 126 | 126 | - | 600 | 750 | 150 |
| N. De Anza | 56,708 | 56,708 | - | 2,081,021 | 2,081,021 | - | 126 | 126 | - | 49 | 146 | 97 |
| N. Vallco | 133,147 | 133,147 | - | 3,069,676 | 3,069,676 | - | 123 | 123 | - | 554 | 1154 | 600 |
| S. De Anza | 352,283 | 352,283 | - | 130,708 | 130,708 | - | 315 | 315 | - | 6 | 6 | - |
| Bubb | - | - | - | 444,753 | 444,753 | - | - | - | - | - | - | - |
| Monta Vista Village | 94,051 | 99,698 | 5,647 | 443,140 | 456,735 | 13,595 | - | - | - | 828 | 878 | 50 |
| Other | 144,964 | 144,964 | - | 119,896 | 119,896 | - | - | - | - | 18,039 | 18,166 | 127 |
| Major Employers | - | - | - | 109,935 | 633,053 | 523,118 | - | - | - | - | - | - |
| Citywide | 3,632,065 | 4,430,982 | 798,917 | 8,916,179 | 11,470,005 | 2,553,826 | 1,116 | 1,429 | 313 | 21,412 | 23,294 | 1,882 |

** Buildout totals for Office and Residential allocation within the Vallco Shopping District are contingent upon a Specific Plan being adopted for this area by May 31, 2018. If a Specific Plan is not adopted by that date, City will consider the removal of the Office and Residential allocations for Vallco Shopping District. See the Housing Element (Chapter 4) for additional information and requirements within the Vallco Shopping District.

Figure 2 - "General Plan Table LU-1"

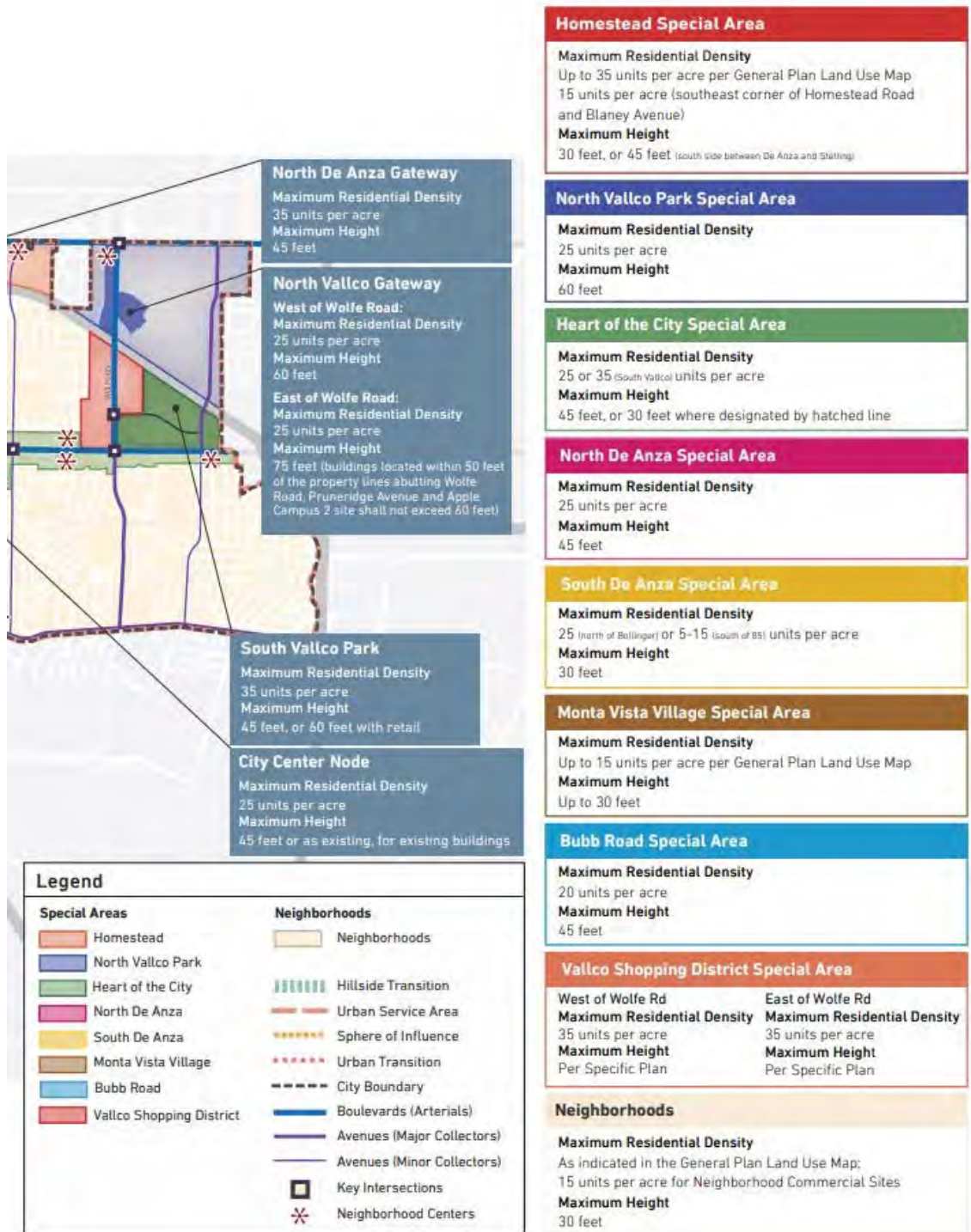


Figure 3 – “General Plan Figure LU-2”

General Plan Housing Element p H-21

“Priority Housing Sites: As part of the Housing Element update, the City has identified five priority sites under Scenario A (see Table HE-5) for residential development over the next eight years. The General Plan and zoning designations allow the densities shown in Table HE-5 for all sites except the Vallco Shopping District site (Site A2). The redevelopment of Vallco Shopping District will involve significant planning and community input. A specific plan will be required to implement a comprehensive strategy for a retail/office/residential mixed use development. The project applicant would be required to work closely with the community and the City to bring forth a specific plan that meets the community’s needs, with the anticipated adoption and rezoning to occur within three years of the adoption of the 2014-2022 Housing Element (by May 31, 2018). The specific plan would permit 389 units by right at a minimum density of 20 units per acre. If the specific plan and rezoning are not adopted within three years of Housing Element adoption (by May 31, 2018), the City will schedule hearings consistent with Government Code Section 65863 to consider removing Vallco as a priority housing site under Scenario A, to be replaced by sites identified in Scenario B (see detailed discussion and sites listing of “Scenario B” in Appendix B - Housing Element Technical Appendix). As part of the adoption of Scenario B, the City intends to add two additional sites to the inventory: Glenbrook Apartments and Homestead Lanes, along with increased number of permitted units on The Hamptons and The Oaks sites. Applicable zoning is in place for Glenbrook Apartments; however the Homestead Lanes site would need to be rezoned at that time to permit residential uses. Any rezoning required will allow residential uses by right at a minimum density of 20 units per acre.”

SITE A2 (VALLCO SHOPPING DISTRICT):

“The site is designated Regional Shopping/Office/Residential in the General Plan and zoned Planned Development with Regional Shopping and Commercial (P[Regional Shopping and P[CG]). Strategy HE-1.3.1 provides that the City will **adopt a Specific Plan for the Vallco site by May 31, 2018 that would permit 389 units by right at a minimum density of 20 units per acre. The zoning for the site would be modified as part of the Specific Plan process to allow residential uses as part of a mixed-use development at a maximum density of 35 units per acre. If the Specific Plan is not adopted, the City will schedule hearings consistent with Government Code Section 65863 to consider removing Vallco Shopping District as a Priority Housing Site and replacing it with the sites shown in Scenario B.**”

5.5. RESIDENTIAL SITES INVENTORY - SCENARIO B As noted above, one particular site identified in Scenario A will involve substantial coordination for redevelopment (Vallco Shopping District, Site A2). Due to the magnitude of the project, the **City has established a contingency plan to meet the RHNA if a Specific Plan is not adopted by May 31, 2018. This contingency plan (referred to here as Scenario B and shown on Figure B-8), involves the City removing Vallco Shopping District, adding more priority sites to the inventory, and also increasing the density/allowable units on other priority sites.** Four of the sites discussed in Scenario A above are also included in Scenario B, with some modifications to density and realistic capacity on two of these sites. Two additional sites are added to the inventory, one of which was included in the 2007-2014 Housing Element sites inventory.

**FIGURE HE-1
HOUSING ELEMENT: SITES TO
MEET THE RHNA**

Priority Housing Element Sites: Scenario A

Applicable if Vallco Specific Plan is adopted by May 31, 2018
 If Vallco Specific Plan is not adopted by May 31, 2018, the designated Priority Housing Element Sites will be as shown in General Plan Appendix B, Section 5.5: Residential Sites Inventory - Scenario B.

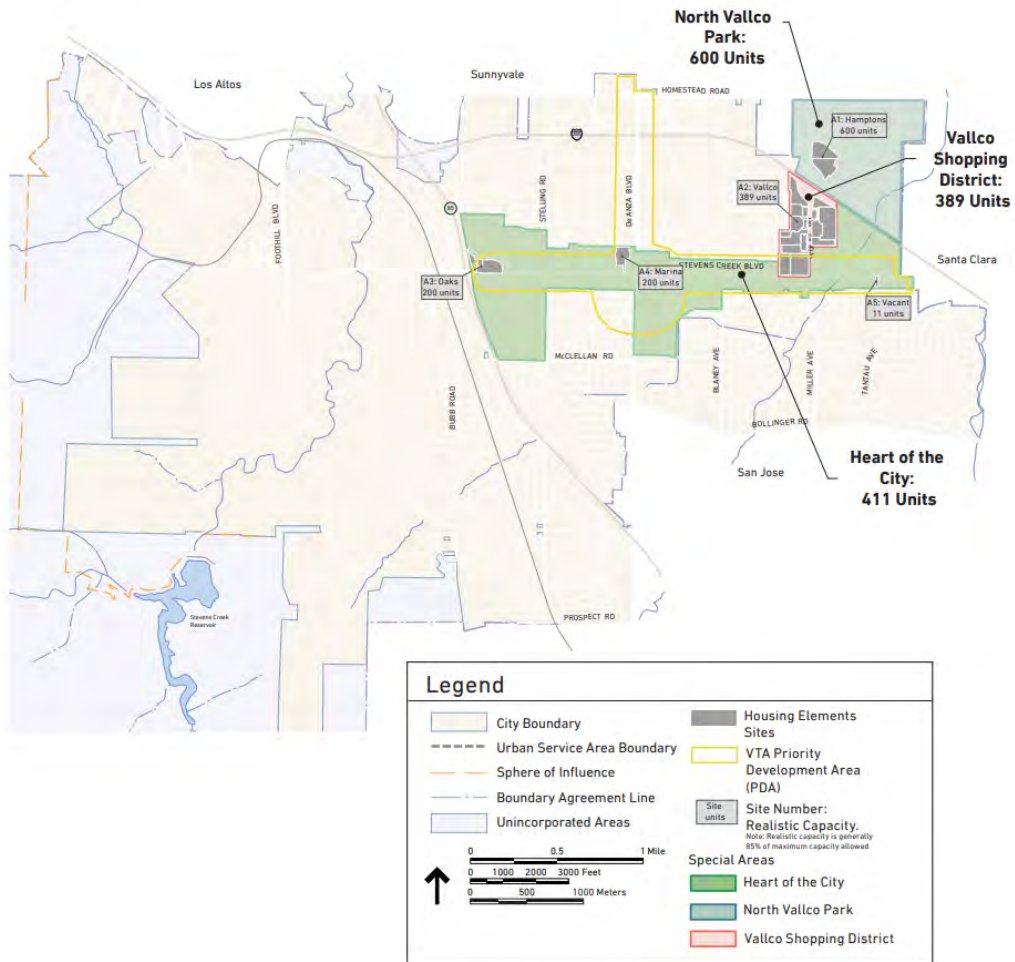


Figure 4 – “General Plan Figure HE-1”

“Figure HE-1 indicates the available residential development opportunity sites to meet and exceed the identified regional housing need pursuant to the RHNA. The opportunity sites can accommodate infill development of up to 1,400 residential units on properties zoned for densities of 20 dwelling units to the acre or more. The potential sites inventory is organized by geographic area and in particular, by mixed use corridors. As shown in Table HE-5, sites identified to meet the near-term development potential lie within the North Vallco Park Special Area, the Heart of the City Special Area, and the Vallco Shopping District Special Area. One particular site will involve substantial coordination for redevelopment (Vallco Shopping District, Site A2). Due to the magnitude of the project, the City has established a contingency plan to meet the RHNA if a Specific Plan is not approved within three years of Housing Element adoption. This contingency plan (called Scenario B and discussed further in General Plan Appendix B), would involve the City removing Vallco Shopping District, adding more priority sites to the inventory, and also increasing the density/allowable units on other priority sites.”

“DETERMINATION OF REALISTIC CAPACITY Sites inventory capacity must account for development standards such as building height restrictions, minimum setbacks, and maximum lot coverage, as well as the potential for non-residential uses in mixed-use areas. A survey of recent developments (Table 5.2) indicates that recent multi-family residential projects have built to between 82 percent and 99.5 percent of the maximum allowable density. To ensure that the sites inventory provides a “realistic capacity” for each site, estimates for maximum developable units on each site are conservatively reduced by 15 percent.”

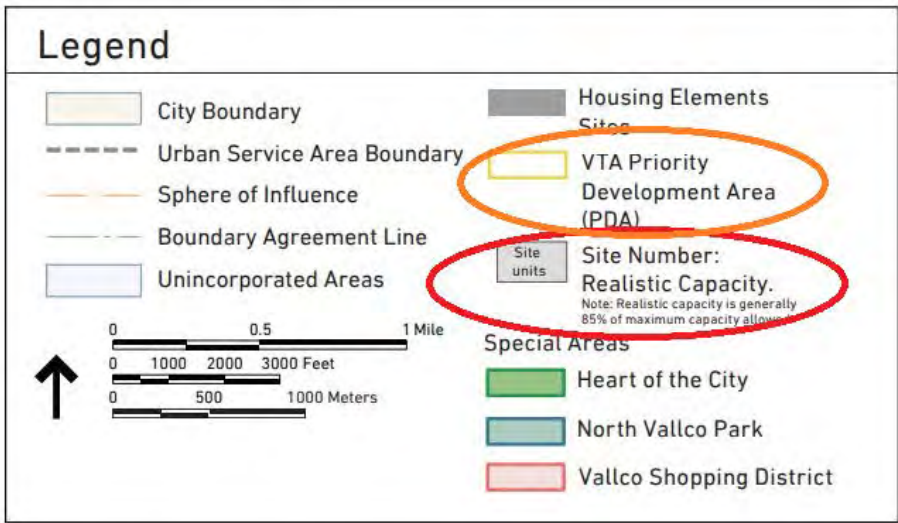
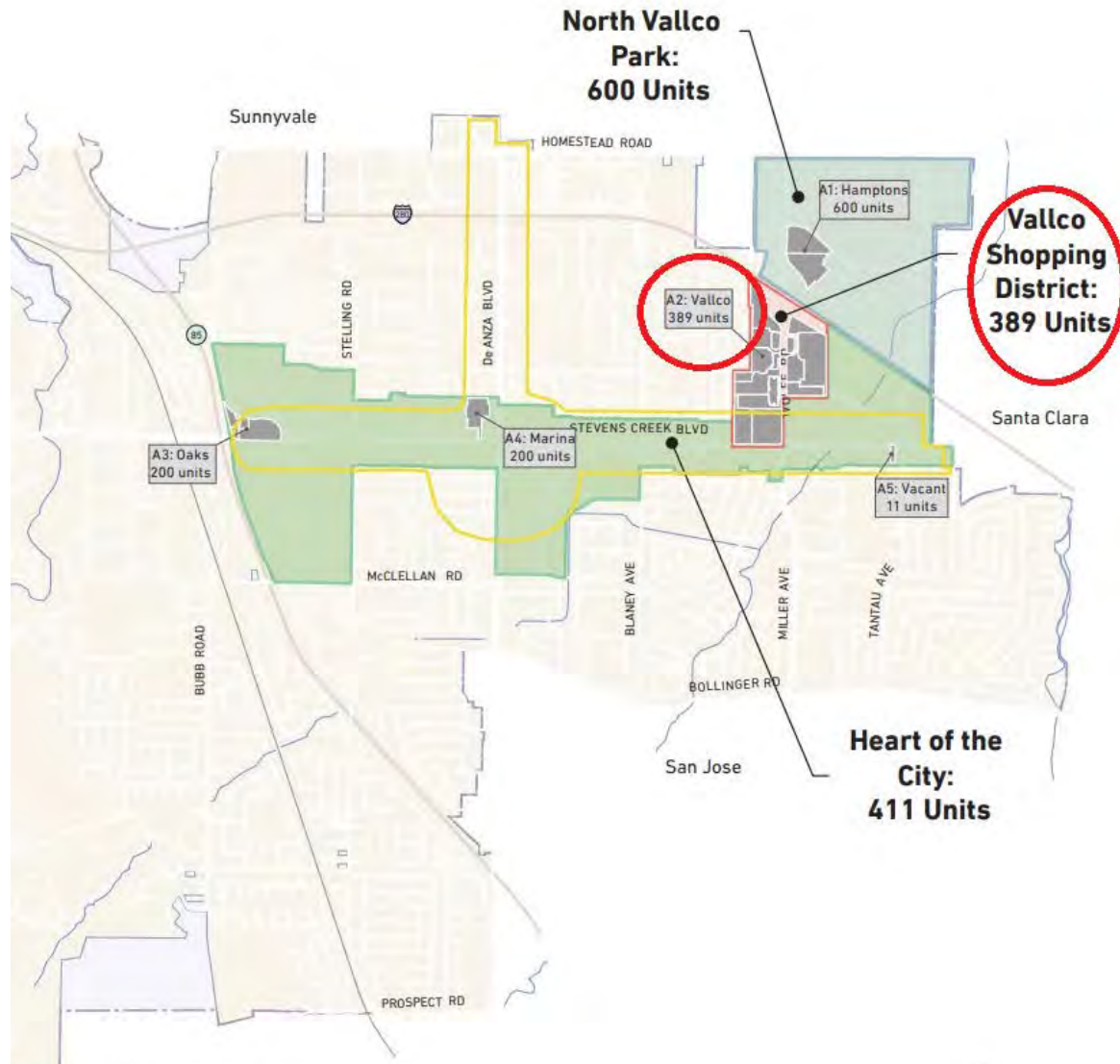


Figure 5 – “General Plan Figure HE-1 Zoomed in”

**FIGURE B-7
PRIORITY HOUSING ELEMENT SITES
SCENARIO A**

Applicable if Vallco Specific Plan is adopted by May 31, 2018
 If Vallco Specific Plan is not adopted by May 31, 2018, the designated Priority Housing Element Sites will be as shown in General Plan Appendix B, Section 5.5: Residential Sites Inventory - Scenario B.

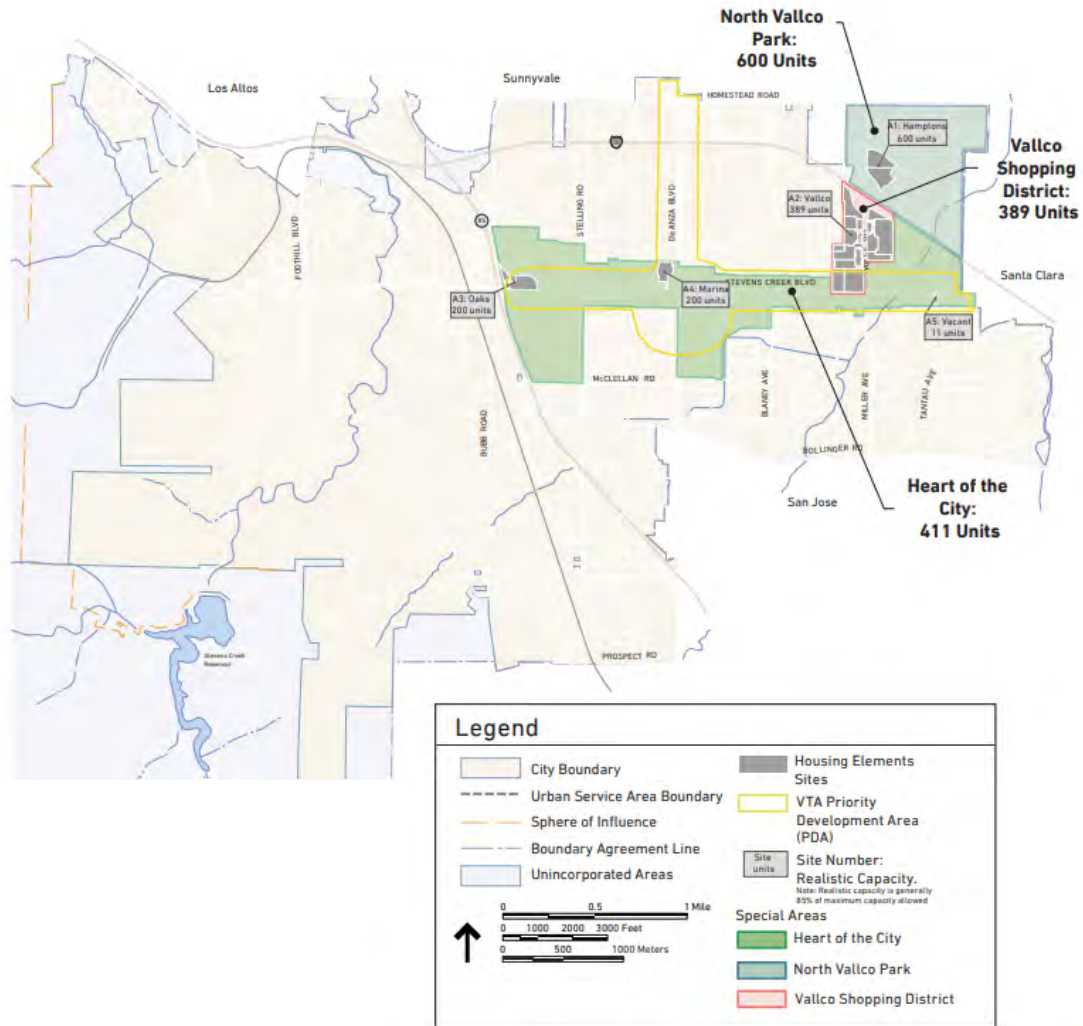
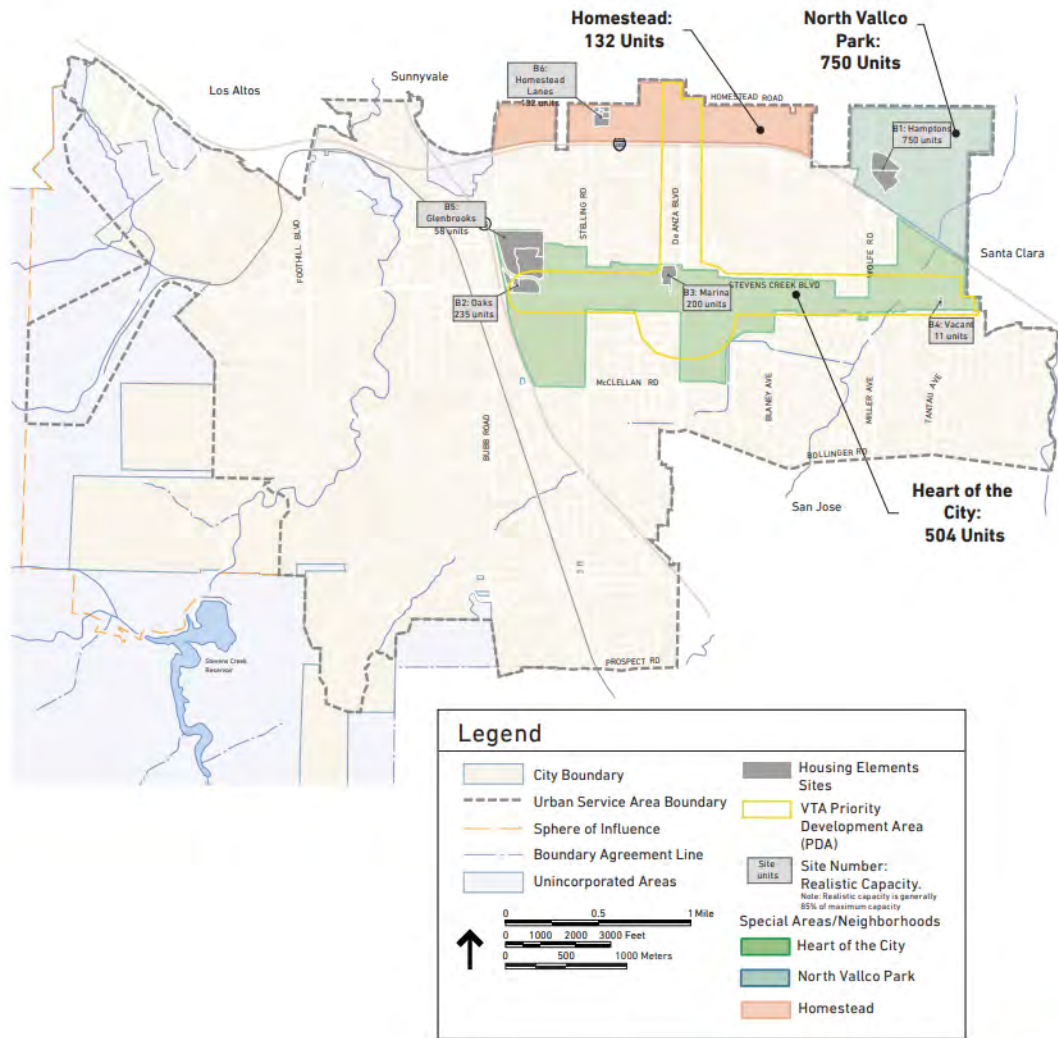


Figure 6 – “General Plan Figure B-7: Priority Housing Element Sites Scenario A”

**FIGURE B-8
PRIORITY HOUSING ELEMENT SITES
SCENARIO B**

Applicable if Vallco Specific Plan is not adopted by May 31, 2018.



B-123

Figure 7 – “General Plan Figure B-8 Priority Housing Element Sites Scenario B”

| Table 5.3: Summary of Priority Housing Sites - Scenario A | | | | | |
|---|---|-------------------|-------|----------------------------|---------------------|
| Site | Adopted General Plan/Zoning | Max Density (DUA) | Acres | Realistic Capacity (units) | Affordability Level |
| Site A1 (The Hamptons) | High Density P(Res) | 85 | 12.44 | 600 | Very Low/Low |
| Site A2 (Vallco Shopping District) | RS/O/R P(Regional Shopping) & P(CG) (a) | 35 | 58.7 | 389 | Very Low/Low |
| Site A3 (The Oaks Shopping Center) | C/R P(CG, Res) | 30 | 7.9 | 200 | Very Low/Low |
| Site A4 (Marina Plaza) | C/O/R P(CG, Res) | 35 | 6.86 | 200 | Very Low/Low |
| Site A5 (Barry Swenson) | C/O/R P(CG, Res) | 25 | 0.55 | 11 | Very Low/Low |
| Total | | | 86.51 | 1,400 | |

Notes:
 (a) Zoning to be determined by Specific Plan to allow residential uses.
 (b) Realistic capacity for Sites A1, A3, A4 and A5 reduces the maximum developable units by 15 percent. Realistic capacity for Site A2 is the amount allocated to the site in the Housing Element; a specific plan will be required for Site A2 prior to any new development.
 (c) Identified capacity of sites that allow development densities of at least 20 units per acre are credited toward the lower-income RHNA based on State law. Pursuant to Government Code Section 65583.2(c)(3)(B), local governments may utilize "default" density standards to provide evidence that "appropriate zoning" is in place to support the development of housing for very-low and low-income households. The default density standard for Cupertino and other suburban jurisdictions in Santa Clara County is 20 dwelling units per acre (DUA) or more.
 (d) Residential capacity for Site A1 reflects the net increase in units.
 Source: City of Cupertino, 2014.

Figure 8 – “General Plan Table 5.3: Summary of Priority Housing Sites – Scenario A”

Notice that Figures B-7 and HE-1, Table LU-1, Table HE-5 show Vallco Shopping District with 389 units and the Legend of both clearly state that the Site Number is Realistic Capacity with the note: “Realistic capacity is generally 85% of maximum capacity”. That would mean that 389 units is 85% of Vallco Shopping District’s maximum, which would be 457.6 units.

Current zoning does not allow residential uses at Vallco, and as shown above, and would need to be modified: **“The zoning for the site would be modified as part of the Specific Plan process to allow residential uses as part of a mixed-use development...”** p 116 General Plan

Appendix B Housing Element Technical Report:
<http://www.cupertino.org/home/showdocument?id=12717>

Table HE-5: Summary of PRIORITY HOUSING ELEMENT SITES To Meet the RHNA - Scenario A

| Site | Adopted General Plan/ Adopted Zoning | Special Area | Max Density (DUA) | Max Height | Realistic Capacity (units) |
|---------------------------------------|---|--------------------------------|-------------------------|--|----------------------------------|
| Site A1 (The Hamptons) | High Density P(Res) | North Vallco Park | 85 | 75 ft; or 60 ft in certain locations ¹ ; | 600 net |
| Site A2 (Vallco Shopping District) | RS/O/R P(Regional Shopping) & P(CG) | Vallco Shopping District | 35 | height to be determined in Vallco Shopping District Specific Plan | 389 |
| Site A3 (The Oaks Shopping Center) | C/R P(CG, Res) | Heart of the City | 30 | 45 ft | 200 |
| Site A4 (Marina Plaza) | C/O/R P(CG, Res) | Heart of the City | 35 | 45 ft | 200 |
| Site A5 (Barry Swenson) | C/O/R P(CG, Res) | Heart of the City | 25 | 45 ft | 11 |
| Total | | | | | 1,400 |

Notes: Zoning for Site A2 (Vallco) will be determined by Specific Plan to allow residential uses. Site A1 (Hamptons) height limit of 60 feet is applicable for buildings located within 50 feet of property lines abutting Wolfe Rd, Pruneridge Ave. & Apple Campus 2 site. Site A2 (Vallco) height will be determined by Specific Plan. For more detail on height limits, see Land Use and Community Design Element, Figure LU-2.

Figure 9 – “General Plan Table HE-%: Summary of Priority Housing Element Sites to Meet the RHNA – Scenartio A”

| Table 5.5: Summary of Priority Housing Sites - SCENARIO B | | | | | | |
|---|----------------------------|--------------------------|-------------------|--------------|----------------------------|---------------------|
| Site | Special Area/ Neighborhood | General Plan/Zoning | Max Density (DUA) | Acres | Realistic Capacity (units) | Affordability Level |
| Site B1 (Hamptons) | North Vallco Park | High Density P(Res) | 99(a) | 12.44 | 750 | Very Low/Low |
| Site B2 (The Oaks Shopping Center) | Heart of the City | C/R P(CG, Res) | 35 (b) | 7.9 | 235 | Very Low/Low |
| Site B3 (Marina Plaza) | Heart of the City | C/O/R P(CG, Res) | 35 | 6.86 | 200 | Very Low/Low |
| Site B4 (Barry Swenson) | Heart of the City | C/O/R P(CG, Res) | 25 | 0.55 | 11 | Very Low/Low |
| Site B5 (Glenbrook Apartments) | Heart of the City | Medium Density R3(10-20) | 20 | 31.3 | 58 | Very Low/Low |
| Site B6 (Homestead Lanes and Adjacency) | Homestead | C/R (c) P(CG, Res) (c) | 35 (c) | 5.1 | 132 | Very Low/Low |
| Total | | | | 64.24 | 1,386 | |
| Site B6 (Carl Berg property) | North De Anza | O//C/R P(CG, ML, Res) | 25 | 7.98 | 169 | Very Low/Low |
| Total | | | | 87.31 | 1318 | |

Notes:

- (a) A General Plan Amendment and zoning change will be necessary to allow the increase in density from 85 to 99 units per acre on Site B1.
- (b) A General Plan Amendment and zoning change will be necessary to allow the increase in density from 30 to 35 units per acre on Site B2.
- (c) A General Plan Amendment and zoning change will be necessary to allow residential uses at 35 units per acre on Site B6. Existing zoning for Site B6 is P(Rec, Enter).
- (d) Realistic capacity reduces the maximum developable units by 15 percent on Sites B1, B2, B3, B4, and B6. Realistic capacity of Site B5 is (d)reduced by 46 percent due to existing site constraints.
- (e) Identified capacity of sites that allow development densities of at least 20 units per acre are credited toward the lower-income RHNA based on State law. Pursuant to Government Code Section 65583.2(c)(3)(B), local governments may utilize "default" density standards to provide evidence that "appropriate zoning" is in place to support the development of housing for very-low and low-income households. The default density standard for Cupertino and other suburban jurisdictions in Santa Clara County is 20 dwelling units per acre (DUA) or more.
- (f) Realistic capacity for sites B1 and B5 represent net new units.

Source: City of Cupertino, 2014

Figure 10– “Table 5.5: Summary of Priority Housing Sites – Scenario B”

Scenario B more equitably spreads housing across the city and results in some positive consequences and emergency shelter potentials. There also appears to be a RHNA surplus of +384 generated by this Scenario alternative.

| Table 5.6: Comparison of Sites and RHNA - Scenario B | | | |
|--|-------|----------------|-------------------------|
| Income Category | Sites | Remaining RHNA | Surplus/ Shortfall(+/-) |
| Extremely Low and Very Low | 1,386 | 356 | |
| Low | -- | 207 | |
| Moderate | -- | 196 | |
| Above Moderate | -- | 243 | |
| Total | 1,386 | 1,002 | +384 |

Source: City of Cupertino, 2014

As discussed in the Needs Assessment, the 2013 Santa Clara County Homeless Survey identified 112 homeless individuals on the streets and in emergency shelters, transitional housing, and domestic violence shelters in the city of Cupertino. The homeless facilities in Cupertino have a capacity to house 20 individuals. As a result, there is a need to accommodate at least 92 more homeless individuals in the City.

There are several underutilized parcels within the BQ zone that could accommodate a permanent emergency shelter that serves 92 or more individuals. In particular, a number of churches in BQ zones own more land than they currently use. Surplus lands owned by churches include large parking lots and recreational spaces like fields and tennis courts. There are at least five parcels with approximately 154,000 square feet of vacant land in the BQ zone that could accommodate a permanent emergency shelter. These sites range from 19,000 square feet to 50,000 square feet, with an average lot size of 31,000 square feet. Parcels of this size would be able to accommodate a permanent emergency shelter that meets the needs of Cupertino.

Those parcels with surplus land area in the BQ zone are primarily located on or near Cupertino's main arterial corridors, providing for easy access to public transportation and essential services. In total, 12 bus lines and 131

Figure 11 – Scenario B, the Alternative

Insufficient and Conflicting Information Presented in NOP EIR Scoping Meeting, with Infeasible “Proposed Project” due to Inconsistency with General Plan & Initiative Vote Results

Consistency Requirement with the General Plan

The Specific Plan must be consistent with the General Plan by law.

[Ca GC 65450-65457:](#)

(b) The specific plan shall include a statement of the relationship of the specific plan to the general plan.

http://www.opr.ca.gov/docs/specific_plans.pdf

https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65451.&lawCode=GOV

A project that is inconsistent with an applicable General Plan or subsidiary land use plan may not be approved without an amendment to the Plan or a variance. See Gov't Code § 65860. Where a project conflicts with even a single general plan policy, its approval may be reversed. *San Bernardino County Audubon Society, Inc. v. County of San Bernardino* (1984) 155 Cal.App.3d 738, 753; *Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors of El Dorado County* (1998) 62 Cal.App.4th 1334, 1341. Consistency demands that a project both "further the objectives and policies of the general plan and not obstruct their attainment." *Families*, 62 Cal.App.4th at 1336; see *Napa Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91 Cal.App.4th 342, 378. Accordingly, where a project opponent alleges that a project conflicts with plan policies, a court need not find an "outright conflict." *Napa Citizens* at 379. "The proper question is whether development of the [project] is compatible with and will not frustrate the General Plan's goals and policies ... without definite affirmative commitments to mitigate the adverse effect or effects." *Id.*

Proposed Project and Project Alternatives:

A resident of Cupertino spoke to the Fehr + Peers representative during the EIR Scoping Meeting February 22, 2018 regarding the ‘housing heavy’ option and was told that option would have “around 4,000 units.” During the slide show presentation the following slides were shown for the project and the alternatives:

Proposed Project:

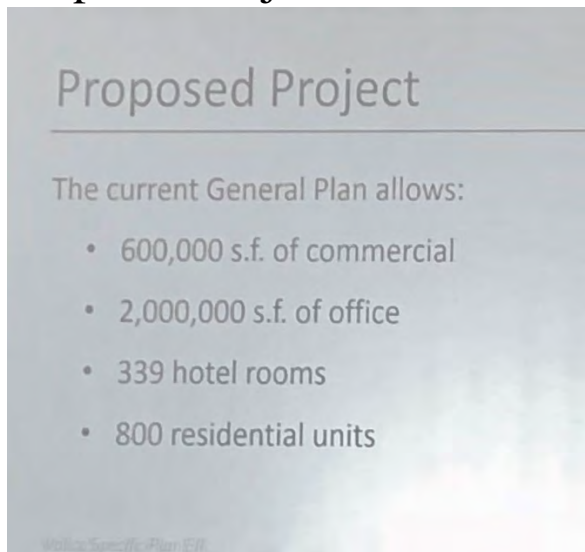


Figure 12

Figure 2

During the presentation, recorded here: https://youtu.be/kb89Oh1WU_0 The “Proposed Project”, Figure 12, was listed as:

Proposed Project:

- 600,000 S.F. of commercial
- 2,000,000 SF office
- 339 hotel rooms
- 800 residential units

Simple evaluation of these totals reveals the objective of the “Proposed Project” is to have a lot of office space. Office SF would be more than double that of any other use. The objective is to become an office park with auxiliary uses.

The General Plan refers to Vallco Shopping District as: "... a vibrant mixed-use "town center" that is a focal point for regional visitors and the community. This new Vallco Shopping District will become a destination for shopping, dining and entertainment in the Santa Clara Valley."

The Square footage amounts would result in primarily office, then residential, then commercial, then hotel: 2,000,000 SF, approximately 961,622 SF (using the Measure D Initiative Square Footage for then proposed 800 units as listed in the "Vallco Specific Plan Initiative Environmental Assessment," 600,000 SF retail, and approximately 500,000 SF hotel. The hotel total is approximate due to part of the hotel allotment being currently under construction at Hyatt House and 277,332 SF of hotel was mentioned in the Vallco Specific Plan Initiative Environmental Assessment for the remaining 191 hotel rooms available in the allotments.

The "Proposed Project" would result in an even smaller percentage of retail than the failed Measure D percentage: 16%.

There appears to be no City Council support for 2 million SF of office at Vallco. As stated earlier, the EIR may be stopped, and the reason to stop it would be that it is both inconsistent with the General Plan, and has insufficient support from the city leaders or the community.

Retail has definite requiring language regarding Vallco. None of the other parts have more than "encourage". Residential says "allow". The Land use portion language is not solidly stating anything is required except for retail. Following this logic, having the 2 Million SF office allotment is inconsistent with the GP language because building that would cause the site to be an office destination with some retail.

The GP EIR studied 600,000 SF retail, 2 Million SF office, 800 residential units, and 339 hotel rooms. The adopted Scenario A in the GP has 389 units. 35 DU/Ac was not an allotment but a density maximum for the 389 units on the site in those parts of the mixed use area which would allow housing. Alternative Scenario B has no housing at Vallco. The Housing Element supports that Vallco could have 389 units, and refers to those unit quantities as "realistic capacity" in Table HE-5 (above).

The General Plan adopted "Scenario A" allotments for Vallco and stated that it would fall to Scenario B should a Specific Plan not be adopted by May 31, 2018.

As shown in the above section "General Plan Directive to Create a Vallco Shopping District Specific Plan", Vallco was never shown in any portion of the General Plan having more than 339 residential units.

A reasonable person ("reasonable person" from: http://www.opr.ca.gov/docs/specific_plans.pdf) would conclude that Vallco was never intended to be a heavy housing site and the General Plan provided Scenario B with other sites available for housing with **zero housing at Vallco**. The Vallco site was described in the General Plan as: "... a vibrant mixed-use "town center" that is a focal point for regional visitors and the community. This new Vallco Shopping District will become a destination for shopping, dining and entertainment in the Santa Clara Valley." While the Vallco owner may wish for something else, that would have to follow a different process such as a General Plan Amendment.

The goals, policies, and strategies to achieve this vision in the General Plan Land Use section support residential as subordinate to other uses.

Additionally, the 2 million SF of office completely *frustrates* the General Plan Housing Element Goal of providing adequate housing by generating an excess of employment. 2 million SF of office space would result in 1 employee per 300 SF or 6,667 new employees which far exceeds the number of residential units being studied. This is a project adjacent to 14,200 employees expected at Apple Park which has no onsite housing and 942 residential units planned in an expanded Hamptons complex, increased that complex by 600 residential units. This explains why there is scant support for 2 million SF of office at Vallco.

While Sand Hill requested that a much denser housing option be studied at Vallco, and that a mix between Measure D and a housing heavy option also be studied, neither of these options are consistent with the General Plan nor do they lessen the impacts of the “Proposed Project” which is a CEQA requirement.

Attempting to include a reallocation of allotments in and among other sites is beyond the scope of a Vallco Specific Plan and the General Plan. When office or any other allotment is pulled from the General Plan and placed in the city "pool" it results in an alteration of the General Plan. These options were not studied in the General Plan EIR.

Alternatives to Project:

“The California Environmental Quality Act (CEQA), Section 15126.6, requires an Environmental Impact Report (EIR) to describe a reasonable range of alternatives to a Project or to the location of a Project which **could feasibly attain its basic objectives but would avoid or substantially lessen any of the significant effects of the project**, and evaluate the comparative merits of the alternatives.”

The basic objective of the “Proposed Project” is to have a lot of office space. Ignoring the amenity space, the ratios for “Proposed Project” uses are:

Office: 2,000,000 SF: 49%

Residential: 800 units, 961,622 SF: 24%

Retail: 600,000 SF: 15%

Hotel: 500,000 SF: 12%

Total: 4,061,622 SF

“Proposed Project” is 85% non-retail uses and 15% retail uses.

EIR Alternatives

- CEQA requires study of alternatives. These may include:
 - Occupied/Re-tenanted Mall
 - General Plan Buildout with Maximum Residential Density (2/3 residential, 1/3 non-residential mix)
 - Retail and Residential (No office)

Vallco Specific Plan EIR

Figure 13

The EIR Alternatives were listed as:

- Occupied Re-Tenanted Mall
- General Plan Buildout with Maximum Residential Density (2/3 residential, 1/3 non-residential mix)
- Retail and Residential (No office)

Occupied/Re-tenanted Mall is Not “No Project”, does Not Attain “Proposed Project” Objectives

CEQA alternatives require the “no project” alternative:

“NO PROJECT ALTERNATIVE CEQA Guidelines section 15126.6(e) requires that an EIR evaluate a “No Project” alternative. The purpose of this alternative is to “allow decision-makers to compare the impacts of approving the proposed project with the impacts of not approving the proposed project.” This alternative analysis compares the environmental effects of the project site remaining in its existing condition against environmental effects that would occur if the proposed project were approved.”

The mall has been gradually closed by the owners over the past few years, most recently announcing the departure of AMC theaters. The occupancy rate of the mall in 2014 was 66% according to Appendix 7 Table 2 City of Cupertino 9212 Report for Vallco Specific Plan ‘Measure D’ and had taxable sales of \$99,060,000 based on actual performance. AMC will close in March, 2018. (Traffic analysis must occur after their departure.)

A “re-tenanted mall” would be an alternative apart from and substantially different to “no project” since the mall has been largely shuttered and the owner has allowed other uses:

automobile dealership car storage, Genentech and other shuttle bus commuter parking and transit pickup on the site, with Bay Club gym, Bowlmor lanes, the ice rink, Dynasty restaurant, and new remodeling of the Food Court for Fremont Union High School District classroom use either remaining or upcoming. These conditions are “no project”, not a re-tenanted mall. A re-tenanted mall would be a fourth alternative to project.

Since the “Proposed Project” is primarily an office park, a smaller office park would attain the basic objective.

Alternative B is Not Consistent with the General Plan, Does Not Attain “Proposed Project” Objectives

The second alternative on the EIR Alternatives Slide, Figure 2, “Alternative B” was described as “General Plan Buildout with Maximum Residential density (2/3 residential, 1/3 non-residential mix)” At 8:48 in the recording, linked above, it was stated that the residential *‘may have approximately 2,600 to 2,640 residential units in addition to office and retail and hotel space’*. This alternative is inconsistent with the General Plan.

Vallco Shopping District in no part of the General Plan was ever described as a housing complex nor were housing totals ever in any vicinity of these amounts. The General Plan consistently shows 389 residential units as the realistic capacity any only by inference could a higher capacity of 457.6 residential units be determined. When I attended the meeting, I did not hear the residential densities spoken and only learned of them through a news blog. In no mailings were these quantities given, and they are not listed on the city website. This is insufficient information describing the project since the slide shows no proposed sizes or any information as to what the non-residential mix could possibly have in it. Given the abundance of office at Apple Park (3.7 million SF with expected 14,200 employees), the variations in “the mix” can cause huge environmental impacts.

The “Proposed Project” is:

Office: 2,000,000 SF: 49%

Residential: 800 units, 961,622 SF: 24%

Retail: 600,000 SF: 15%

Hotel: 500,000 SF: 12%

Total: 4,061,622 SF

“Proposed Project” is 85% non-retail uses and 15% retail uses. Alternative B does not attain the “Proposed Project’s” basic objectives.

A reasonable person would find this proposed alternative ‘housing heavy’ option not consistent with the general plan.

Alternative C is Insufficiently Described – Does Not attain “Proposed Project” Objectives - May be inconsistent

Lastly, the third alternative was listed as “Retail and Residential (No office).” This alternative, “Alternative C,” had no quantity either on the slide or spoken about for either retail or residential and omits the hotel room and office allotments from the General Plan.

This proposed alternative ‘retail and residential’ is described too insufficiently to determine if it could potentially avoid or substantially lessen any of the significant negative effects of the “Proposed Project”, or not. However, since office is completely removed, it does not does not attain the “Proposed Project’s” basic objectives.

Conclusions:

1. The “Proposed Project” does not appear to be consistent with the General Plan because it is an office park with over 84% non-retail use when the project is detailed as the “Vallco Shopping District.”
2. The “Proposed Project” frustrates the General Plan goal to balance employment with housing by providing a gross excess of jobs to housing.
3. Cupertino Ballot Measure D, a similar proposal to “Proposed Project”, was placed before voters and was rejected 55%. This project, with the high office square footage has scant support and would likely be rejected by City Council.
4. “No Project” would be a fourth alternative, Occupied/Re-tenanted mall is not the same as “No Project”
5. Alternative B, with conflicting 2,600-4,000 residential units, is inconstant with the General Plan.
6. Alternative C is too insufficiently described to determine if is consistent with the General Plan. Portions of the mixed uses were eliminated, which seems inconsistent.
7. For the above reasons, the EIR process must be halted for a replacement “Proposed Project” which is consistent with the General Plan.

Table of Proposed Project and Alternatives:

| Alternative | Retail | Office | Residential | Hotel |
|--|--|--|---|--|
| Proposed Project | 600,000 SF | 2,000,000 SF | 800 units | 339 hotel rooms |
| Alternative A: Occupied/ Re-tenanted mall | 1,207,774 SF | (25% of total Allowed in retail) | 0 units | 148 hotel rooms (Hyatt House) |
| Alternative B: (2/3 residential, 1/3 non- residential mix) | Unknown. General Plan states 600,000 SF Min. | Unknown. General Plan states no minimum | Unclear: 2,600- 4,000 units. General Plan shows realistic capacity: 389 units. | 148 min.-339 maximum hotel rooms |
| Alternative C: Retail and Residential (no office) | No amount stated: General Plan states 600,000 SF minimum, 30% maximum may be entertainment. Buildout amount is 1,207,774 SF, (assumed maximum) | 0 office | No amount stated, General Plan realistic capacity: 389 units | 148 min.-339 maximum hotel rooms |
| Alternative D: No Project (CEQA Requirement) | Approximately 400,000 SF currently occupied out of 1,207,774 SF total | 0 office | 0 units | 148 hotel rooms (Hyatt House) |

Comments For Environmental Impact Report Given Proposed Project and Alternatives A-D

Proposed Project EIR Topics and Problems

I. Proposed Project EIR Topics and Problems

Consistency

- a. Proposed Project is inconsistent with the General Plan.
 - i. Proposed Project is not a “...destination for shopping, dining, and entertainment...” as described in the [General Plan Land Use and Community Design Element](#). The site is not described as being for a “Major Employer” under the “Major Employer” definition.
 - ii. Proposed Project frustrates the [General Plan Housing Element](#) Goals and policies to provide adequate housing by creating over 6,667 new jobs and providing 800 residential units.
 - iii. EIR Proposed Projects must be consistent with the General Plan. Infeasibility is a measurement of consistency. Measure D, with 640,000 SF retail, 2,000,000 SF office, 800 residential units, and 339 hotel rooms was opposed by 55% in the November 8, 2016 vote. This Proposed Project has inadequate support for the office quantity. The EIR should be stopped for a replacement “Proposed Project” consistent with the General Plan and feasible.

Traffic

- b. Proposed Project will cause significant and unavoidable impacts to traffic. See General Plan 2040 EIR, excerpts are included in the Appendix, Traffic Studies section. The impacts are primarily on the east side of Cupertino compounding the effects of Apple Park when it fully occupies with 14,200 employees.
 - i. Multiple projects including 239 acre “City Place” in Santa Clara, Valley Fair Expansion, Google in Mountain View and Diridon Station have added tens of thousands of employees which were not studied nor anticipated in the EIR. The EIR for “City Place” indicates impacts into the Cupertino area and must be reviewed for the current “Proposed Project” EIR
 - ii. San Jose’s Envision 2040 EIR showed they would impact 73% of vehicle lane miles in Cupertino. This was not studied in the Cupertino General Plan 2040 EIR and must be included in the “Proposed Project” EIR.

- iii. Stevens Creek Urban Village has been approved. See Appendix “Stevens Creek Urban Village Overview” for details and overlap of that project and impacts on Cupertino
 - 1. Existing Conditions: 1,624 dwelling units, 1.6 million SF commercial space, the city of San Jose assumed 5,281 current jobs.
 - 2. Proposed increases: 3,860 dwelling units which could end up with an actual wide range of outcomes because NONE of their land use definitions have definite housing requirements and their General Plan had MAXIMUM housing not minimum. Stevens Creek Urban Village (“SCUV”) was to be a commercial area primarily, born out of the Great Recession need for jobs. Jobs: 4,500 jobs.
 - 3. Stevens Creek Urban Village is approximately 3 miles long and is only the South Side of Stevens Creek Boulevard
 - 4. Students would need to be relocated from Cupertino High School which is at capacity. The bus line currently has a simple east-west route for these students currently in the SCUV area. Traffic impacts due to relocation, air quality impacts from students in routes requiring a bus change or now needing to drive must be studied along with students displaced by the “Proposed Project”
- iv. Impacts of Apple Park’s bus service must be included. The parking shortfall in Apple Park will require an approximate 3,500 employee increase in ridership over the 1,600 employee riders which were last reported using the private shuttle system. 10% of Apple employees live in Cupertino according to their DEIR for Apple Campus 2.
- v. Various different percentages of uses must be studied separately with a comparison chart of expected traffic daily trips. For instance, expect a maximum amount of restaurants like Main Street Cupertino, which is about 65% restaurants. A gym, movie theater, bowling alley, regulation size hockey rink (tournament potential), wedding banquet hall, all generate different amounts of traffic. The previous Environment Study for Measure D lumped all uses under “retail” which results in a low total. This would be unacceptable.
- vi. Baseline Counts: baseline counts for the project have definite requirements under CEQA. The previous Environmental Study for Measure D calculated assumed baseline traffic generated using an assumed mall occupancy of 83% which was not true at the time of the study. AMC has a departure date in March 2018. Tube counts for baseline could be needed after they close because that is the new “No Project” condition. Any disallowed uses at the mall should not be included in current traffic counts but removed.

Student Generation Impacts to other

- vii. Traffic impacts from student generation in “Proposed Project” must be studied. “Butcher’s Corner’s” project at Wolfe Rd. and El Camino Boulevard in Sunnyvale has units with 5 bedrooms. Main Street Cupertino has one bedroom units over 1,750 SF. Student generation rates from large apartments would be very high and will need to hold up to scrutiny.
- a. [Part H. District Student Yield Factor \(To be completed by school districts only.\)](#) Report the district’s Student Yield Factor as defined in Section 1859.2, if different than the statewide average Student Yield Factors. The statewide average Student Yield Factors are as follows:
 - b. Elementary School District 0.5 students per dwelling unit
 - High School District 0.2 students per dwelling unit
 - Unified School District 0.7 students per dwelling unitShould the district wish to use its own Student Yield Factor, **a copy of the district’s study that justifies the Student Yield Factor** must be submitted with this form. Please see the General Information section for additional instructions.
 - c. Cupertino Union School District’s report of student generation rates do not hold up to scrutiny because low student apartments, and those near heavy current or future construction were selected: projecting the Hills at Valco (same 800 units as “Proposed Project”):
 - i. Elementary (K-5): 0.19
 - ii. Middle (6-8): 0.09
 - iii. High School (FUHSD): 0.06
 - iv. New SGRs must be calculated using the Gateway/Archstone Apartments and even apartments along Stevens Creek Boulevard in the SCUV area which better reflect student generation potentials, particularly if low income housing is offered making the apartments very attractive to families.
 - d. SB 50 allows for various impacts to be studied from a development which impacts schools. The application of SB 50 is explained by attorneys retained by the city here:

- i. <https://cupertino.legistar.com/View.ashx?M=F&ID=3388406&GUID=EC84D162-9D05-4EF3-8EFC-BDC6CC2B517C>
- ii. “Therefore, a lead agency may consider, in an EIR, among other factors the following impacts potentially caused by school expansion or construction:
 1. traffic impacts associated with more students traveling to school;
 2. dust and noise from construction of new or expanded school facilities;
 3. effects of construction of additional school facilities (temporary or permanent) on wildlife at the construction site
 4. effects of construction of additional school facilities on air quality;
 5. other “indirect effects” as defined by CEQA Guidelines § 15258 (a)(2) (growth-inducing effects, changes in pattern of land use and population density, related effects on air and water and other natural systems). *See Chawanakee Unified School District*, 196 Cal. App. 4th at 1029.

Physical Environment/Shadow/Light/View/Vegetation

- c. Proposed Project has no height limits which can cause multiple effects, 160’ is the assumed height. See Appendix, “Letters to and from City and Developer”.
 - i. Study shadows in a methodology equally stringent to Berkeley’s Shadow study requirements. Times to study are based on sunrise and sunset, not 9am, 4 pm for example. Any rooftop amenities will be shown in the shadows including any rooftop landscaping or air conditioning. Renderings showing the site line blockage from the structures obstructing views from across the I-280 of the surrounding hills must be presented. Shadows cast onto the surrounding neighborhoods, likely shadows during evenings within the project. Temperature drops expected relative to non shaded areas.
 - ii. Hyatt House hotel had a planned in-ground pool which may have months without sunlight due to “Proposed Project” shadows.