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County of Santa Clara  
19CV344912  
Reviewed By: Yuet Lai

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8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF SANTA CLARA**

10  
11 IN RE REFERENDUM PETITION  
12 AGAINST CITY OF CUPERTINO  
RESOLUTION NO. 18-085

Case No. 19CV344912

**JOINT SUBMISSION ON AGREED  
FACTS**

[Code Civ. Proc. § 1138; Elections Code  
§§ 9238, 9240]

**ELECTION LAW MATTER  
CALENDAR PREFERENCE**  
[Code Civ. Proc. § 35]

Action Filed: March 20, 2019

Filed Concurrently with Memorandum of  
Points and Authorities; Declarations of  
Grace Schmidt, Piu Ghosh, and Robert S.  
Perlmutter

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21 The City Clerk of the City of Cupertino, Liana Crabtree, and Better Cupertino Action  
22 Committee (collectively the “parties”) jointly submit the following statement of facts pursuant to  
23 Code of Civil Procedure (“CCP”) section 1138. The parties intend to appear ex parte at the first  
24 available opportunity to respectfully request that the Court enter a [Proposed] Stipulated Order  
25 resolving the present controversy.

26 **I. Introduction**

27 A controversy has arisen concerning whether the City Clerk may determine, without a  
28

1 court order, whether a referendum petition against City of Cupertino Resolution No. 18-085  
2 substantially complies with Elections Code section 9238(b)(2), which requires a referendum  
3 petition to include the “text” of the challenged ordinance or resolution. CCP section 1138  
4 provides an expedited procedure for the Court to resolve this controversy based upon this joint  
5 submission and the accompanying memorandum of points and authorities.

6 Resolution No. 18-085 was one of six approvals that the Cupertino City Council adopted  
7 in connection with the Vallco Town Center Specific Plan Project (“Vallco Town Center  
8 Project”), and is referred to herein as “the Resolution” or “Resolution No. 18-085.” Resolution  
9 No. 18-085 adopted a general plan amendment (“GPA”) for the Vallco Town Center Project.  
10 The referendum petition at issue in this case—one of four referendum petitions filed against the  
11 Vallco Town Center Project—challenges that general plan amendment, and thus is referred to as  
12 “the GPA Referendum.”<sup>1</sup>

## 13 **II. Parties and Jurisdiction**

14 Pursuant to CCP section 1138, the parties to the “question in difference” in this action are  
15 Grace Schmidt, in her official capacity as the City Clerk of the City of Cupertino, Liana  
16 Crabtree, and Better Cupertino Action Committee. The City Clerk is the “elections official” for  
17 the City of Cupertino pursuant to Elections Code section 320, and in that capacity is responsible  
18 for receiving and processing referendum petitions in accordance with the Elections Code. Liana  
19 Crabtree is a “proponent” of the GPA Referendum within the meaning of Elections Code section  
20 342. Better Cupertino Action Committee is a general purpose political action committee and  
21 ballot measure committee (FPPC #1395411) located and operating in the City of Cupertino.  
22 Better Cupertino Action Committee participated and supported preparation and circulation of  
23 the GPA Referendum. Ms. Crabtree and Better Cupertino Action Committee are hereafter  
24 referred to collectively as “Better Cupertino.”

25 The prospective developer and applicant for the Vallco Town Center Project is Vallco  
26

27 <sup>1</sup> The full title of the Resolution is “A Resolution of the City Council of the City of Cupertino  
28 Approving a General Plan Amendment to Development Allocations, the General Plan Land Use  
Map and Development Standards Related to the Vallco Town Center Special Area.”

1 Property Owner, LLC (“Vallco”). As discussed further below, the present controversy arose  
2 when Vallco submitted a letter to the City arguing that the GPA Referendum did not comply  
3 with the “text” requirement of Elections Code section 9238 and that the City Clerk accordingly  
4 had a mandatory duty to reject it. However, based on the City Clerk’s subsequent investigation  
5 of the allegations in Vallco’s letter, Vallco has since informed the City that while it continues to  
6 believe that the GPA Referendum does not “technically comply” with Elections Code section  
7 9238, it “takes no position” on whether the GPA Referendum “substantially complies” with this  
8 provision and accordingly “will accept the conclusion reached by the court” in this action. *See*  
9 Declaration of Robert S. Perlmutter (“Perlmutter Dec.”), Ex. B at 3.

10 A joint submission on agreed facts pursuant to CCP section 1138 is proper here.  
11 Although the parties agree that Resolution No. 18-085 substantially complies with the Elections  
12 Code’s “text” requirement, an actual controversy has arisen as to whether the City Clerk has  
13 authority to make a substantial compliance determination on the facts presented. Better  
14 Cupertino believes that the City Clerk should simply accept and process the GPA Referendum.  
15 Based on the advice of the City Attorney, however, the City Clerk believes that determining  
16 whether substantial compliance occurred here would require examination of extrinsic evidence  
17 and the exercise of judgment, and thus would exceed her ministerial authority. *See Alliance for a*  
18 *Better Downtown Millbrae v. Wade* (2003) 108 Cal.App.4th 123, 127, 134 (City Clerk’s  
19 ministerial evaluation of ballot petition is limited to comparing “four corners” of petition with  
20 Elections Code requirements; examining extrinsic evidence or otherwise exercising  
21 discretionary judgment is reserved to the courts). The Court thus would have jurisdiction over an  
22 action between the parties for declaratory relief pursuant to CCP section 1060. The Court also  
23 would have jurisdiction over an action by Better Cupertino for a writ of mandate pursuant to  
24 Elections Code section 13314 and/or Code of Civil Procedure section 1085 in the event that the  
25 City Clerk were to reject the GPA Referendum on the ground that she does not have ministerial  
26 authority to determine that the petition substantially complies with the Elections Code.

### 27 **III. Joint Statement of Facts**

28 The Cupertino City Council adopted Resolution No. 18-085 on September 19, 2018.

1 Resolution No. 18-085 included two exhibits—labeled GPA-1 and GPA-2—showing changes  
2 made by the Resolution to the City’s General Plan. Exhibit GPA-1 included changes to General  
3 Plan Table LU-1, which establishes “allocations” governing the amount of commercial, office,  
4 hotel, and residential development allowed in various areas of the City. Among other things,  
5 Resolution No. 18-085 adjusted the development allocations in Table LU-1 to allow for  
6 development of the Vallco Town Center Project.

7 As discussed in detail in the accompanying declarations of Grace Schmidt and Piu  
8 Ghosh, Table LU-1 is at the center of this controversy. In the draft of Resolution No. 18-085  
9 presented to, considered by, and voted upon by the City Council on September 18 and 19, 2018,  
10 Table LU-1 included red “strikethrough” lines identifying development allocations and other  
11 text eliminated by the Resolution. These “strikethrough” lines appear in both the body of Table  
12 LU-1 and in a footnote to the table. The version of the Resolution considered and adopted by the  
13 City Council on September 19, 2018, is referred to herein as the “Adopted Version” of the  
14 Resolution. A copy of the Adopted Version is attached as Exhibit A to this Joint Submission.

15 Opponents of the Project subsequently requested a certified copy of Resolution No. 18-  
16 085. On October 2, 2018, the City Clerk printed a copy of Resolution No. 18-085 for signature  
17 by the Mayor of the City of Cupertino. Two inadvertent errors occurred in the printing of the  
18 document for the Mayor’s signature. First, the red “strikethrough” lines showing text deleted  
19 from Table LU-1 did not appear in the printed document. This error occurred because the  
20 “strikethrough” lines originally were added as “comments” or “markup” to a PDF of Table LU-1  
21 using tools in Adobe Acrobat Pro. *See* Schmidt Decl. ¶¶ 22-27; Ghosh Decl. ¶¶ 7-9, 16-23.  
22 Second, also as a result of default settings in the software used to print PDF documents, certain  
23 text along the left-hand margin of Table LU-1 fell outside the printable area of the page and was  
24 obscured in the printed copy. *See* Schmidt Decl. ¶¶ 23, 27.

25 Neither the City Clerk nor City staff noticed the printing errors at the time the Resolution  
26 was printed. The Mayor signed the document and the City Clerk certified it. The City Clerk then  
27 made a color copy of the document, scanned a copy for her records, and provided the color copy  
28 to the Project opponents who had requested it. This version of Resolution No. 18-085, as printed

1 and provided to Project opponents on October 2, 2018, is referred to herein as the “Certified  
2 Version” of the Resolution. A copy of the Certified Version is attached as Exhibit B to this Joint  
3 Submission.

4 Between October 2 and October 29, 2018, Better Cupertino prepared and circulated the  
5 GPA Referendum. A copy of Resolution No. 18-085 and Exhibits GPA-1 and GPA-2 as they  
6 appear in the GPA Referendum is attached as Exhibit C to this Joint Submission. For the Court’s  
7 convenience, a composite exhibit detailing the differences among the three versions of Table  
8 LU-1 also is attached as Exhibit D to this Joint Submission.

9 On October 29, 2018, Better Cupertino submitted a signed referendum petition against  
10 Resolution No. 18-085 to the City Clerk.<sup>2</sup> As required by the Elections Code, the City Clerk and  
11 City staff conducted a “raw count” of the signatures on the referendum petition and concluded  
12 that it contained enough raw, unverified signatures to qualify for the ballot. The City Clerk also  
13 determined that the petition appeared to comply with the “text” requirement and all other  
14 procedural requirements of the Elections Code. The City Clerk accordingly accepted the petition  
15 for filing on October 30, 2018. As authorized under the Elections Code, the City Clerk then  
16 caused the referendum petitions to be transmitted to the Santa Clara County Registrar of Voters  
17 for signature verification and a final count of valid signatures on October 31, 2018. The  
18 Registrar determined that each of the four referendum petitions contained sufficient valid  
19 signatures to qualify for the ballot. As required under the Elections Code, the City Clerk then  
20 certified the sufficiency of the signatures for each of the referendum petitions to the City  
21 Council at its next regularly scheduled meeting on December 18, 2018.

22 On December 6, 2018, counsel for Vallco submitted a letter to the City claiming that the  
23 GPA Referendum failed to include the “text” of Resolution No. 18-085 as required by Elections  
24 Code section 9238(b)(2). Specifically, the letter alleged that the version of Table LU-1 set forth  
25 in the GPA Referendum omitted red “strikethrough” lines shown in the version of Table LU-1  
26

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27 <sup>2</sup> Referendum proponents also submitted three additional referendum petitions challenging other  
28 resolutions and ordinances related to the Vallco Town Center Project; none of those petitions are  
at issue in this action.

1 set forth in Exhibit GPA-1 to Resolution No. 18-085 as considered and adopted by the City  
2 Council. The letter further argued that because of these omissions, the City Clerk had a duty to  
3 reject the GPA Referendum as procedurally defective. A copy of the letter (hereafter referred to  
4 as the “December 6 Letter”) is attached as Exhibit E to this Joint Submission.

5 The City Clerk, in cooperation with the City Attorney, conducted an extensive  
6 investigation of the claims in the December 6 Letter. As part of her investigation, the City Clerk  
7 compared the versions of Table LU-1 in the Adopted Version, Certified Version, and GPA  
8 Referendum. The City Clerk also consulted with City planning and technical staff.

9 The City Clerk determined that the version of Table LU-1 in the GPA Referendum omits  
10 many—but not all—of the “strikethrough” lines shown in the Adopted Version of the table  
11 considered and voted on by the City Council, but *not* shown in the Certified Version provided to  
12 referendum proponents. Specifically, “strikethrough” lines do not appear in the body of Table  
13 LU-1 (like the Certified Version), but do appear in the footnote to the table (like the Adopted  
14 Version).

15 The version of Table LU-1 in the GPA Referendum also contains additional differences  
16 from both the Adopted Version and the Certified Version. For example, in the second row of the  
17 table, the words “Shopping District\*\*” (shown in blue, without strikethrough, in the Certified  
18 Version, and shown in blue, with red strikethrough, in the Adopted Version), have been replaced  
19 with the words “Vallco\* Town Center\*\*”, with the initial asterisk and “Town Center” shown in  
20 red. Finally, in the bottom row of the table, the words “With Vallco Town Center Tier 1” and  
21 “With Vallco Town Center Tier 2” (a portion of which—specifically, the first part of the word  
22 “With” in each phrase—fell outside the printable margin of the page in the Certified Version)  
23 were replaced with the words “With VTC Tier 1” and “With VTC Tier 2.”

24 As a result of her investigation, the City Clerk reached several conclusions. First, the  
25 errors in printing the Certified Version were inadvertent and were not discovered until after the  
26 City received the December 6 Letter from Vallco. Second, the errors in the Certified Version  
27 resulted from default printing settings in the City Clerk’s PDF software that (a) prevented  
28 “strikethrough” lines added to Table LU-1 from printing and (b) resulted in a small amount of

1 text along the left-hand margin of Table LU-1 falling outside the printable area of the page.  
2 Third, referendum proponents properly relied on the Certified Version of the Resolution that she  
3 provided them in preparing the GPA Referendum, and at least some of the missing  
4 “strikethrough” lines resulted from this reliance. Fourth, the additional changes to Table LU-1  
5 reflected in the GPA Referendum, although intentional, reflected an effort to correct the City’s  
6 inadvertent omission of the small amount of text along the left-hand margin of the table that fell  
7 outside the printable area of the page in the Certified Version.

8 On February 13, 2019, the City Attorney submitted a memorandum to the City Council  
9 detailing the results of the City Clerk’s investigation. City staff posted the memorandum with  
10 the agenda for the City Council’s February 19, 2019 meeting. The memorandum reflected the  
11 City Clerk’s conclusion that the GPA Referendum substantially complied with the “text”  
12 requirement of Elections Code section 9238. The memorandum also reflected the City  
13 Attorney’s view that under applicable case law, it is unclear whether the City Clerk has authority  
14 to render a substantial compliance determination where doing so requires her to examine  
15 evidence beyond the four corners of the referendum petition and the requirements of the  
16 Elections Code. The memorandum therefore recommended that the City Council authorize the  
17 City Attorney to file an action for declaratory relief or other appropriate action on behalf of the  
18 City Clerk to determine whether the GPA Referendum substantially complies with Elections  
19 Code requirements. On February 19, 2019, the City Council voted to authorize the City  
20 Attorney, on behalf of the City Clerk, to initiate a declaratory relief action or other appropriate  
21 action for this purpose.

22 Better Cupertino contends that the GPA Referendum substantially complies with the  
23 Elections Code’s “text” requirement, should be processed by the City Clerk, and that the City  
24 Council should either repeal it or submit it to the voters pursuant to Elections Code section  
25 9241. For the reasons set forth in the accompanying Memorandum of Points and Authorities, the  
26 City Clerk agrees that the GPA Referendum “substantially complies” with the Elections Code’s  
27 “text” requirement, but disagrees that she has the authority to render a substantial compliance  
28 determination on the facts presented.

1 The undersigned intend to appear ex parte at the first available opportunity to request that  
2 the Court resolve this controversy by entering a [Proposed] Stipulated Order (a) declaring that  
3 the GPA Referendum substantially complies with the "text" requirement of Elections Code  
4 section 9238(b)(2), and (b) providing that if the City Council elects to submit Resolution No.  
5 18-085 to the voters pursuant to Elections Code 9241 (rather than repealing it as also authorized  
6 by that section), the Adopted Version of the Resolution shall be made available to voters either  
7 in the ballot materials or as otherwise provided by law.

8 DATED: March 20, 2019

SHUTE, MIHALY & WEINBERGER LLP

9  
10 By: 

11 ROBERT S. PERLMUTTER  
12 KEVIN P. BUNDY  
13 ANDREW P. MILLER

14 Attorneys for CITY CLERK OF THE CITY OF  
15 CUPERTINO

16 DATED: March 20, 2019

LAW OFFICES OF STUART FLASHMAN

17  
18 By: 

19 STUART M. FLASHMAN

20 Attorneys for LIANA CRABTREE and BETTER  
21 CUPERTINO ACTION COMMITTEE

22 1095988.8



**EXHIBIT A**

**DRAFT RESOLUTION NO. 18-085**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO  
APPROVING A GENERAL PLAN AMENDMENT TO DEVELOPMENT  
ALLOCATIONS, THE GENERAL PLAN LAND USE MAP AND  
DEVELOPMENT STANDARDS RELATED TO THE VALLCO TOWN CENTER  
SPECIAL AREA

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**SECTION I: PROJECT DESCRIPTION**

Application No: GPA-2018-02  
Applicant: City of Cupertino  
Location: 10101 to 10333 N Wolfe Rd  
APN#: 316-20-080, 316-20-081, 316-20-103, 316-20-107, 316-20-101, 316-20-105,  
316-20-106, 316-20-104, 316-20-088, 316-20-092, 316-20-094, 316-20-099,  
316-20-100, 316-20-095

**SECTION II: RECITALS**

WHEREAS, the Housing Element of the Cupertino General Plan identifies the Vallco Town Center Special Area as being appropriate to accommodate at least 389 dwelling units to be developed pursuant to a specific plan for the Vallco Town Center; and

WHEREAS, the Vallco Town Center Specific Plan has been developed pursuant to City Council direction to initiate a project to prepare a specific plan for the Vallco Town Center Special Area, including any required changes to the adopted goals and objectives for the Special Area, in order to implement the Housing Element of the Cupertino General Plan and to plan for anticipated future development activity; and

WHEREAS, pursuant to the City Council direction to conduct extensive public outreach the City conducted multiple forms of public outreach including two multi-day charrettes, online civic engagement, open houses and brown bag presentations, comment meetings etc.; and

WHEREAS, the General Plan Amendment to Development Allocations, the General Plan Land Use Map and development standards related to the Vallco Town Center Special Area (the "General Plan Amendment") is part of the Vallco Town Center Specific Plan, all as fully described and analyzed in the May 2018 Vallco Special Area Specific Plan Environmental Impact Report ("Draft EIR") (State Clearinghouse No. 2018022021), as amended by the July 2018 Vallco Special Area Specific Plan Environmental Impact Report Amendment ("EIR Amendment") and by text revisions in the August 2018 Vallco Special Area Specific Plan Final EIR document which contains Response to Comments to the Draft EIR and the EIR Amendment, and the August 2018 and September 2018

Supplemental Text Revisions to the Vallco Special Area Specific Plan Final Environmental Impact Report; (together, the "Final EIR");

WHEREAS, the Final EIR was presented to the Environmental Review Committee ("ERC") for review and recommendation on August 31, 2018, and after considering the Final EIR, and Staff's presentation, the ERC recommended on a 5-0 vote that the City Council certify the EIR; and

WHEREAS, following necessary public notices given as required by the procedural ordinances of the City of Cupertino and the Government Code, the Planning Commission held a public hearing on September 4, 2018 to consider the General Plan Amendment; and

WHEREAS, based on substantial evidence in the administrative record, on September 4, 2018 the Planning Commission recommended on a 5-0 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 implement all of the mitigation measures for the Project that are within the responsibility and jurisdiction of the City that are identified in Findings, in substantially similar form to the Resolution presented (Resolution No. 6860); and

WHEREAS, on September 4, 2018, the Planning Commission recommended on a 4-1 vote (Liu: no) that the City Council adopt the General Plan Amendment (GPA-2018-05), in substantially similar form to the Resolution presented (Resolution no. 6861) with additional recommendations to amend Strategy LU-19.1.2, correct Table LU-1, and consider a middle tier Development Allocation for the Vallco Town Center Special Area as more particularly described in Resolution no. 6861; and

WHEREAS, on September 18, 2018, upon due notice, the City Council has held at least one public hearing to consider the General Plan Amendment; and

WHEREAS, the City Council of the City of Cupertino is the decision-making body for this Resolution; and

WHEREAS, after consideration of evidence contained in the entire administrative record, at the public hearing on September 18, 2018, the City Council adopted Resolution No. 18-084 certifying the Final EIR, adopting Findings and a Statement of Overriding Considerations, adopting Mitigation Measures, and adopting a Mitigation Monitoring and Reporting Program; and

WHEREAS, prior to taking action on this Resolution, the City Council has exercised its independent judgment in carefully considering the information in the Final EIR and finds that the scope of this Resolution falls within the certified Final EIR, in that the aspects of the General Plan Amendment proposed in this Resolution that have the potential for

resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment have been examined in the Final EIR and therefore, no recirculation of the Final EIR is required.

SECTION III: RESOLUTIONS

NOW, THEREFORE, BE IT RESOLVED:

After careful consideration of the, maps, facts, exhibits, testimony and other evidence submitted in this matter, the City Council hereby adopts:

1. Amendments to the General Plan (Application No. GPA-2018-05) as shown in Exhibit GPA-1 and authorizes the staff to make grammatical, typographical, numbering, and formatting changes necessary to assist in production of the final published General Plan; and
2. Changes to the Land Use Map as shown in Exhibit GPA-2.

NOW, THEREFORE, BE IT FURTHER RESOLVED:

The foregoing recitals are true and correct and are included herein by reference as findings.

NOW, THEREFORE, BE IT FURTHER RESOLVED:

The City Council finds this Resolution is within the scope of the EIR and directs the Director of Community Development to file a Notice of Determination with the Santa Clara County Recorder in accordance with CEQA guidelines.

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PASSED AND ADOPTED this 18th day of September 2018, at a Special Meeting of the City Council of the City of Cupertino by the following roll call vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST:

APPROVED:

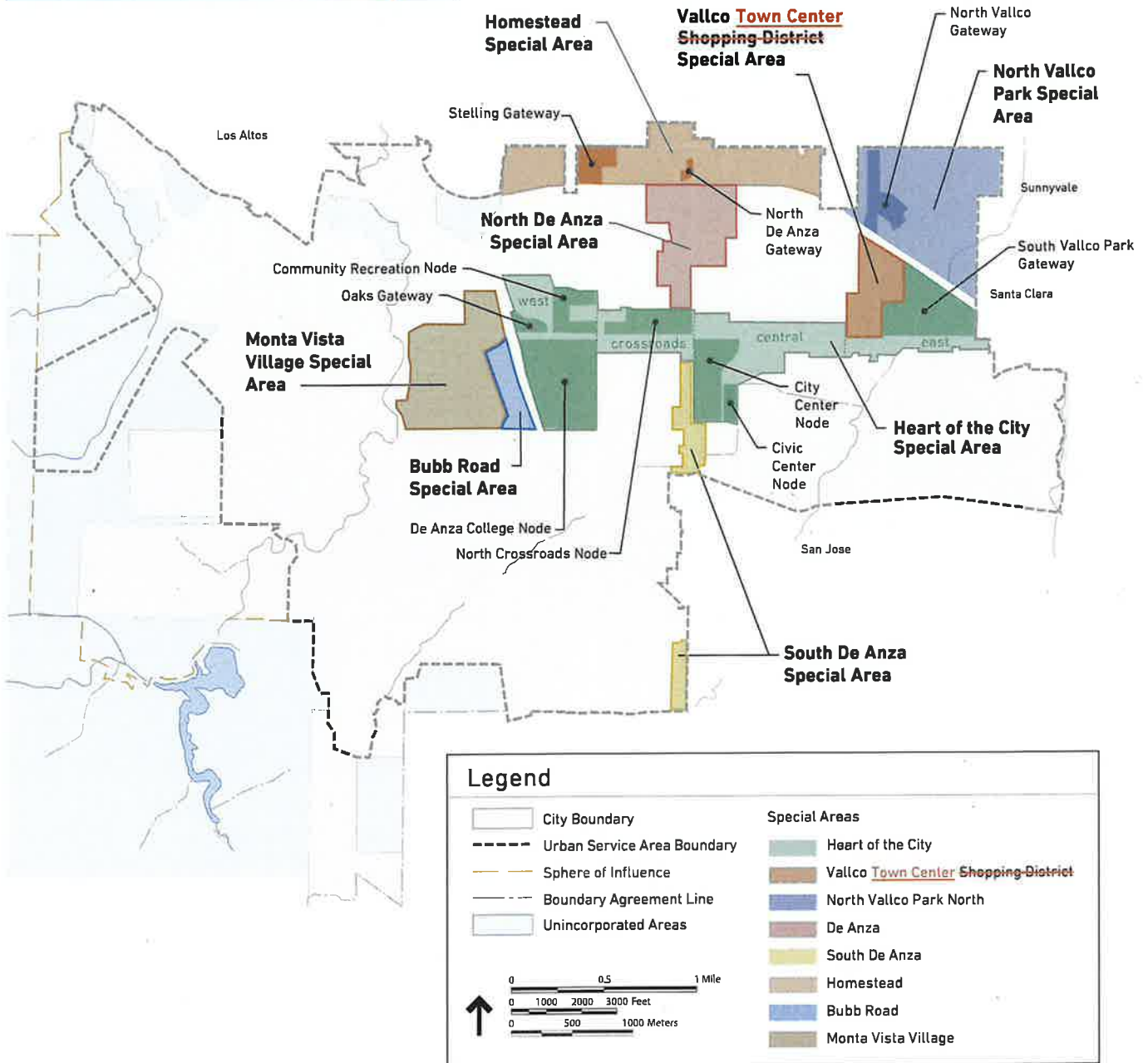
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Grace Schmidt  
City Clerk

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Darcy Paul  
Mayor, City of Cupertino

Figure PA-1  
SPECIAL AREAS



The City Center subarea is located south of the Central Stevens Creek Boulevard subarea, between De Anza and Torre Avenue/Regnart Creek. The primary use for this area is office/residential/hotel/public facilities/commercial retail/mixed-uses. This subarea is further defined into the City Center Node and Civic Center Node. The City Center Node includes Cali Plaza. The Civic Center Node includes City Hall, Cupertino Community Hall, Cupertino Public Library, as well as the Library Plaza and Library Field.

The East Stevens Creek Boulevard subarea is located at the east end of the Heart of the City Specific Plan area and extends from Portal Avenue to the eastern city limit. The area is largely defined by the South Vallco Park Gateway immediately east of the Vallco [Town Center Shopping District Special Area](#), which includes Nineteen 800 (formerly known as Rosebowl), The Metropolitan and Main Street developments. This area is intended as a regional commercial district with retail/commercial/ office as the primary uses. Office above ground level retail is allowed as a secondary use, with residential/residential mixed-use as a supporting use per the Housing Element.

## VISION

The Heart of the City area will continue being a focus of commerce, community identity, social gathering and pride for Cupertino. The area is envisioned as a tree-lined boulevard that forms a major route for automobiles, but also supports walking, biking and transit. Each of its five subareas will contribute their distinctive and unique character, and will provide pedestrian and bicycle links to adjacent neighborhoods through side street access, bikeways and pathways. While portions of the area is designated as a Priority Development Area (PDA), which allows some higher intensity near gateways and nodes, development will continue to support the small town ambiance of the community. The Stevens Creek Boulevard corridor will continue to function as Cupertino's main mixed-use, commercial and retail corridor. Residential uses, as allowed per the Housing Element, should be developed in the "mixed-use village" format described later in the Land Use and Community Design Element.



## VALLCO TOWN CENTER SHOPPING DISTRICT

### CONTEXT

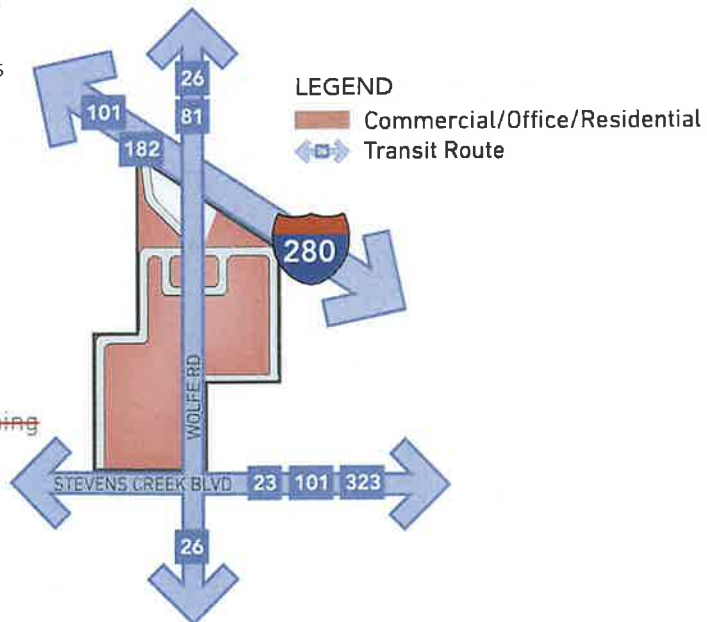
The Vallco Town Center Shopping District Special Area encompasses Cupertino's most significant commercial center, formerly known as the Vallco Fashion Park. This Special Area is located between Interstate 280 and Stevens Creek Boulevard in the eastern part of the city. The North Blaney neighborhood, an established single-family area, is adjacent on the west side of the Vallco Town Center 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 to that this commercial center is more competitive and better serves the community. Currently, the major tenants of the mall include a movie theater, and a bowling alley and three national retailers. The Vallco Town Center 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 Vallco.



### VISION

The Vallco Town Center 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 Town Center 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 TOWN CENTER SHOPPING DISTRICT SPECIAL AREA DIAGRAM



## NORTH BLANEY

### CONTEXT

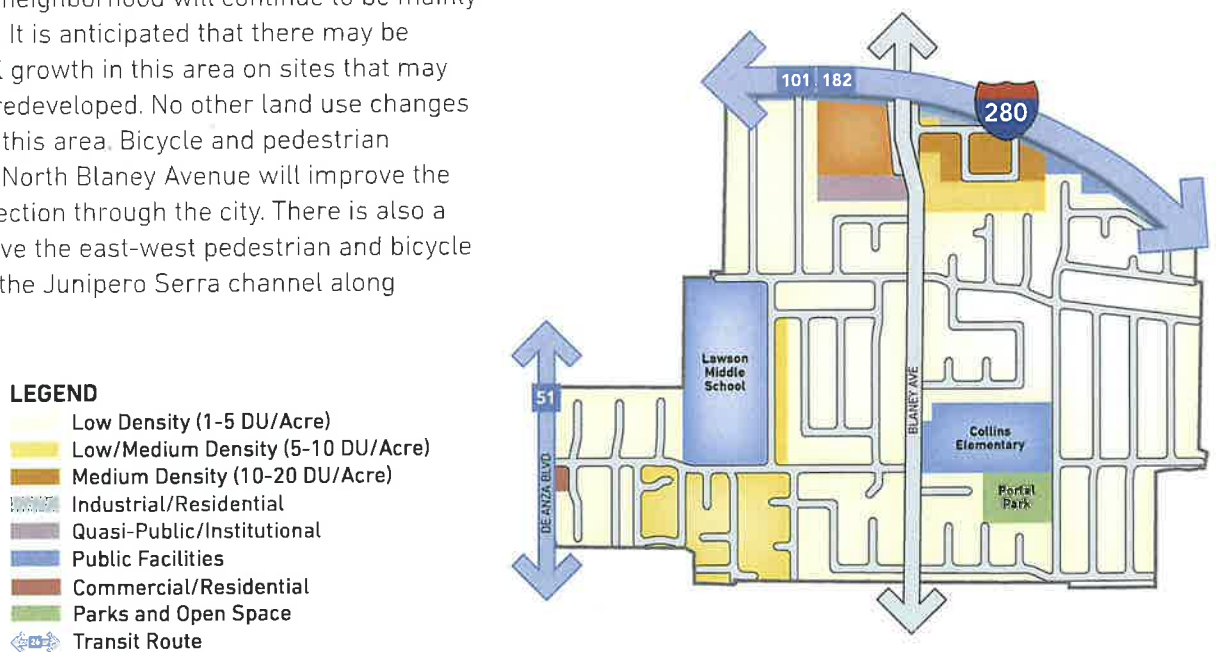
The North Blaney neighborhood is located in the eastern portion of Cupertino, north of Stevens Creek Boulevard and east of De Anza Boulevard. This area, predominantly defined by single-family residential homes, is on the valley floor with minimal grade changes. Bounded generally by De Anza Boulevard, Highway 280, Stevens Creek Boulevard, and Perimeter Road, this area is served by amenities including Portal Park, which includes a number of recreational amenities such as a tot lot and a recreation building. The Junipero Serra drainage channel runs along the northern edge of the neighborhood along Interstate 280. North Blaney is a major north-south corridor through the area. The Portal Plaza Shopping Center, located in the Heart of the City Special Area, includes grocery facilities and a variety of neighborhood serving uses. Proximity to the Vallco Shopping Mall Special Area in the Heart of the City Special Area provides opportunities for shopping for this neighborhood within close walking distance. Housing types located in this neighborhood include duplexes, townhomes and apartments closer to the freeway. The North Blaney Neighborhood includes Collins Elementary School and Lawson Middle School.



### VISION

The North Blaney neighborhood will continue to be mainly a residential area. It is anticipated that there may be limited residential growth in this area on sites that may be subdivided or redeveloped. No other land use changes are anticipated in this area. Bicycle and pedestrian enhancements to North Blaney Avenue will improve the north-south connection through the city. There is also a potential to improve the east-west pedestrian and bicycle connection along the Junipero Serra channel along Interstate 280.

### NORTH BLANEY NEIGHBORHOOD DIAGRAM





**LU-1.2.3: Unused Development Allocation.**

Unused development allocations may be re-assigned to the citywide allocation table per Planning Area, when development agreements and development permits expire.

**LU-1.2.4: Neighborhood Allocation.**

Allocate residential units in neighborhoods through the building permit process unless subdivision or development applications are required.

**POLICY LU-1.3: LAND USE IN ALL CITYWIDE MIXED-USE DISTRICTS**

Encourage land uses that support the activity and character of mixed-use districts and economic goals.

**STRATEGIES:**

**LU-1.3.1: Commercial and Residential Uses.**

Review the placement of commercial and residential uses based on the following criteria:

1. All mixed-use areas with commercial zoning will require retail as a substantial component. The North De Anza Special Area is an exception.
2. All mixed-use residential projects should be designed on the "mixed-use village" concept discussed earlier in this Element.

3. On sites with a mixed-use residential designation, residential is a permitted use only on Housing Element sites and in the Monta Vista Village Special Area.
4. Conditional use permits will be required on mixed-use Housing Element sites that propose units above the allocation in the Housing Element, and on non-Housing Element mixed-use sites, unless otherwise allowed in a Specific Plan.

**LU-1.3.2: Public and Quasi-Public Uses.**

Review the placement of public and quasi-public activities in limited areas in mixed-use commercial and office zones when the following criteria are met:

1. The proposed use is generally in keeping with the goals for the Planning Area, has similar patterns of traffic, population or circulation of uses with the area and does not disrupt the operations of existing uses.
2. The building form is similar to buildings in the area (commercial or office forms). In commercial areas, the building should maintain a commercial interface by providing retail activity, storefront appearance or other design considerations in keeping with the goals of the Planning Area.

**POLICY LU-1.4: PARCEL ASSEMBLY**

Encourage parcel assembly and discourage parcelization to ensure that infill development meets City standards and provides adequate buffers to neighborhoods.

**POLICY LU-1.5: COMMUNITY HEALTH THROUGH LAND USE**

Promote community health through land use and design.

**POLICY LU-1.6: JOBS/HOUSING BALANCE**

Strive for a more balanced ratio of jobs and housing units.

**Table LU-1: Citywide Development Allocation Between 2014-2040**

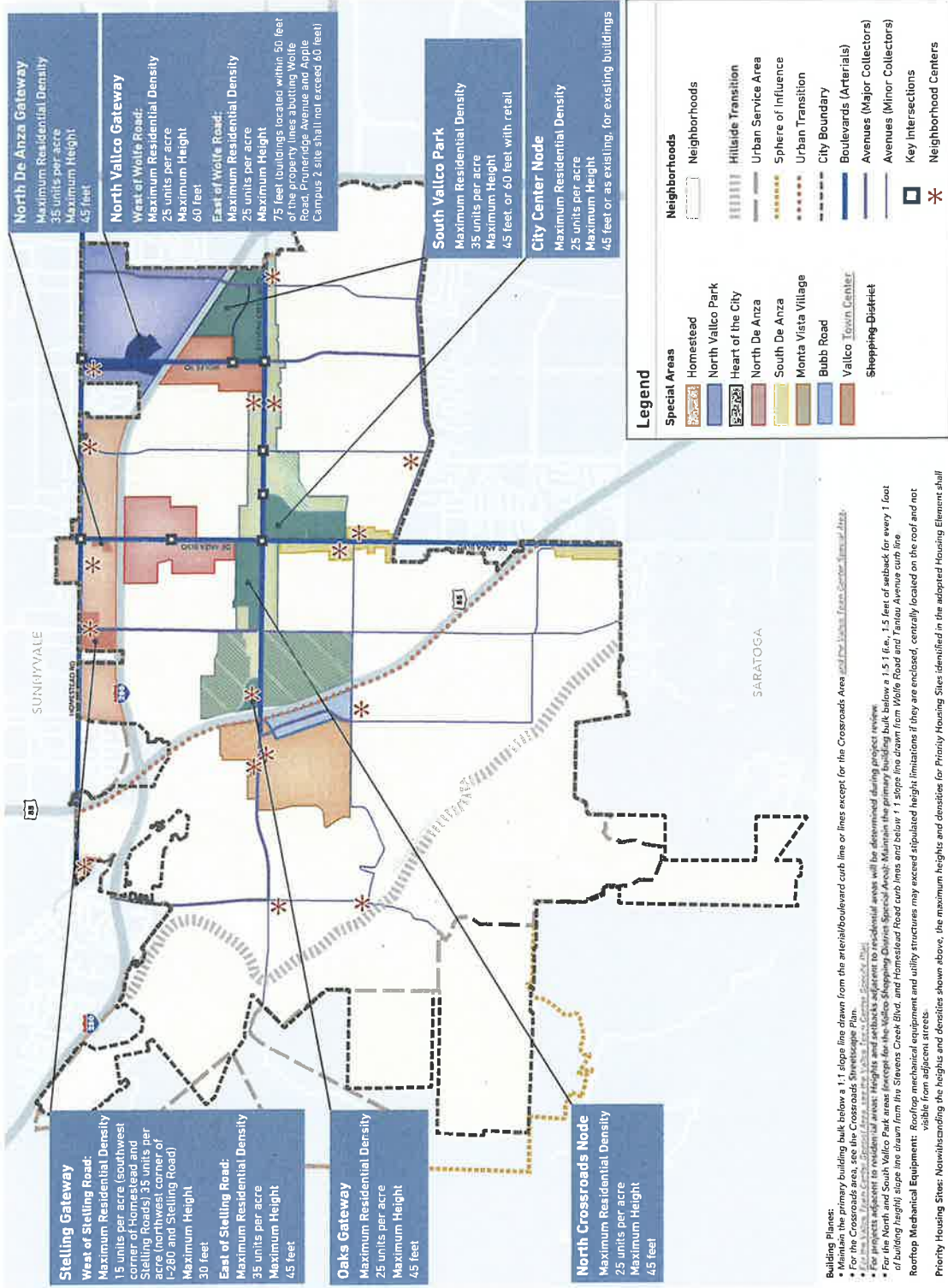
	commercial (s.f.)			office (s.f.)			hotel (rooms)			residential (units)		
	current built (Oct 7, 2014)	buildout	available	current built (Oct 7, 2014)	buildout	available	current built (Oct 7, 2014)	buildout	available	current built (Oct 7, 2014)	buildout	available
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Vallco Town Center	Tier 1 1,207,774	600,000	-	-	750,000	750,000	148	339	191	-	2,034	2,034
Shopping District**	Tier 2 1,207,774	485,000	-	-	2,000,000	2,000,000	148	339	191	-	389	389
					1,500,000**	1,500,000**	148	339	191		2,923	2,923
Homestead	291,408	291,408	-	69,550	69,550	-	126	126	-	600	750	150
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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
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Major Employers	-	-	-	109,935	633,053	523,118	-	-	-	-	-	-
With Vallco Town Ctr Tier 1	3,632,065	3,823,208	-	8,916,179	10,220,005	1,303,826	1,116	1,429	313	21,412	24,939	3,527
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\*\* 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.

\* The Vallco Town Center Specific Plan authorizes a community benefits density bonus as an alternative to the State Density Bonus if proposed development meets specified criteria. The applicable Development Allocations, if the City approves a community benefits density bonus, are identified as Tier 2 in Table LU-1.

\*\* For a Tier 2 project in the Vallco Town Center Special Area, an additional 250,000 square feet of allocation is allowed for office amenity space, as defined in the Vallco Town Center Specific Plan, for a total allocation of 1,750,000 square feet.

**Figure LU-2  
COMMUNITY FORM DIAGRAM**



<b>Homestead Special Area</b>	<b>Maximum Residential Density</b> Up to 35 units per acre per General Plan Land Use Map and Blaney Avenue <b>Maximum Height</b> 30 feet, or 45 feet (south side between the Access and Stelling)
<b>North Vallico Park Special Area</b>	<b>Maximum Residential Density</b> Maximum Height 25 units per acre 60 feet
<b>Heart of the City Special Area</b>	<b>Maximum Residential Density</b> 25 or 35 (South Vallico) units per acre <b>Maximum Height</b> 45 feet, or 30 feet where designated by hatched line
<b>North De Anza Special Area</b>	<b>Maximum Residential Density</b> Maximum Height 25 units per acre 45 feet
<b>South De Anza Special Area</b>	<b>Maximum Residential Density</b> 25 (south of Blaney) or 5-15 (south of Apple) units per acre <b>Maximum Height</b> 30 feet
<b>Monta Vista Village Special Area</b>	<b>Maximum Residential Density</b> Up to 15 units per acre per General Plan Land Use Map <b>Maximum Height</b> Up to 30 feet
<b>Bubb Road Special Area</b>	<b>Maximum Residential Density</b> Maximum Height 20 units per acre 45 feet
<b>Vallico Town Center Shopping District Special Area</b>	<b>West of Wolfe Rd</b> Maximum Residential Density Tier 1: 35 units per acre Tier 2: 25 units per acre Per Specific-Plan <b>East of Wolfe Rd</b> Maximum Residential Density 35 units per acre Maximum Height Per Specific-Plan

**Neighborhoods**

**Maximum Residential Density**  
As indicated in the General Plan Land Use Map:  
15 units per acre for Neighborhood Commercial Sites  
**Maximum Height**  
30 feet



## 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 TOWN CENTER ~~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 Town Center ~~Shopping District~~ will become a destination for shopping, dining and entertainment in the Santa Clara Valley.

#### POLICY LU-19.1: SPECIFIC PLAN

Implement the Vallco Town Center Specific Plan and apply the adopted vision, policies or development standards in the review of any development on the site including the street layout, land uses, design standards and guidelines, and infrastructure improvements required. The Vallco Town Center Specific Plan will be is 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 master site development plan for complete redevelopment of the site is required prior to issuance of other implementing permits adding residential and office uses. ~~Parcelization is highly discouraged in order to preserve the site for redevelopment in the future.~~ Accommodate parcelization needs of certain development types, such as senior housing or affordable housing, or if demonstrated to be necessary for financing reasons.

**LU-19.1.3: Complete Redevelopment.** The "town center" Any site development plans 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 in the specific plan.

##### LU-19.1.4: Land Use.

~~The following uses are allowed on the site (see Figure LU-2 for residential densities and criteria):~~ Uses allowed on the site shall be as shown in the Vallco Town Center Specific Plan and generally include residential, office, commercial (including retail, restaurant, entertainment, and cultural uses), and hotel uses.

Table LU-1 identifies the development potential on the site in two levels: Tier 1 and Tier 2. Tier 1 identifies the maximum development potential for the site under the base density as defined in Figure LU-2 and the Vallco Town Center Specific Plan. Tier 2 identifies the maximum development potential for the site for projects that have applied for and received a community benefits density bonus, as an alternative to the state Density Bonus law, which is further defined in the Vallco Town Center Specific Plan and which requires certain community benefits to be incorporated into the project.

1. **Retail Commercial:** Include 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 such as including main entrances, lobbies, retail and restaurants, at key locations, on the ground floor .
3. **Residential:** Allow residential on upper floors with retail and active uses on the ground floor per the Vallco Town Center Specific Plan. 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, such as lobbies, cafes, break rooms, active office amenities, on the ground floor in key locations publicly accessible street and that front plazas/green space.

**LU-9.1.5: "Town Center Layout"** Create streets and blocks laid out using "transect planning" (appropriate

street and building types for each area), which includes a discernible center and edges, public space at center, high quality public realm, and land uses appropriate to the street and building typology.

**LU-19.1.6: Connectivity.**

Provide a newly configured complete street grid hierarchy of streets, boulevards and alleys that is pedestrian-oriented, connects to existing streets, and creates walkable urban blocks for buildings and open space. It should also incorporate transit facilities, provide connections to other transit nodes and coordinate with the potential expansion of Wolfe Road bridge over Interstate 280 to continue the walkable, bikeable boulevard concept along Wolfe Road. The project should also contribute towards a study and improvements to a potential Interstate 280 trail along the drainage channel south of the freeway and provide pedestrian and bicycle connections from the project sites to the trail.

**LU-19.1.7: Existing Streets.**

Improve Stevens Creek Boulevard and Wolfe Road to become more bike and pedestrian-friendly with bike lanes, wide sidewalks, street trees, improved pedestrian intersections to accommodate the connections to Rosebow, Nineteen800, and Main Street and in the vicinity.



**EXHIBIT B**

RESOLUTION NO. 18-085

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO  
APPROVING A GENERAL PLAN AMENDMENT TO DEVELOPMENT  
ALLOCATIONS, THE GENERAL PLAN LAND USE MAP AND  
DEVELOPMENT STANDARDS RELATED TO THE VALLCO TOWN CENTER  
SPECIAL AREA

---

SECTION I: PROJECT DESCRIPTION

Application No: GPA-2018-02  
Applicant: City of Cupertino  
Location: 10101 to 10333 N Wolfe Rd  
APN#s: 316-20-080, 316-20-081, 316-20-103, 316-20-107, 316-20-101, 316-20-105,  
316-20-106, 316-20-104, 316-20-088, 316-20-092, 316-20-094, 316-20-099,  
316-20-100, 316-20-095

SECTION II: RECITALS

WHEREAS, the Housing Element of the Cupertino General Plan identifies the Vallco Town Center Special Area as being appropriate to accommodate at least 389 dwelling units to be developed pursuant to a specific plan for the Vallco Town Center; and

WHEREAS, the Vallco Town Center Specific Plan has been developed pursuant to City Council direction to initiate a project to prepare a specific plan for the Vallco Town Center Special Area, including any required changes to the adopted goals and objectives for the Special Area, in order to implement the Housing Element of the Cupertino General Plan and to plan for anticipated future development activity; and

WHEREAS, pursuant to the City Council direction to conduct extensive public outreach the City conducted multiple forms of public outreach including two multi-day charrettes, online civic engagement, open houses and brown bag presentations, comment meetings etc.; and

WHEREAS, the General Plan Amendment to Development Allocations, the General Plan Land Use Map and development standards related to the Vallco Town Center Special Area (the "General Plan Amendment") is part of the Vallco Town Center Specific Plan, all as fully described and analyzed in the May 2018 Vallco Special Area Specific Plan Environmental Impact Report ("Draft EIR") (State Clearinghouse No. 2018022021), as amended by the July 2018 Vallco Special Area Specific Plan Environmental Impact Report Amendment ("EIR Amendment") and by text revisions in the August 2018 Vallco Special Area Specific Plan Final EIR document which contains Response to Comments to the Draft EIR and the EIR Amendment, and the August 30, 2018, September 11, 2018, and



September 13, 2018 Supplemental Text Revisions to the Vallco Special Area Specific Plan Final Environmental Impact Report; (together, the "Final EIR");

WHEREAS, the Final EIR was presented to the Environmental Review Committee ("ERC") for review and recommendation on August 31, 2018, and after considering the Final EIR, and Staff's presentation, the ERC recommended on a 5-0 vote that the City Council certify the EIR; and

WHEREAS, following necessary public notices given as required by the procedural ordinances of the City of Cupertino and the Government Code, the Planning Commission held a public hearing on September 4, 2018 to consider the General Plan Amendment; and

WHEREAS, based on substantial evidence in the administrative record, on September 4, 2018 the Planning Commission recommended on a 5-0 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 implement all of the mitigation measures for the Project that are within the responsibility and jurisdiction of the City that are identified in Findings, in substantially similar form to the Resolution presented (Resolution No. 6860); and

WHEREAS, on September 4, 2018, the Planning Commission recommended on a 4-1 vote (Liu: no) that the City Council adopt the General Plan Amendment (GPA-2018-05), in substantially similar form to the Resolution presented (Resolution no. 6861) with additional recommendations to amend Strategy LU-19.1.2, correct Table LU-1, and consider a middle tier Development Allocation for the Vallco Town Center Special Area as more particularly described in Resolution no. 6861; and

WHEREAS, on September 19, 2018 (continued from September 18, 2018), upon due notice, the City Council has held at least one public hearing to consider the General Plan Amendment; and

WHEREAS, the City Council of the City of Cupertino is the decision-making body for this Resolution; and

WHEREAS, after consideration of evidence contained in the entire administrative record, at the public hearing on September 19, 2018 (continued from September 18, 2018), the City Council adopted Resolution No. 18-084 certifying the Final EIR, adopting Findings and a Statement of Overriding Considerations, adopting Mitigation Measures, and adopting a Mitigation Monitoring and Reporting Program; and

WHEREAS, prior to taking action on this Resolution, the City Council has exercised its independent judgment in carefully considering the information in the Final EIR and finds that the scope of this Resolution falls within the certified Final EIR, in that the aspects of

the General Plan Amendment proposed in this Resolution that have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment have been examined in the Final EIR and therefore, no recirculation of the Final EIR is required.

SECTION III: RESOLUTIONS

NOW, THEREFORE, BE IT RESOLVED:

After careful consideration of the, maps, facts, exhibits, testimony and other evidence submitted in this matter, the City Council hereby adopts:

1. Amendments to the General Plan (Application No. GPA-2018-05) as shown in Exhibit GPA-1 and authorizes the staff to make grammatical, typographical, numbering, and formatting changes necessary to assist in production of the final published General Plan; and
2. Changes to the Land Use Map as shown in Exhibit GPA-2.

NOW, THEREFORE, BE IT FURTHER RESOLVED:

The foregoing recitals are true and correct and are included herein by reference as findings.

NOW, THEREFORE, BE IT FURTHER RESOLVED:

The City Council finds this Resolution is within the scope of the EIR and directs the Director of Community Development to file a Notice of Determination with the Santa Clara County Recorder in accordance with CEQA guidelines.

PASSED AND ADOPTED this 19th day of September 2018 (continued from September 18, 2018), at a Special Meeting of the City Council of the City of Cupertino by the following roll call vote:

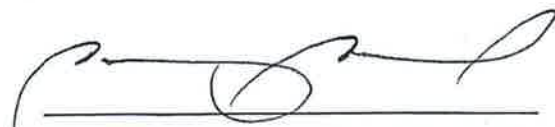
AYES: Sinks, Chang, Vaidhyathan  
 NOES: Paul, Scharf  
 ABSTAIN: None  
 ABSENT: None

ATTEST:

APPROVED:

 10.2.18

Grace Schmidt, City Clerk



Darcy Paul, Mayor, City of Cupertino


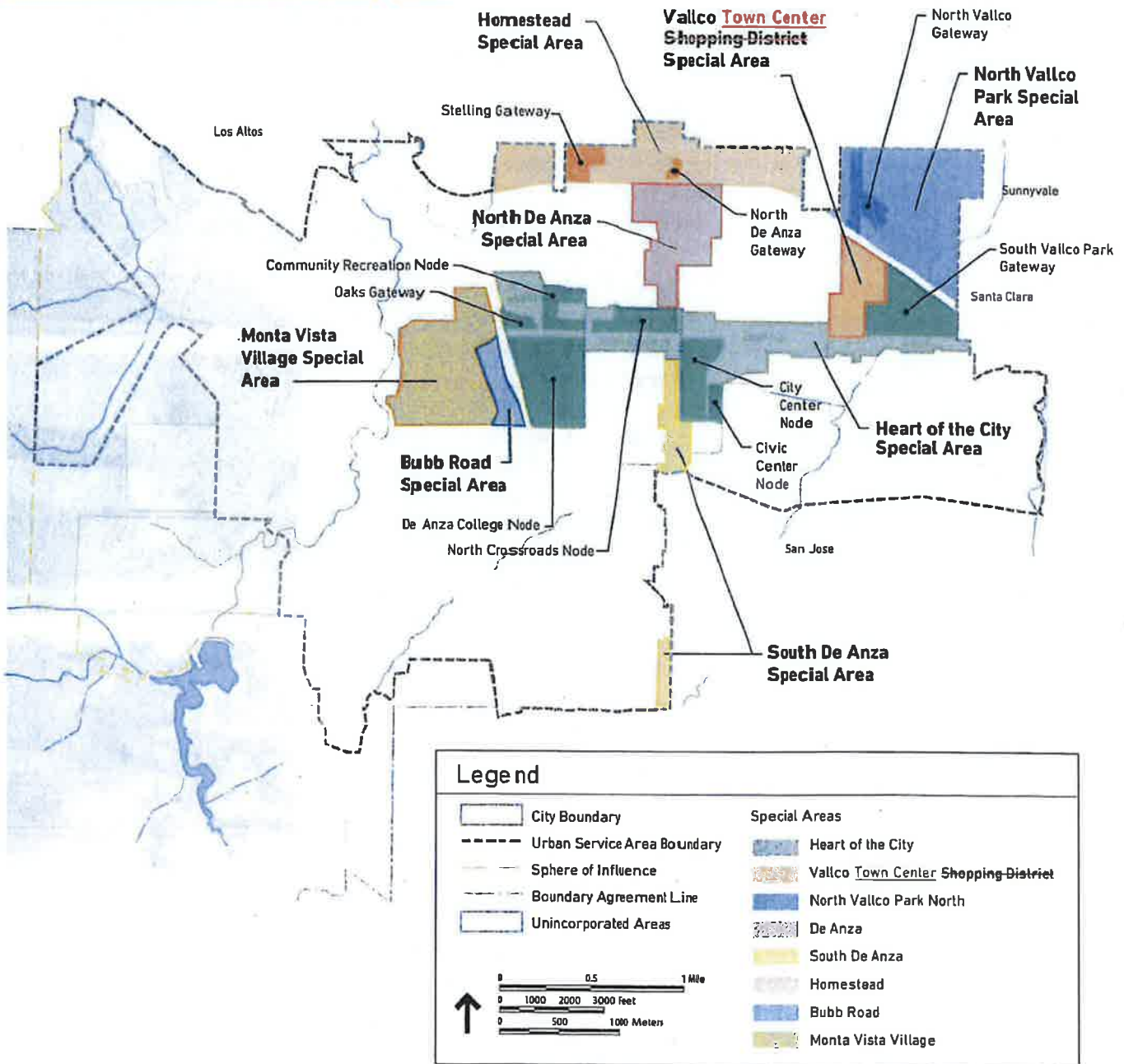
THIS IS TO CERTIFY THAT THE WITHIN  
 INSTRUMENT IS A TRUE AND CORRECT COPY  
 OF THE ORIGINAL ON FILE IN THIS OFFICE  
 ATTEST October 2, 2018  
 CITY CLERK OF THE CITY OF CUPERTINO  
 BY   
 CITY CLERK

Figure PA-1  
SPECIAL AREAS



The City Center subarea is located south of the Central Stevens Creek Boulevard subarea, between De Anza and Torre Avenue/Regnart Creek. The primary use for this area is office/residential/hotel/public facilities/commercial retail/mixed-uses. This subarea is further defined into the City Center Node and Civic Center Node. The City Center Node includes Cali Plaza. The Civic Center Node includes City Hall, Cupertino Community Hall, Cupertino Public Library, as well as the Library Plaza and Library Field.

The East Stevens Creek Boulevard subarea is located at the east end of the Heart of the City Specific Plan area and extends from Portal Avenue to the eastern city limit. The area is largely defined by the South Vallco Park Gateway immediately east of the Vallco ~~Town Center Shopping District Special Area~~, which includes Nineteen 800 (formerly known as Rosebowl), The Metropolitan and Main Street developments. This area is intended as a regional commercial district with retail/commercial/ office as the primary uses. Office above ground level retail is allowed as a secondary use, with residential/residential mixed-use as a supporting use per the Housing Element.

### VISION

The Heart of the City area will continue being a focus of commerce, community identity, social gathering and pride for Cupertino. The area is envisioned as a tree-lined boulevard that forms a major route for automobiles, but also supports walking, biking and transit. Each of its five subareas will contribute their distinctive and unique character, and will provide pedestrian and bicycle links to adjacent neighborhoods through side street access, bikeways and pathways. While portions of the area is designated as a Priority Development Area (PDA), which allows some higher intensity near gateways and nodes, development will continue to support the small town ambiance of the community. The Stevens Creek Boulevard corridor will continue to function as Cupertino's main mixed-use, commercial and retail corridor. Residential uses, as allowed per the Housing Element, should be developed in the "mixed-use village" format described later in the Land Use and Community Design Element.



## VALLCO TOWN CENTER SHOPPING DISTRICT

### CONTEXT

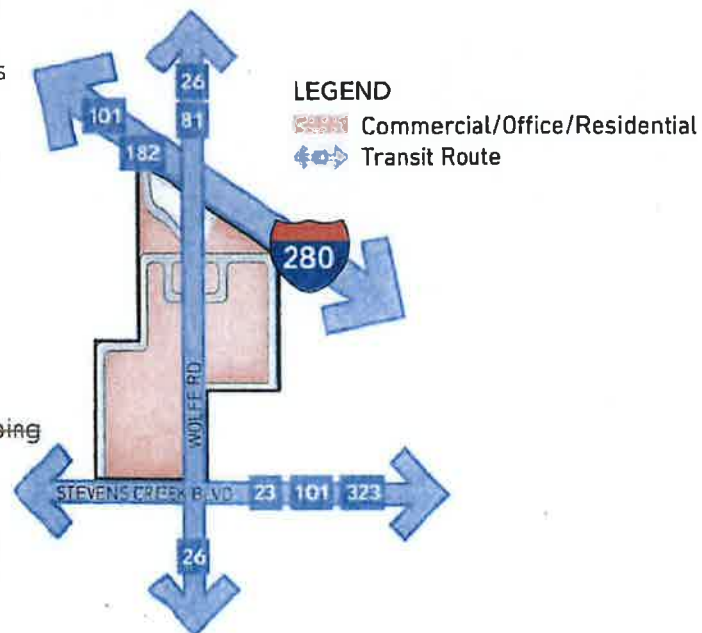
The Vallco ~~Town Center Shopping District~~ Special Area encompasses Cupertino's most significant commercial center, formerly known as the Vallco Fashion Park. This Special Area is located between Interstate 280 and Stevens Creek Boulevard in the eastern part of the city. The North Blaney neighborhood, an established single-family area, is adjacent on the west side of the Vallco ~~Town Center 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 to that this commercial center is more competitive and better serves the community. Currently, the major tenants of the mall include a movie theater, and a bowling alley and ~~three national retailers~~. The Vallco ~~Town Center 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 Vallco.

### VISION

The Vallco ~~Town Center 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 ~~Town Center 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 TOWN CENTER SHOPPING DISTRICT SPECIAL AREA DIAGRAM



## NORTH BLANEY

### CONTEXT

The North Blaney neighborhood is located in the eastern portion of Cupertino, north of Stevens Creek Boulevard and east of De Anza Boulevard. This area, predominantly defined by single-family residential homes, is on the valley floor with minimal grade changes. Bounded generally by De Anza Boulevard, Highway 280, Stevens Creek Boulevard, and Perimeter Road, this area is served by amenities including Portal Park, which includes a number of recreational amenities such as a tot lot and a recreation building. The Junipero Serra drainage channel runs along the northern edge of the neighborhood along Interstate 280. North Blaney is a major north-south corridor through the area. The Portal Plaza Shopping Center, located in the Heart of the City Special Area, includes grocery facilities and a variety of neighborhood serving uses. Proximity to the ~~Vallico Shopping Mall Special Area in the Heart of the City Special Area~~ provides opportunities for shopping for this neighborhood within close walking distance. Housing types located in this neighborhood include duplexes, townhomes and apartments closer to the freeway. The North Blaney Neighborhood includes Collins Elementary School and Lawson Middle School.












### VISION

The North Blaney neighborhood will continue to be mainly a residential area. It is anticipated that there may be limited residential growth in this area on sites that may be subdivided or redeveloped. No other land use changes are anticipated in this area. Bicycle and pedestrian enhancements to North Blaney Avenue will improve the north-south connection through the city. There is also a potential to improve the east-west pedestrian and bicycle connection along the Junipero Serra channel along Interstate 280.

NORTH BLANEY NEIGHBORHOOD DIAGRAM

#### LEGEND

-  Low Density (1-5 DU/Acre)
-  Low/Medium Density (5-10 DU/Acre)
-  Medium Density (10-20 DU/Acre)
-  Industrial/Residential
-  Quasi-Public/Institutional
-  Public Facilities
-  Commercial/Residential
-  Parks and Open Space
-  Transit Route



**LU-1.2.3: Unused Development Allocation.**

Unused development allocations may be re-assigned to the citywide allocation table per Planning Area, when development agreements and development permits expire.

**LU-1.2.4: Neighborhood Allocation.**

Allocate residential units in neighborhoods through the building permit process unless subdivision or development applications are required.

**POLICY LU-1.3: LAND USE IN ALL CITYWIDE MIXED-USE DISTRICTS**

Encourage land uses that support the activity and character of mixed-use districts and economic goals.

**STRATEGIES:**

**LU-1.3.1: Commercial and Residential Uses.**

Review the placement of commercial and residential uses based on the following criteria:

1. All mixed-use areas with commercial zoning will require retail as a substantial component. The North De Anza Special Area is an exception.
2. All mixed-use residential projects should be designed on the "mixed-use village" concept discussed earlier in this Element.

3. On sites with a mixed-use residential designation, residential is a permitted use only on Housing Element sites and in the Monta Vista Village Special Area.
4. Conditional use permits will be required on mixed-use Housing Element sites that propose units above the allocation in the Housing Element, and on non-Housing Element mixed-use sites, unless otherwise allowed in a Specific Plan.

**LU-1.3.2: Public and Quasi-Public Uses.**

Review the placement of public and quasi-public activities in limited areas in mixed-use commercial and office zones when the following criteria are met:

1. The proposed use is generally in keeping with the goals for the Planning Area, has similar patterns of traffic, population or circulation of uses with the area and does not disrupt the operations of existing uses.
2. The building form is similar to buildings in the area (commercial or office forms). In commercial areas, the building should maintain a commercial interface by providing retail activity, storefront appearance or other design considerations in keeping with the goals of the Planning Area.

**POLICY LU-1.4: PARCEL ASSEMBLY**

Encourage parcel assembly and discourage parcelization to ensure that infill development meets City standards and provides adequate buffers to neighborhoods.

**POLICY LU-1.5: COMMUNITY HEALTH THROUGH LAND USE**

Promote community health through land use and design.

**POLICY LU-1.6: JOBS/HOUSING BALANCE**

Strive for a more balanced ratio of jobs and housing units.

**Table LU-1: Citywide Development Allocation Between 2014-2040**

	commercial (s.f.)			office (s.f.)			hotel (rooms)			residential (units)		
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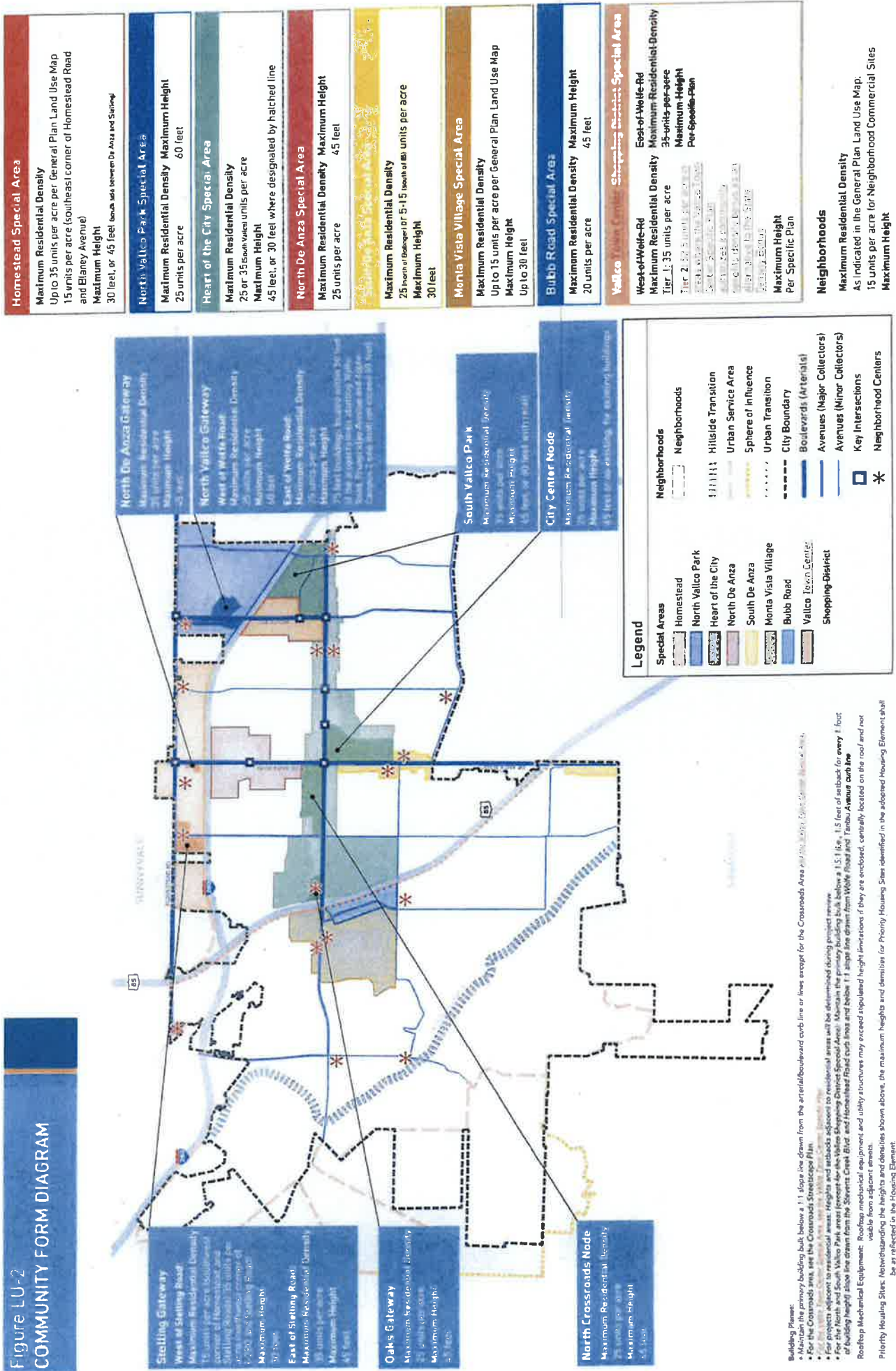
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\*\* For a Tier 2 project in the Vallejo Town Center Special Area, an additional 250,000 square feet of allocation is allowed for office amenity space, as defined in the Vallejo Town Center Specific Plan, for a total allocation of 1,750,000 square feet.



Figure LU-2  
COMMUNITY FORM DIAGRAM





## 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 TOWN CENTER ~~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 ~~Town Center Shopping District~~ will become a destination for shopping, dining and entertainment in the Santa Clara Valley.

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#### 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 ~~master site development plan~~ for complete redevelopment of the site is required prior to ~~issuance of other implementing permits~~ ~~adding residential and office uses~~. Parcelization is highly discouraged in order to ~~preserve the site for redevelopment in the future~~. Accommodate ~~parcelization needs of certain development types, such as senior housing or affordable housing, or if demonstrated to be necessary for financing reasons~~.

**LU-19.1.3: Complete Redevelopment.** The "town center" ~~Any site development plans~~ 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 ~~in the specific plan~~.

##### LU-19.1.4: Land Use.

~~The following uses are allowed on the site (see Figure LU-2 for residential densities and criteria):~~ Uses allowed on the site shall be as shown in the Vallco ~~Town Center Specific Plan~~ and generally include residential, office, commercial (including retail, restaurant, entertainment, and

Table LU-1 identifies the development potential on the site in two levels: Tier 1 and Tier 2. Tier 1 identifies the maximum development potential for the site under the base density as defined in Figure LU-2 and the Vallco Town Center Specific Plan. Tier 2 identifies the maximum development potential for the site for projects that have applied for and received a community benefits density bonus, as an alternative to the state Density Bonus law, which is further defined in the Vallco Town Center Specific Plan and which requires certain community benefits to be incorporated into the project.

1. **Retail Commercial:** ~~Include~~ 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 ~~such as including~~ main entrances, lobbies, ~~retail~~ and restaurants, at key locations, on the ground floor .
3. **Residential:** Allow residential ~~on upper floors~~ with retail and active uses on the ground floor per the Vallco Town Center Specific Plan. 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, such as lobbies, cafes, break rooms, active office amenities, on the ground floor in key locations ~~publicly accessible street and that front~~ plazas/green space.

**LU-9.1.5: "Town Center Layout"** Create streets and blocks laid out using "transect planning" (appropriate

street and building types for each area), which includes a discernible center and edges, public space ~~at center~~, high quality public realm, and land uses appropriate to the street and building typology.

**LU-19.1.6: Connectivity.**

Provide a newly configured complete street grid hierarchy of streets, boulevards and alleys that is pedestrian-oriented, connects to existing streets, and creates walkable urban blocks for buildings and open space. It should also incorporate transit facilities, provide connections to other transit nodes and coordinate with the potential expansion of Wolfe Road bridge over Interstate 280 to continue the walkable, bikeable boulevard concept along Wolfe Road. The project should also contribute towards a study and improvements to a potential Interstate 280 trail along the drainage channel south of the freeway and provide pedestrian and bicycle connections from the project sites to the trail.

**LU-19.1.7: Existing Streets.**

Improve Stevens Creek Boulevard and Wolfe Road to become more bike and pedestrian-friendly with bike lanes, wide sidewalks, street trees, improved pedestrian intersections to accommodate the connections to Rosebowl Nineteen800 and Main Street and in the vicinity.



**EXHIBIT C**

RESOLUTION NO. 18-085

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CUPERTINO  
APPROVING A GENERAL PLAN AMENDMENT TO DEVELOPMENT  
ALLOCATIONS, THE GENERAL PLAN LAND USE MAP AND  
DEVELOPMENT STANDARDS RELATED TO THE VALLCO TOWN CENTER  
SPECIAL AREA

SECTION I: PROJECT DESCRIPTION

Application No: GPA-2018-02

Applicant: City of Cupertino

Location: 10101 to 10333 N Wolfe Rd

APN#s: 316-20-080, 316-20-081, 316-20-103, 316-20-107, 316-20-101, 316-20-105,  
316-20-106, 316-20-104, 316-20-088, 316-20-092, 316-20-094, 316-20-099,  
316-20-100, 316-20-095

SECTION II: RECITALS

WHEREAS, the Housing Element of the Cupertino General Plan identifies the Vallco Town Center Special Area as being appropriate to accommodate at least 389 dwelling units to be developed pursuant to a specific plan for the Vallco Town Center; and

WHEREAS, the Vallco Town Center Specific Plan has been developed pursuant to City Council direction to initiate a project to prepare a specific plan for the Vallco Town Center Special Area, including any required changes to the adopted goals and objectives for the Special Area, in order to implement the Housing Element of the Cupertino General Plan and to plan for anticipated future development activity; and

WHEREAS, pursuant to the City Council direction to conduct extensive public outreach the City conducted multiple forms of public outreach including two multi-day charrettes, online civic engagement, open houses and brown bag presentations, comment meetings etc.; and

WHEREAS, the General Plan Amendment to Development Allocations, the General Plan Land Use Map and development standards related to the Vallco Town Center Special Area (the "General Plan Amendment") is part of the Vallco Town Center Specific Plan, all as fully described and analyzed in the May 2018 Vallco Special Area Specific Plan Environmental Impact Report ("Draft EIR") (State Clearinghouse No. 2018022021), as amended by the July 2018 Vallco Special Area Specific Plan Environmental Impact Report Amendment ("EIR Amendment") and by text revisions in the August 2018 Vallco Special Area Specific Plan Final EIR document which contains Response to Comments to the Draft EIR and the EIR Amendment, and the August 30, 2018, September 11, 2018, and

September 13, 2018 Supplemental Text Revisions to the Vallico Special Area Specific Plan Final Environmental Impact Report; (together, the "Final EIR");

WHEREAS, the Final EIR was presented to the Environmental Review Committee ("ERC") for review and recommendation on August 31, 2018, and after considering the Final EIR, and Staff's presentation, the ERC recommended on a 5-0 vote that the City Council certify the EIR; and

WHEREAS, following necessary public notices given as required by the procedural ordinances of the City of Cupertino and the Government Code, the Planning Commission held a public hearing on September 4, 2018 to consider the General Plan Amendment; and

WHEREAS, based on substantial evidence in the administrative record, on September 4, 2018 the Planning Commission recommended on a 5-0 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 implement all of the mitigation measures for the Project that are within the responsibility and jurisdiction of the City that are identified in Findings, in substantially similar form to the Resolution presented (Resolution No. 6860); and

WHEREAS, on September 4, 2018, the Planning Commission recommended on a 4-1 vote (Liu: no) that the City Council adopt the General Plan Amendment (GPA-2018-05), in substantially similar form to the Resolution presented (Resolution no. 6861) with additional recommendations to amend Strategy LU-19.1.2, correct Table LU-1, and consider a middle tier Development Allocation for the Vallico Town Center Special Area as more particularly described in Resolution no. 6861; and

WHEREAS, on September 19, 2018 (continued from September 18, 2018), upon due notice, the City Council has held at least one public hearing to consider the General Plan Amendment; and

WHEREAS, the City Council of the City of Cupertino is the decision-making body for this Resolution; and

WHEREAS, after consideration of evidence contained in the entire administrative record, at the public hearing on September 19, 2018 (continued from September 18, 2018), the City Council adopted Resolution No. 18-084 certifying the Final EIR, adopting Findings and a Statement of Overriding Considerations, adopting Mitigation Measures, and adopting a Mitigation Monitoring and Reporting Program; and

WHEREAS, prior to taking action on this Resolution, the City Council has exercised its independent judgment in carefully considering the information in the Final EIR and finds that the scope of this Resolution falls within the certified Final EIR, in that the aspects of

the General Plan Amendment proposed in this Resolution that have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment have been examined in the Final EIR and therefore, no recirculation of the Final EIR is required.

SECTION III: RESOLUTIONS

NOW, THEREFORE, BE IT RESOLVED:

After careful consideration of the, maps, facts, exhibits, testimony and other evidence submitted in this matter, the City Council hereby adopts:

1. Amendments to the General Plan (Application No. GPA-2018-05) as shown in Exhibit GPA-1 and authorizes the staff to make grammatical, typographical, numbering, and formatting changes necessary to assist in production of the final published General Plan; and
2. Changes to the Land Use Map as shown in Exhibit GPA-2.

NOW, THEREFORE, BE IT FURTHER RESOLVED:

The foregoing recitals are true and correct and are included herein by reference as findings.

NOW, THEREFORE, BE IT FURTHER RESOLVED:

The City Council finds this Resolution is within the scope of the EIR and directs the Director of Community Development to file a Notice of Determination with the Santa Clara County Recorder in accordance with CEQA guidelines.

PASSED AND ADOPTED this 19th day of September 2018 (continued from September 18, 2018), at a Special Meeting of the City Council of the City of Cupertino by the following roll call vote:

AYES: Sinks, Chang, Vaidhyanathan  
 NOES: Paul, Scharf  
 ABSTAIN: None  
 ABSENT: None

ATTEST:

APPROVED:

*Grace Schmidt 10.2.18*

*[Signature]*

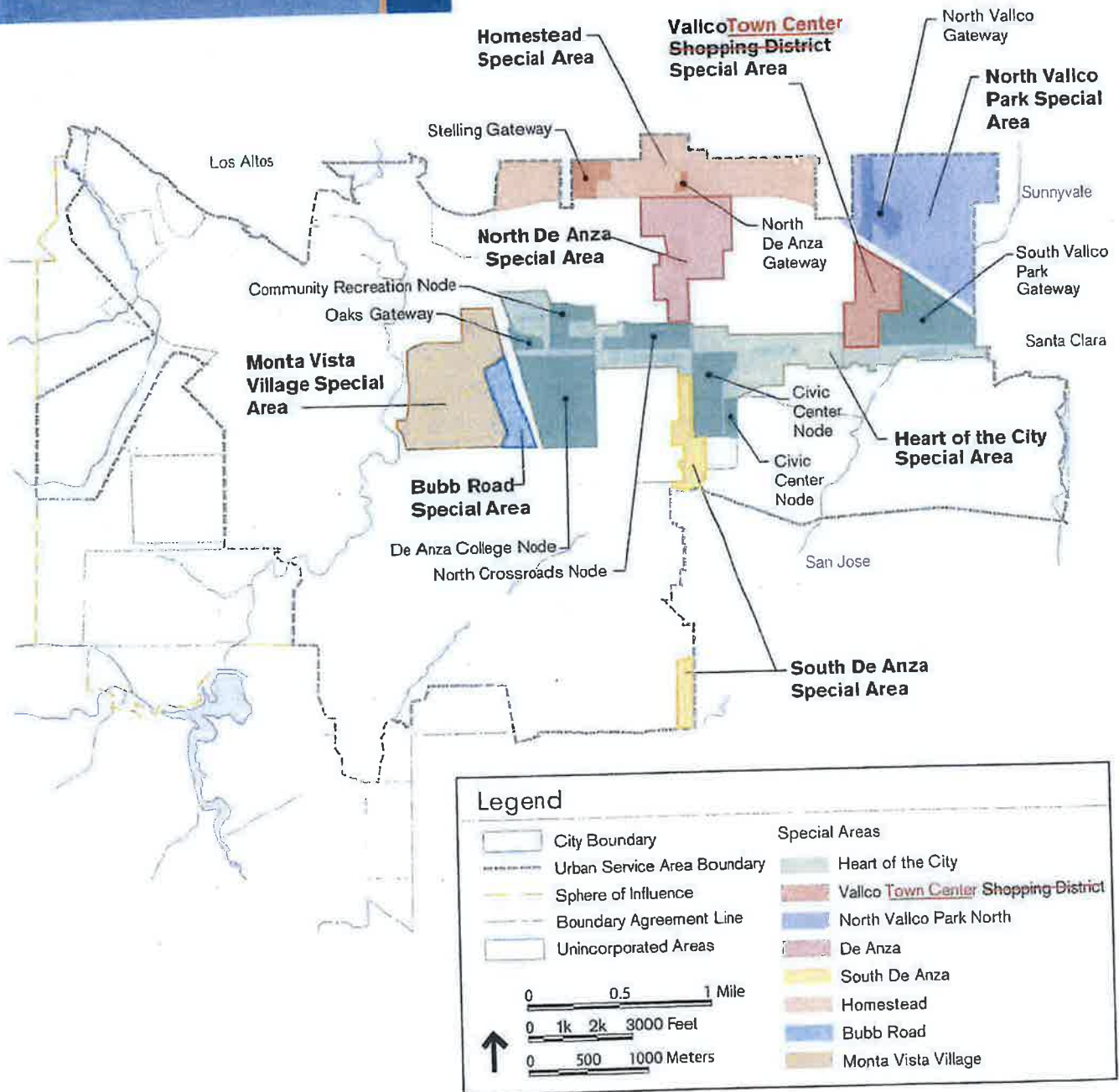
Grace Schmidt, City Clerk

Darcy Paul, Mayor, City of Cupertino

THIS IS TO CERTIFY THAT THE WITHIN INSTRUMENT IS A TRUE AND CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE  
 ATTEST *October 2*, 2018  
 CITY CLERK OF THE CITY OF CUPERTINO  
 BY *Grace Schmidt*  
 CITY CLERK



Figure PA-1  
**SPECIAL AREAS**



The City Center subarea is located south of the Central Stevens Creek Boulevard subarea, between De Anza and Torre Avenue/Regnart Creek. The primary use for this area is office/residential/hotel/public facilities/commercial retail/mixed-uses. This subarea is further defined into the City Center Node and Civic Center Node. The City Center Node includes Cali Plaza. The Civic Center Node includes City Hall, Cupertino Community Hall, Cupertino Public Library, as well as the Library Plaza and Library Field.

The East Stevens Creek Boulevard subarea is located at the east end of the Heart of the City Specific Plan area and extends from Portal Avenue to the eastern city limit. The area is largely defined by the South Vallco Park Gateway immediately east of the Vallco ~~Town Center Shopping District~~ Special Area, which includes Nineteen 800 (formerly known as Rosebowl), The Metropolitan and Main Street developments. This area is intended as a regional commercial district with retail/commercial/ office as the primary uses. Office above ground level retail is allowed as a secondary use, with residential/residential mixed-use as a supporting use per the Housing Element.

### VISION

The Heart of the City area will continue being a focus of commerce, community identity, social gathering and pride for Cupertino. The area is envisioned as a tree-lined boulevard that forms a major route for automobiles, but also supports walking, biking and transit. Each of its five subareas will contribute their distinctive and unique character, and will provide pedestrian and bicycle links to adjacent neighborhoods through side street access, bikeways and pathways. While portions of the area is designated as a Priority Development Area (PDA), which allows some higher intensity near gateways and nodes, development will continue to support the small town ambiance of the community. The Stevens Creek Boulevard corridor will continue to function as Cupertino's main mixed-use, commercial and retail corridor. Residential uses, as allowed per the Housing Element, should be developed in the "mixed-use village" format described later in the Land Use and Community Design Element.



## VALLCO TOWN CENTER SHOPPING DISTRICT

### CONTEXT

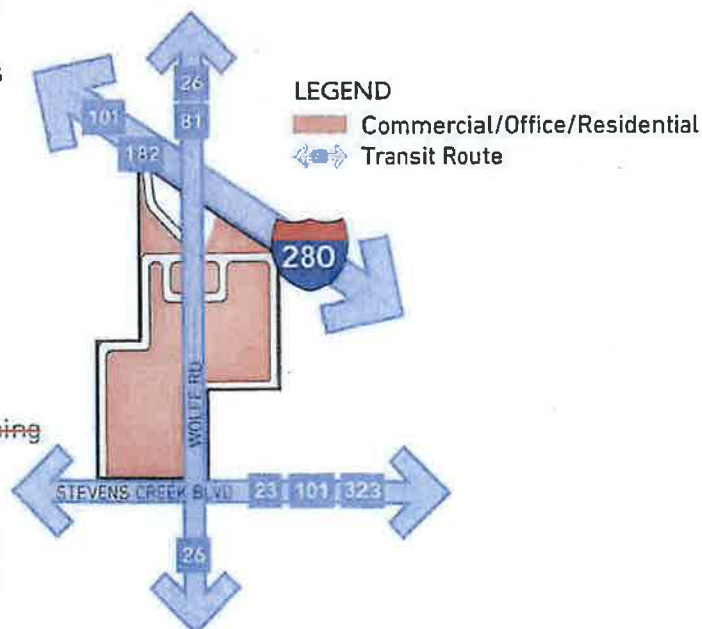
The Vallco ~~Town Center Shopping District~~ Special Area encompasses Cupertino's most significant commercial center, formerly known as the Vallco Fashion Park. This Special Area is located between Interstate 280 and Stevens Creek Boulevard in the eastern part of the city. The North Blaney neighborhood, an established single-family area, is adjacent on the west side of the Vallco ~~Town Center 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 to that this commercial center is more competitive and better serves the community. Currently, the major tenants of the mall include a movie theater, and a bowling alley and three national retailers. The Vallco ~~Town Center 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 Vallco.



### VISION

The Vallco ~~Town Center 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 ~~Town Center 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 TOWN CENTER SHOPPING DISTRICT SPECIAL AREA DIAGRAM



## NORTH BLANEY

### CONTEXT

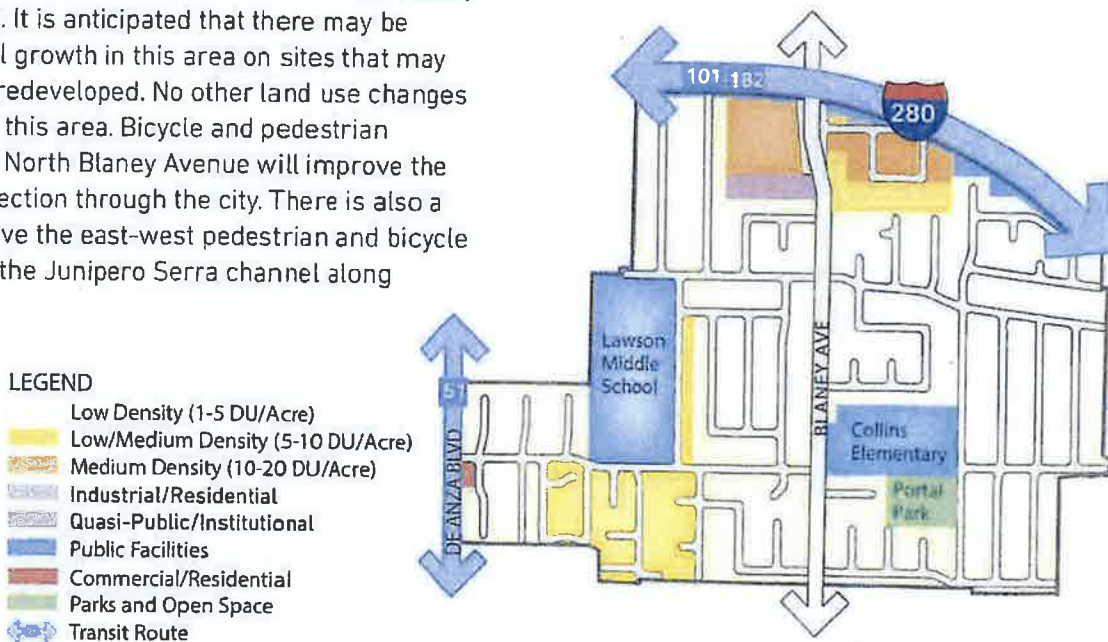
The North Blaney neighborhood is located in the eastern portion of Cupertino, north of Stevens Creek Boulevard and east of De Anza Boulevard. This area, predominantly defined by single-family residential homes, is on the valley floor with minimal grade changes. Bounded generally by De Anza Boulevard, Highway 280, Stevens Creek Boulevard, and Perimeter Road, this area is served by amenities including Portal Park, which includes a number of recreational amenities such as a tot lot and a recreation building. The Junipero Serra drainage channel runs along the northern edge of the neighborhood along Interstate 280. North Blaney is a major north-south corridor through the area. The Portal Plaza Shopping Center, located in the Heart of the City Special Area, includes grocery facilities and a variety of neighborhood serving uses. Proximity to the ~~Vallico Shopping Mall Special Area in the Heart of the City Special Area~~ provides opportunities for shopping for this neighborhood within close walking distance. Housing types located in this neighborhood include duplexes, townhomes and apartments closer to the freeway. The North Blaney Neighborhood includes Collins Elementary School and Lawson Middle School.



### VISION

The North Blaney neighborhood will continue to be mainly a residential area. It is anticipated that there may be limited residential growth in this area on sites that may be subdivided or redeveloped. No other land use changes are anticipated in this area. Bicycle and pedestrian enhancements to North Blaney Avenue will improve the north-south connection through the city. There is also a potential to improve the east-west pedestrian and bicycle connection along the Junipero Serra channel along Interstate 280.

NORTH BLANEY NEIGHBORHOOD DIAGRAM



**LU-1.2.3: Unused Development Allocation.**

Unused development allocations may be re-assigned to the citywide allocation table per Planning Area, when development agreements and development permits expire.

**LU-1.2.4: Neighborhood Allocation.**

Allocate residential units in neighborhoods through the building permit process unless subdivision or development applications are required.

**POLICY LU-1.3: LAND USE IN ALL CITYWIDE MIXED-USE DISTRICTS**

Encourage land uses that support the activity and character of mixed-use districts and economic goals.

**STRATEGIES:**

**LU-1.3.1: Commercial and Residential Uses.**

Review the placement of commercial and residential uses based on the following criteria:

1. All mixed-use areas with commercial zoning will require retail as a substantial component. The North De Anza Special Area is an exception.
2. All mixed-use residential projects should be designed on the "mixed-use village" concept discussed earlier in this Element.

3. On sites with a mixed-use residential designation, residential is a permitted use only on Housing Element sites and in the Monta Vista Village Special Area.
4. Conditional use permits will be required on mixed-use Housing Element sites that propose units above the allocation in the Housing Element, and on non-Housing Element mixed-use sites, unless otherwise allowed in a Specific Plan.

**LU-1.3.2: Public and Quasi-Public Uses.**

Review the placement of public and quasi-public activities in limited areas in mixed-use commercial and office zones when the following criteria are met:

1. The proposed use is generally in keeping with the goals for the Planning Area, has similar patterns of traffic, population or circulation of uses with the area and does not disrupt the operations of existing uses.
2. The building form is similar to buildings in the area (commercial or office forms). In commercial areas, the building should maintain a commercial interface by providing retail activity, storefront appearance or other design considerations in keeping with the goals of the Planning Area.

**POLICY LU-1.4: PARCEL ASSEMBLY**

Encourage parcel assembly and discourage parcelization to ensure that infill development meets City standards and provides adequate buffers to neighborhoods.

**POLICY LU-1.5: COMMUNITY HEALTH THROUGH LAND USE**

Promote community health through land use and design.

**POLICY LU-1.6: JOBS/HOUSING BALANCE**

Strive for a more balanced ratio of jobs and housing units.

**Table LU-1: Citywide Development Allocation Between 2014-2040**

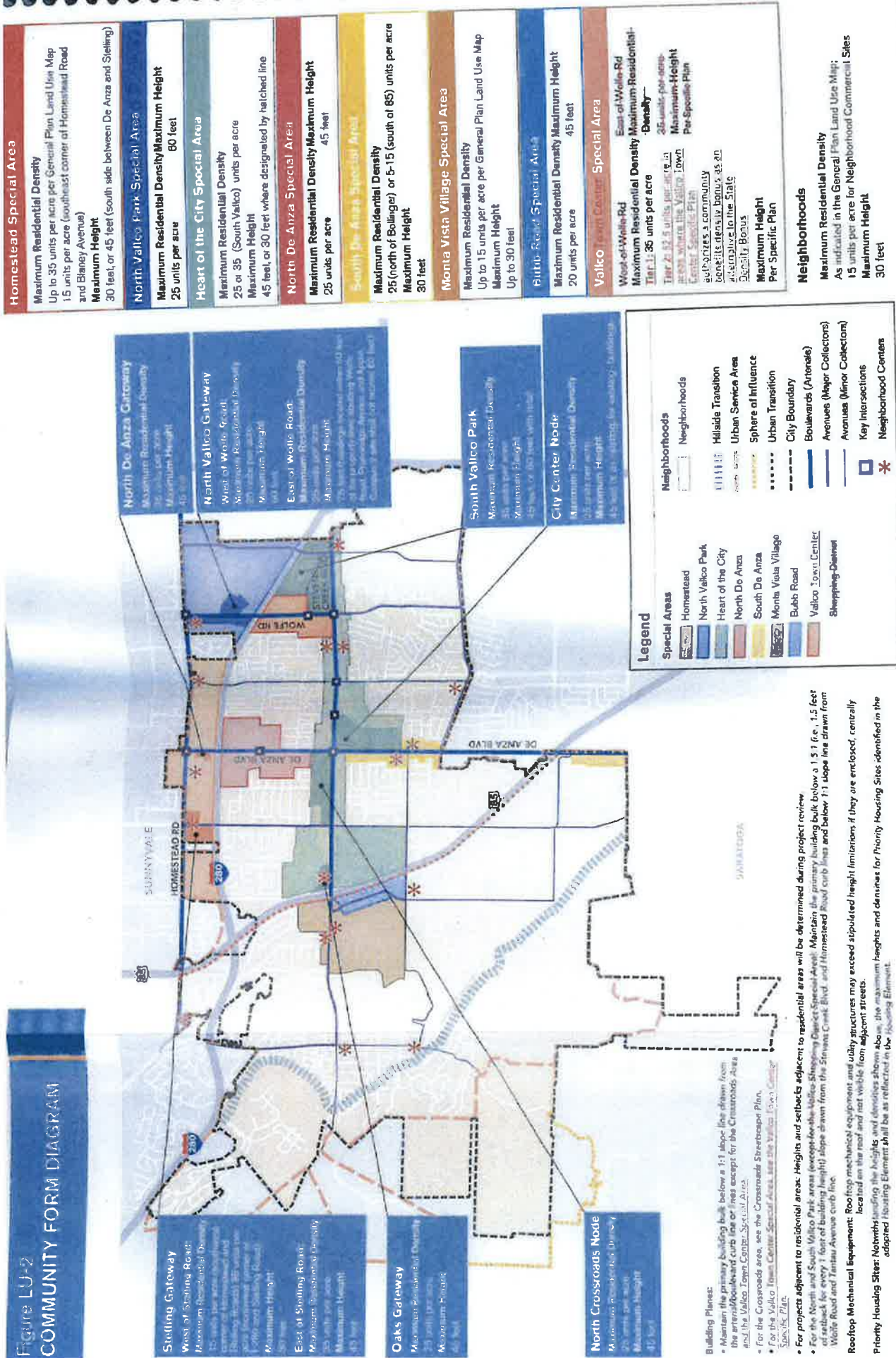
	commercial (s.f.)			office (s.f.)			hotel (rooms)			residential (units)		
	current built (Oct 7, 2014)	buildout	available	current built (Oct 7, 2014)	buildout	available	current built (Oct 7, 2014)	buildout	available	current built (Oct 7, 2014)	buildout	available
Heart of the City	1,351,730	214,5000	793,270	2,447,500	2,464,613	17,113	404	526	122	1,336	1,805	489
Valico* Tier 1	1,207,774	800,000	-	-	750,000	750,000	148	339	191	-	2,034	2,034
Town Center** Tier 2	1,207,774	120,7774	-	-	2,000,000	2,000,000	148	339	181	-	389	389
	1,207,774	485,000	-	-	1,500,000**	1,500,000**	148	339	191	-	2,923	2,923
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	-	123	123	-	49	146	97
N. Valico	133,147	133,147	-	3,069,676	3,069,676	-	315	315	-	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	99,898	5,847	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	-	-	-	-	-	-
With VTC Tier 1	3,632,065	3,823,208	-	-	10,220,005	1,303,826	1,116	1,429	313	-	26,939	3,527
Citywide	3,632,065	4,430,982	798,917	8,816,179	11,470,005	2,553,826	1,116	1,429	313	21,412	23,294	1,882
With VTC Tier 2	3,632,065	3,708,208	-	-	10,970,005	2,053,826	1,116	1,429	313	-	25,828	4,416

\*\* Buildout totals for Office and Residential allocation within the Valico 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 Valico Shopping District. See the Housing Element (Chapter 4) for additional information and requirements within the Valico Shopping District.

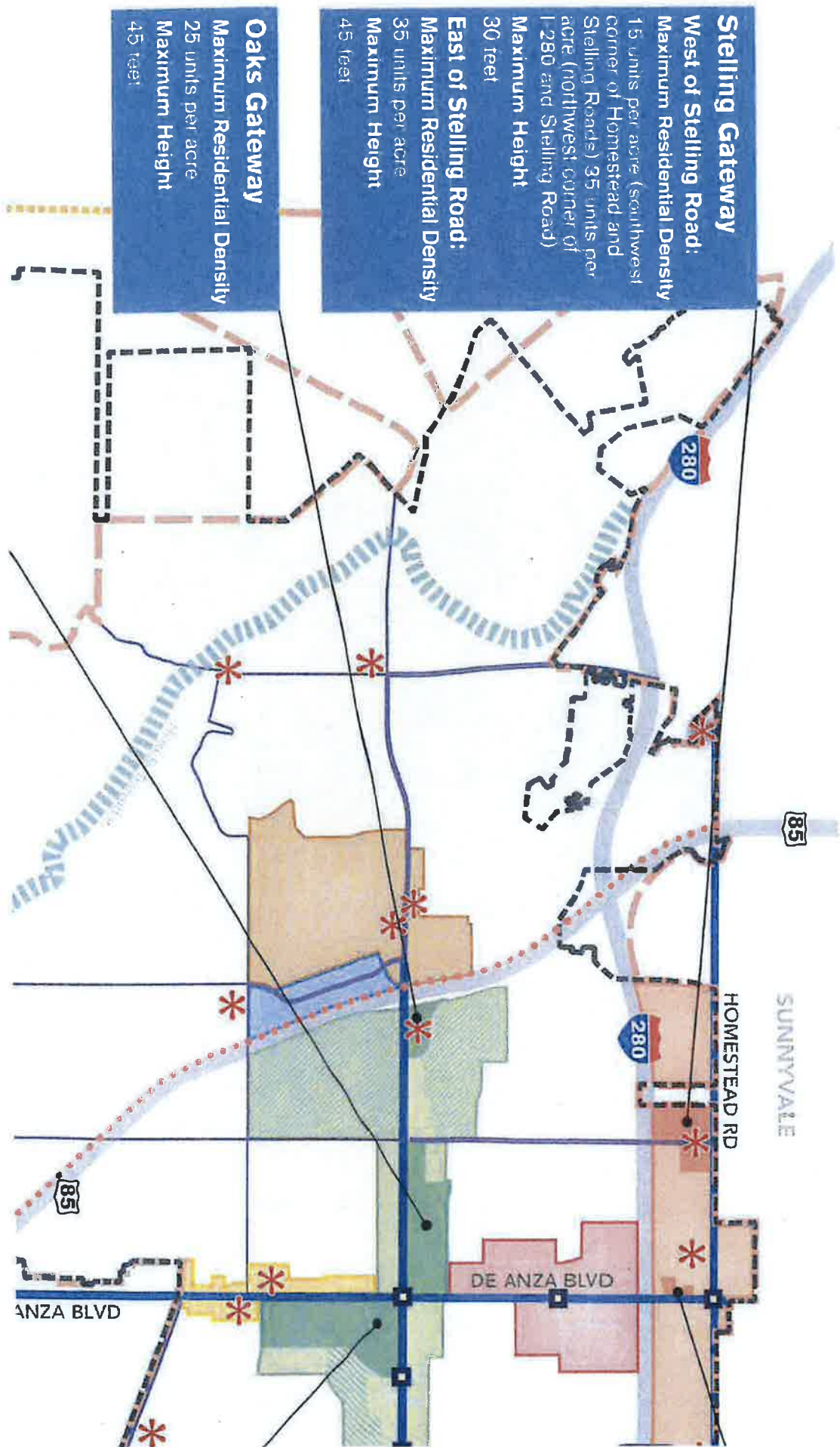
\* The Valico Town Center Specific Plan authorizes a community benefits density bonus as an alternative to the State Density Bonus if proposed development meets specified criteria. The applicable Development Allocations, if the City approves a community benefits density bonus, are identified as Tier 2 in Table LU-1.

\*\* For a Tier 2 project in the Valico Town Center Special Area, an additional 250,000 square feet of allocation is allowed for office amenity space, as defined in the Valico Town Center Specific Plan, for a total allocation of 1,750,000 square feet.

Figure LU-2  
COMMUNITY FORM DIAGRAM



# Figure LU-2 COMMUNITY FORM DIAGRAM



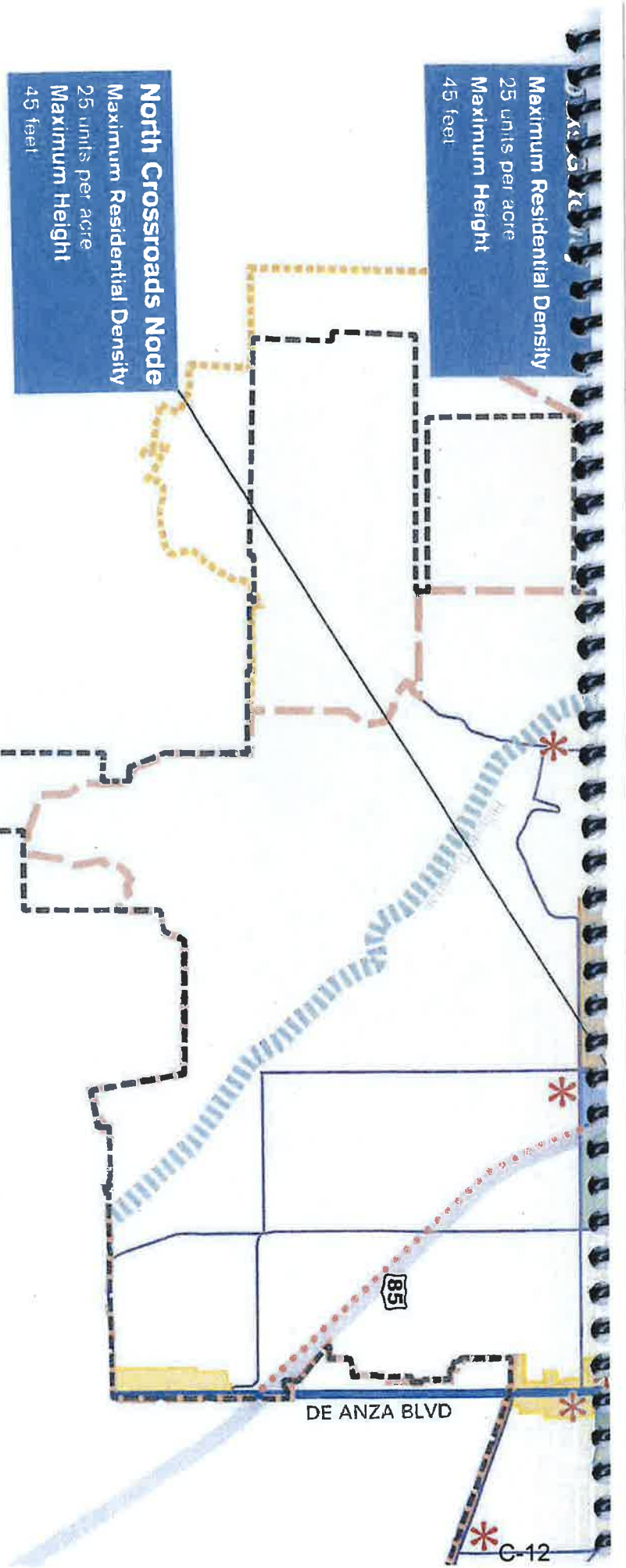


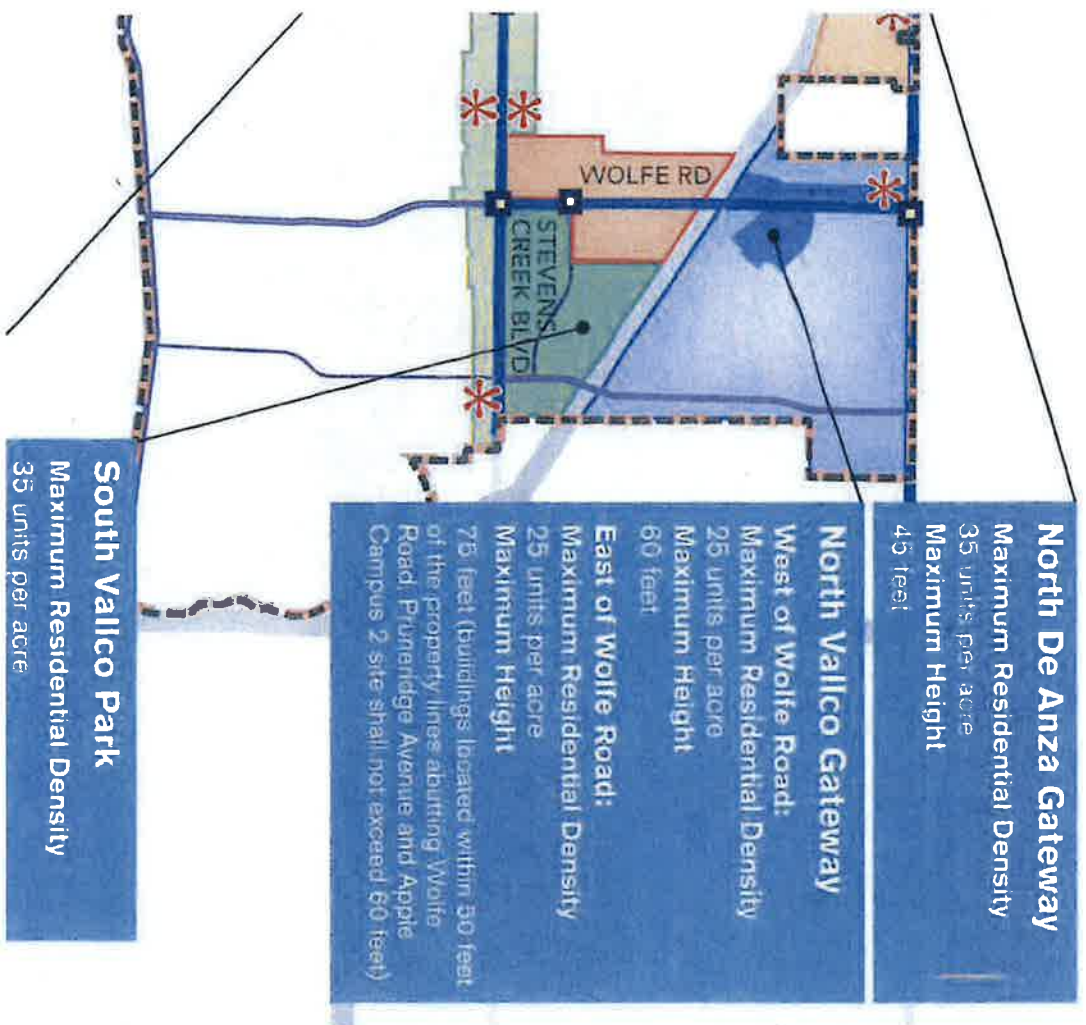
**Maximum Residential Density**  
 25 units per acre  
**Maximum Height**  
 45 feet

**North Crossroads Node**  
**Maximum Residential Density**  
 25 units per acre  
**Maximum Height**  
 45 feet

- Building Planes:**
- Maintain the primary building bulk below a 1:1 slope line drawn from the arterial/boulevard curb line or lines except for the Crossroads Area and the Vallco Town Center Special Area.
  - For the Crossroads area, see the Crossroads Streetscape Plan.
  - For the Vallco Town Center Special Area, see the Vallco Town Center Specific Plan.

- For projects adjacent to residential areas: Heights and setbacks adjacent to residential areas will be determined during project review.
  - For the North and South Vallco Park areas (~~except for the Vallco Shopping District Special Area~~): Maintain the primary building bulk below a 1.5:1 (i.e., 1.5 feet of setback for every 1 foot of building height) slope drawn from the Stevens Creek Blvd. and Homestead Road curb lines and below 1:1 slope line drawn from Wolfe Road and Tantau Avenue curb line.
- Rooftop Mechanical Equipment:** Rooftop mechanical equipment and utility structures may exceed stipulated height limitations if they are enclosed, centrally located on the roof and not visible from adjacent streets.
- Priority Housing Sites:** Notwithstanding the heights and densities shown above, the maximum heights and densities for Priority Housing Sites identified in the adopted Housing Element shall be as reflected in the Housing Element.





**North De Anza Gateway**  
 Maximum Residential Density  
 35 units per acre  
 Maximum Height  
 45 feet

**North Vallco Gateway**  
 West of Wolfe Road:  
 Maximum Residential Density  
 25 units per acre  
 Maximum Height  
 60 feet  
 East of Wolfe Road:  
 Maximum Residential Density  
 25 units per acre  
 Maximum Height  
 75 feet (buildings located within 50 feet of the property lines abutting Wolfe Road, Plummeridge Avenue and Apple Campus 2 site shall not exceed 60 feet)

**South Vallco Park**  
 Maximum Residential Density  
 35 units per acre

**Homestead Special Area**

**Maximum Residential Density**  
 Up to 35 units per acre per General Plan Land Use Map  
 15 units per acre (southeast corner of Homestead Road and Blaney Avenue)  
**Maximum Height**  
 30 feet, or 45 feet (south side between De Anza and Stelling)

**North Vallco Park Special Area**

**Maximum Residential Density** Maximum Height  
 25 units per acre 60 feet

**Heart of the City Special Area**

**Maximum Residential Density**  
 25 or 35 (South Vallco) units per acre  
**Maximum Height**  
 45 feet, or 30 feet where designated by hatched line

**North De Anza Special Area**

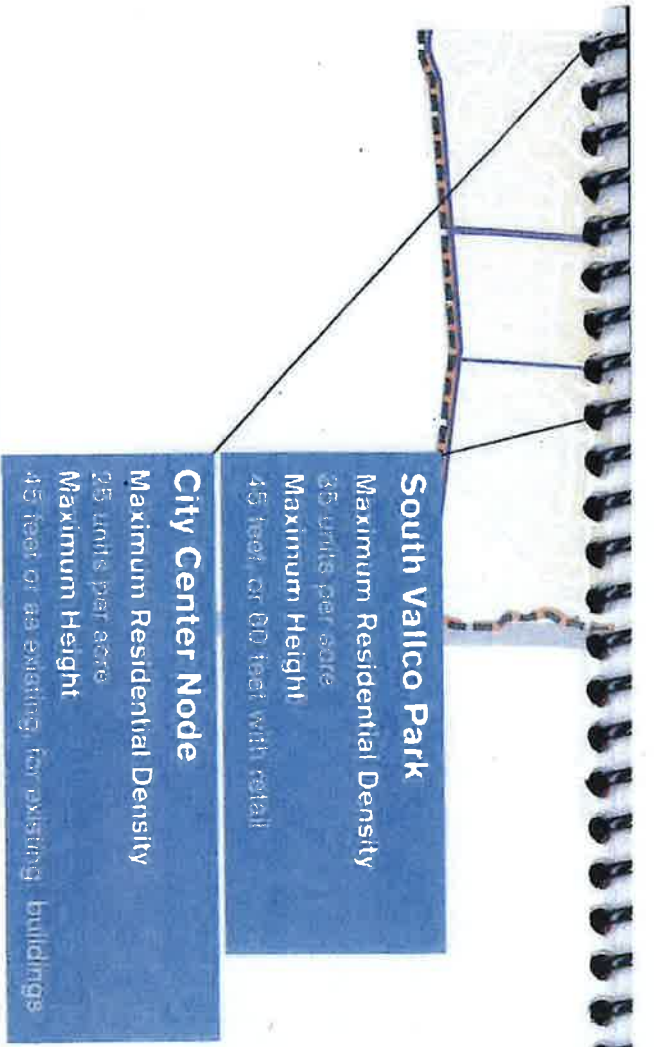
**Maximum Residential Density** Maximum Height  
 25 units per acre 45 feet

**South De Anza Special Area**























**Maximum Residential Density**  
 25 (north of Bollinger) or 5-15 (south of 85) units per acre  
**Maximum Height**  
 30 feet

**Monta Vista Village Special Area**

**Maximum Residential Density**  
 Up to 15 units per acre per General Plan Land Use Map  
**Maximum Height**



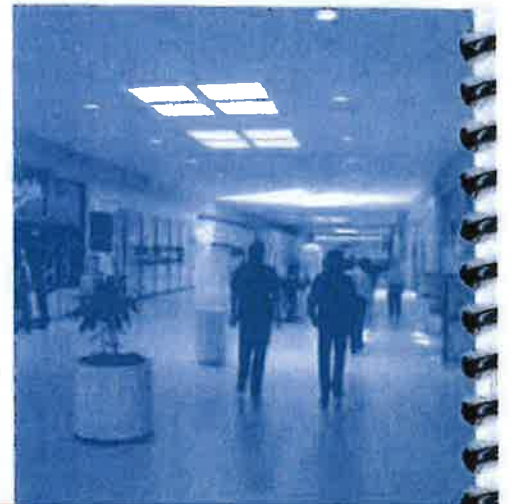
### Legend

	<b>Special Areas</b>		<b>Neighborhoods</b>
	Homestead		Neighborhoods
	North Vallico Park		Hillside Transition
	Heart of the City		Urban Service Area
	North De Anza		Sphere of Influence
	South De Anza		Urban Transition
	Monta Vista Village		City Boundary
	Bubb Road		Boulevards (Arterials)
	Vallico <u>Town Center</u>		Avenues (Major Collectors)
	Shopping District		Avenues (Minor Collectors)
			Key Intersections
			Neighborhood Centers

<b>Monta Vista Village Special Area</b>	Maximum Height 30 feet
<b>Bubb Road Special Area</b>	Maximum Residential Density Up to 15 units per acre per General Plan Land Use Map Maximum Height Up to 30 feet
<b>Vallico Town Center Special Area</b>	Maximum Residential Density 20 units per acre Maximum Height 45 feet
<b>West of Wolfe Rd</b>	<b>East of Wolfe Rd</b>
Maximum Residential Density Tier 1: 35 units per acre Tier 2: 52.5 units per acre in areas where the Vallico Town Center Specific Plan authorizes a community benefits density bonus as an alternative to the State Density Bonus	Maximum Residential Density Density 35 units per acre Maximum Height Per-Specific Plan

**Neighborhoods**

**Maximum Residential Density**  
 As indicated in the General Plan Land Use Map;  
 15 units per acre for Neighborhood Commercial Sites  
**Maximum Height**  
 30 feet



## 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 TOWN CENTER 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 Town Center Shopping District will become a destination for shopping, dining and entertainment in the Santa Clara Valley.

#### **POLICY LU-19.1: SPECIFIC PLAN**

Implement the Vallco Town Center Specific Plan and apply the adopted vision, policies or development standards in the review of any development on the site including the street layout, land uses, design standards and guidelines, and infrastructure improvements required. The Vallco Town Center Specific Plan will be is 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 master site development plan for complete redevelopment of the site is required prior to issuance of other implementing permits adding residential and office uses. Parcelization is highly discouraged in order to preserve the site for redevelopment in the future. Accommodate parcelization needs of certain development types, such as senior housing or affordable housing, or if demonstrated to be necessary for financing reasons.

**LU-19.1.3: Complete Redevelopment.** The "town center" Any site development plans 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 in the specific plan.

##### **LU-19.1.4: Land Use.**

The following uses are allowed on the site (see Figure LU-2 for residential densities and criteria): Uses allowed on the site shall be as shown in the Vallco Town Center Specific Plan and generally include residential, office, commercial (including retail, restaurant, entertainment, and cultural uses), and hotel uses.

Table LU-1 identifies the development potential on the site in two levels: Tier 1 and Tier 2. Tier 1 identifies the maximum development potential for the site under the base density as defined in Figure LU-2 and the Vallco Town Center Specific Plan. Tier 2 identifies the maximum development potential for the site for projects that have applied for and received a community benefits density bonus, as an alternative to the state Density Bonus law, which is further defined in the Vallco Town Center Specific Plan and which requires certain community benefits to be incorporated into the project.

1. Retail Commercial: Include 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 such as including main entrances, lobbies, retail and restaurants, at key locations, on the ground floor .
3. Residential: Allow residential on upper floors with retail and active uses on the ground floor per the Vallco Town Center Specific Plan. 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, such as lobbies, cafes, break rooms, active office amenities, on the ground floor in key locations publicly accessible street and that front plazas/green space.

**LU-9.1.5: "Town Center Layout"** Create streets and blocks laid out using "transect planning" (appropriate

street and building types for each area), which includes a discernible center and edges, public space at center, high quality public realm, and land uses appropriate to the street and building typology.

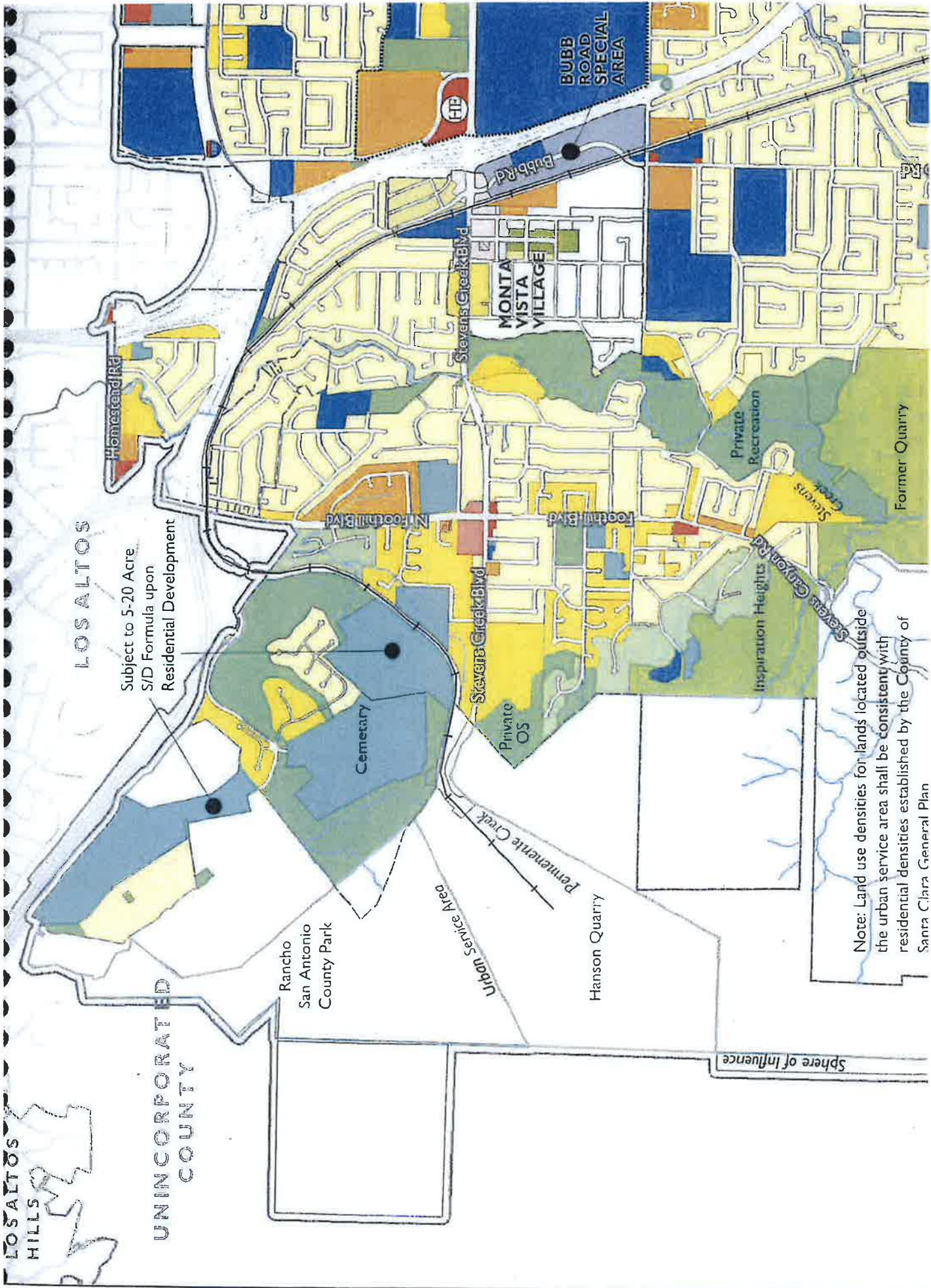
**LU-19.1.6: Connectivity.**

Provide a newly configured complete street grid hierarchy of streets, boulevards and alleys that is pedestrian-oriented, connects to existing streets, and creates walkable urban blocks for buildings and open space. It should also incorporate transit facilities, provide connections to other transit nodes and coordinate with the potential expansion of Wolfe Road bridge over Interstate 280 to continue the walkable, bikeable boulevard concept along Wolfe Road. The project should also contribute towards a study and improvements to a potential Interstate 280 trail along the drainage channel south of the freeway and provide pedestrian and bicycle connections from the project sites to the trail.

**LU-19.1.7: Existing Streets.**

Improve Stevens Creek Boulevard and Wolfe Road to become more bike and pedestrian-friendly with bike lanes, wide sidewalks, street trees, improved pedestrian intersections to accommodate the connections to Rosebow, Nineteen800, and Main Street and in the vicinity.





LOS ALTOS

Subject to 5-20 Acre  
S/D Formula upon  
Residential Development

Cemetery

Rancho  
San Antonio  
County Park

Urban Service Area

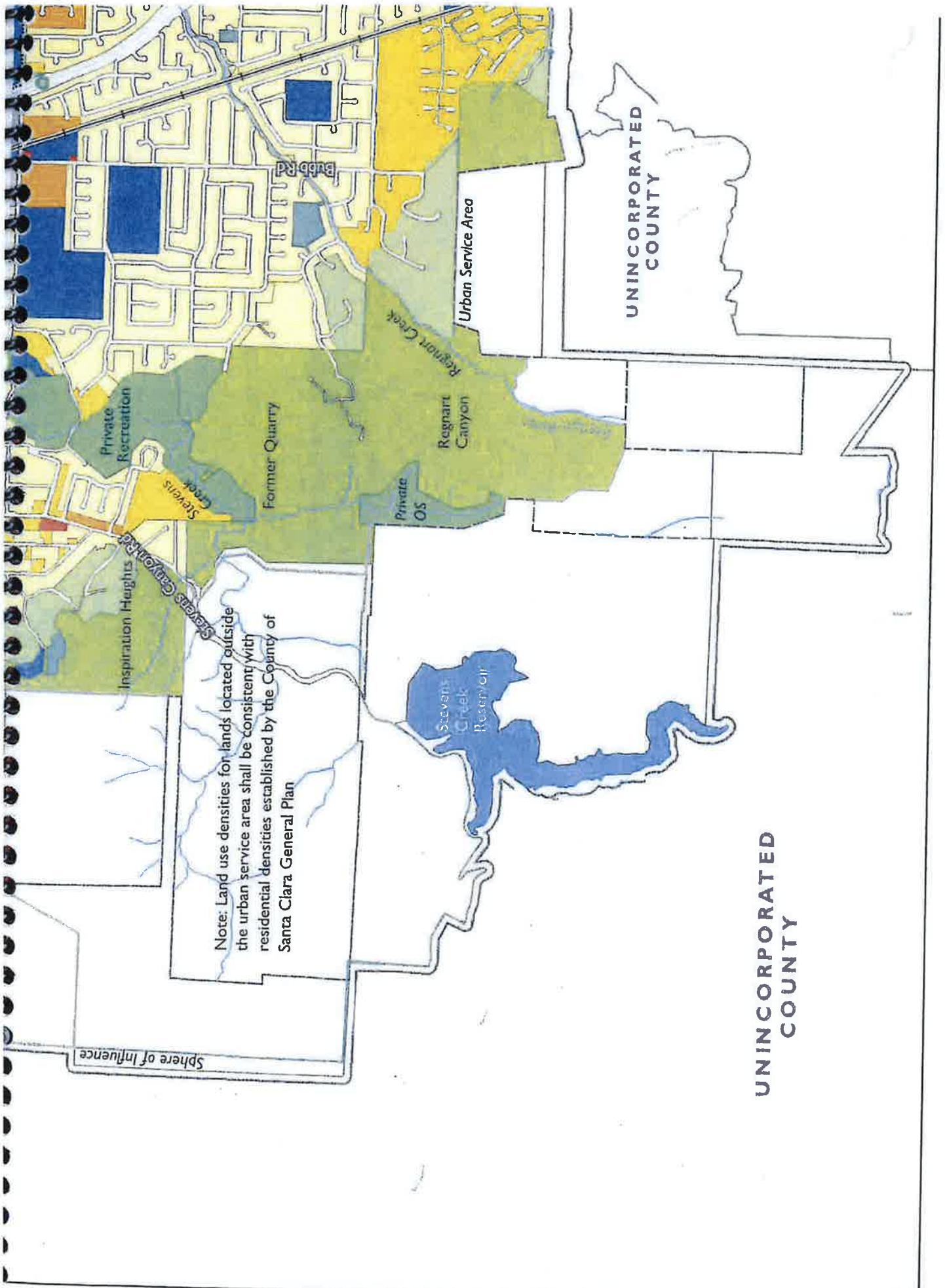
Hanson Quarry

Sphere of Influence

Note: Land use densities for lands located outside  
the urban service area shall be consistent with  
residential densities established by the County of  
Santa Clara General Plan

LOS ALTOS  
HILLS

UNINCORPORATED  
COUNTY



Note: Land use densities for lands located outside the urban service area shall be consistent with residential densities established by the County of Santa Clara General Plan

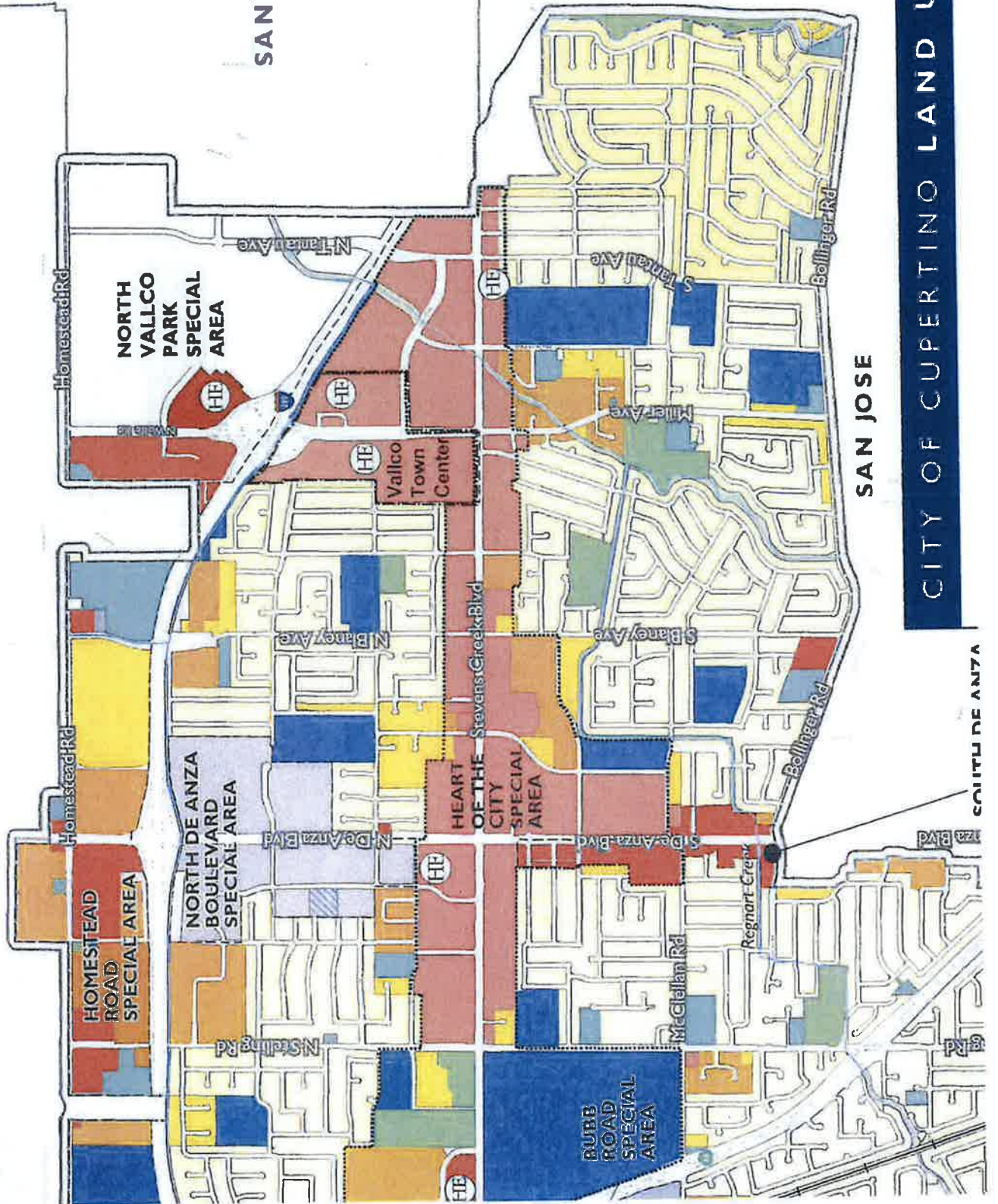




EXHIBIT GPA-2

SUNNYVALE

SANTA CLARA



SAN JOSE

CITY OF CUPERTINO LAND USE MAP

COURT DE ANZA



SAN JOSE

# CITY OF CUPERTINO LAND USE MAP

## LEGEND

- City Boundary
- Heart of the City
- Vallco Town Center
- Special Center Boundaries
- Urban Service Area
- Sphere of Influence
- Housing Element Sites
- Creeks

## Residential Land Use Designations

- Very Low Density (5-20 Acre Slope Density Formula)
- Very Low Density (1/2 Acre Slope Density Formula)
- Very Low Density (Slope Density Formula)
- Low Density (1-5 DU/Ac.)
- Low Density (1-6 DU/Ac.) Rancho Rinconada
- Low / Medium Density (5-10 DU/Ac.)
- Medium (10-20 DU/Ac.)
- Medium / High Density (20-35 DU/Ac.)
- High Density (> 35 DU/Ac.)

## Non-Residential Land Use Designations

- Commercial / Office / Residential
- Commercial / Residential
- Office / Industrial / Commercial / Residential
- Industrial / Residential
- Industrial / Residential / Commercial
- Public Facilities
- Quasi-Public / Institutional
- Quasi-Public / Institutional Overlay
- Parks and Open Space
- Riparian Corridor
- Transportation
- County

## Monta Vista Land Use Designations

- Residential (0-4.4 DU/Ac.)
- Residential (4.4-7.7 DU/Ac.)
- Residential (4.4-12 DU/Ac.)
- Residential (10-15 DU/Ac.)
- Neighborhood Commercial / Residential

SARATOGA

Sites designated **(HE)** are Priority Housing Sites as identified in the adopted Housing Element • Commercial areas in neighborhoods have a residential density of 15 DU/AC • Notwithstanding the densities shown above, sites are designated as Priority Housing Sites in the adopted Housing Element shall have the densities shown in the Housing Element unless allowed a different density with a State Density Bonus or the Community Benefits Density Bonus in the Vallco Town Center Special Area. • Commercial properties in the Homestead Special Area except those on the South side of Homestead between De Anza and Stelling have a density of 15 DU/AC.



Prepared by the Community Development and GIS Departments  
 Adopted: November 15, 2005 Draft Date: August 30, 2018

**EXHIBIT D**

**Table LU-1: Citywide Development Allocation Between 2014-2040**

**TABLE LU-1  
AS CONSIDERED AND  
ADOPTED BY CITY COUNCIL  
("ADOPTED VERSION")**

	commercial (s.f.)			office (s.f.)			hotel (rooms)			residential (units)		
	buildout	available	current built (Oct 7, 2014)	buildout	available	current built (Oct 7, 2014)	current built (Oct 7, 2014)	buildout	available	current built (Oct 7, 2014)	buildout	available
<b>Heart of the City</b>												
<b>Vallco</b>												
Tier 1	1,207,774	600,000		750,000	750,000	148	404	526	122	1,336	1,805	469
Tier 2	1,207,774	485,000		2,000,000	2,000,000	148	148	339	191	-	2,034	2,034
Citywide	2,415,548	1,085,000		1,500,000**	1,500,000**	148	148	339	191	-	2,923	2,923
With Vallco Town Ctr Tier 1	3,632,065	3,823,208		10,220,005	1,303,826	1,116	1,116	1,429	313	21,412	24,939	3,527
With Vallco Town Ctr Tier 2	3,632,065	3,708,208		11,470,005	2,553,826	1,116	1,116	1,429	313	21,412	23,294	1,862
Citywide	3,632,065	3,708,208		10,970,005	2,053,826	1,116	1,116	1,429	313	21,412	25,828	6,416
Major Employers	-	-	109,935	633,053	523,118	-	-	-	-	-	-	-
Monta Vista Village	94,051	5,647	443,140	456,735	13,595	-	-	-	-	828	878	50
Other	144,964	-	119,896	119,896	-	-	-	-	-	18,039	18,166	127
N. De Anza	352,283	-	130,708	130,708	-	6	6	315	-	6	6	-
S. De Anza	352,283	-	130,708	130,708	-	6	6	315	-	6	6	-
N. Vallco	133,147	-	3,069,676	3,069,676	-	554	554	1,154	-	554	1,154	600
N. De Anza	56,708	-	2,081,021	2,081,021	-	49	49	146	-	49	146	97
Bubb	-	-	444,753	444,753	-	-	-	-	-	-	-	-
Monta Vista Village	94,051	5,647	443,140	456,735	13,595	-	-	-	-	828	878	50
Other	144,964	-	119,896	119,896	-	-	-	-	-	18,039	18,166	127
Major Employers	-	-	109,935	633,053	523,118	-	-	-	-	-	-	-
With Vallco Town Ctr Tier 1	3,632,065	3,823,208		10,220,005	1,303,826	1,116	1,116	1,429	313	21,412	24,939	3,527
With Vallco Town Ctr Tier 2	3,632,065	3,708,208		11,470,005	2,553,826	1,116	1,116	1,429	313	21,412	23,294	1,862
Citywide	3,632,065	3,708,208		10,970,005	2,053,826	1,116	1,116	1,429	313	21,412	25,828	6,416

\*\* 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 4.1) for additional information and requirements within the Vallco Shopping District.

\* The Vallco Town Center Specific Plan authorizes a community benefits density bonus as an alternative to the State Density Bonus if proposed development meets specified criteria. The applicable Development Allocations, if the City approves a community benefits density bonus, are identified as Tier 2 in Table LU-1.

\*\* For a Tier 2 project in the Vallco Town Center Special Area, an additional 250,000 square feet of allocation is allowed for office amenity space, as defined in the Vallco Town Center Specific Plan, for a total allocation of 1,750,000 square feet.

Table LU-1: Citywide Development Allocation Between 2014-2040

	commercial (s.f.)		office (s.f.)		hotel (rooms)		residential (units)	
	buildout	available	current built (Oct 7, 2014)	buildout	available	current built (Oct 7, 2014)	buildout	available
the City	1,351,770	793,270	2,447,508	2,444,413	17,113	606	1,334	469
Aliso Viejo	1,207,774	600,000	-	750,000	750,000	148	-	2,834
Orange	1,207,774	120,7774	-	2,000,000	2,000,000	148	-	389
San Juan Capistrano	1,207,774	485,000	-	1,500,000**	1,500,000**	148	-	2,923
Homestead	291,408	-	69,558	69,550	-	126	600	150
N. De Anza	56,708	-	2,081,021	2,081,021	-	123	69	97
N. Valico	133,147	-	3,049,476	3,049,476	-	315	554	600
S. De Anza	352,283	-	130,708	130,708	-	126	6	-
Bubb	-	-	644,753	644,753	-	-	-	-
Monta Vista Village	94,051	5,647	443,140	456,735	13,595	-	820	50
Other	144,964	-	119,896	119,896	-	-	18,039	127
Major Employers	-	-	109,935	633,053	523,118	-	-	-
Citywide	3,632,065	798,917	8,916,179	10,970,005	2,053,826	1,116	21,412	3,527
the City	1,207,774	120,7774	-	2,000,000	2,000,000	148	-	1,882
Aliso Viejo	1,207,774	485,000	-	1,500,000**	1,500,000**	148	-	4,416

\*\* Buildout totals for Office and Residential allocations within the Valico Shopping District are contingent upon a Specific Plan being adopted for this area by May 31, 2019. If a Specific Plan is not adopted by that date, City will consider the removal of the Office and Residential allocations for Valico Shopping District. See the Housing Element Chapter 4 for additional information and requirements within the Valico Shopping District.

The Aliso Viejo Center Specific Plan includes a community benefits element which, as an alternative to the State Density Bonus, if approved, development needs specified in this Specific Plan for a total allocation of 1,500,000 square feet.

The Aliso Viejo Center Specific Plan includes a community benefits element which, as an alternative to the State Density Bonus, if approved, development needs specified in this Specific Plan for a total allocation of 1,500,000 square feet.

**TABLE LU-1  
AS SHOWN IN REFERENDUM  
PETITION  
("GPA REFERENDUM")**

**Table LU-1: Citywide Development Allocation Between 2014-2040**

	commercial (sq ft)				office (sq ft)				hotel (rooms)				residential (units)			
	available	builtout	current built (Oct 7, 2014)	builtout	available	builtout	current built (Oct 7, 2014)	builtout	available	builtout	current built (Oct 7, 2014)	builtout	available	builtout	current built (Oct 7, 2014)	
near or in the City	1,261,730	214,500	2,447,500	2,464,813	17,113	404	526	1,336	1,805	469						
Vallejo* Tier 1	1,207,774	600,000	-	750,000	750,000	148	139	2,034	389	2,923						
Vallejo* Tier 2	1,207,774	120,774	-	2,000,000	2,000,000	148	339	191	389	389						
Vallejo* Tier 3	1,207,774	485,000	-	1,500,000**	1,500,000**	148	339	191	2,923	2,923						
Homestead	281,408	291,408	69,550	69,550	-	126	126	780	150							
N. De Anza	56,708	58,708	2,081,021	2,081,021	-	123	123	48	97							
M. Vallejo	133,147	133,147	3,069,676	3,069,676	-	315	315	554	600							
S. De Anza	352,283	352,283	130,701	130,701	-	315	315	6	6							
Bubb	-	-	444,753	444,753	-	-	-	-	-							
Monta Vista Village	94,051	99,698	443,140	456,735	13,595	-	-	828	878							
Other	144,954	144,954	119,896	119,896	-	-	-	18,839	18,108							
Major Employers	-	-	109,935	633,063	523,118	-	-	-	-							
With VTC Tier 1	3,632,065	3,823,208	10,220,005	10,220,005	1,305,826	1,116	1,429	24,939	24,939							
Citywide	3,632,065	4,430,982	8,916,179	11,470,005	2,553,826	1,116	1,429	23,294	23,294							
With VTC Tier 2	3,632,065	3,708,208	10,970,005	10,970,005	2,053,826	1,116	1,429	25,828	25,828							

\*\* Builtout totals for Office and Residential allocation within the Vallejo Shopping District are contingent upon a Specific Plan being adopted for this area by May 31, 2014. If a Specific Plan is not submitted by that date, City will consider the removal of the Office and Residential allocations for Vallejo Shopping District from this Housing Element (Chapter 15) for additional information requirements within the Vallejo Shopping District.

The Vallejo Town Center Specific Plan authorizes a community benefits density bonus as an alternative to the State Density Bonus if proposed development meets specified criteria. The applicable Development Allocations, if the City approves a community benefits density bonus, are identified as Tier 2 in Table LU-1.

\*\* For a Tier 2 project in the Vallejo Town Center Special Area, an additional 250,000 square feet of allocation is allowed for office amenity space, as defined in the Vallejo Town Center Specific Plan, for a total allocation of 1,750,000 square feet.

### Detail: Modifications to Left Margin

Heart of the City	1,3
Vallco <sup>*</sup> Tier 1	1,2
Town Shopping Center District** Tier 2	1,2
Homestead	29
N. De Anza	51
N. Vallco	13
S. De Anza	35
Bubb	
Monta Vista Village	9
Other	1
Major Employers	
With Vallco Town Cir Tier 1	3,4
Citywide	3,4
With Vallco Town Cir Tier 2	3,4

Heart of the City	1,35
Vallco <sup>*</sup> Tier 1	1,2,1
Town Shopping Center District** Tier 2	1,2,1
Homestead	29
N. De Anza	56
N. Vallco	13
S. De Anza	35
Bubb	
Monta Vista Village	94
Other	14
Major Employers	
With Vallco Town Cir Tier 1	3,6
Citywide	3,6
With Vallco Town Cir Tier 2	3,6

Heart of the City	1,3
Vallco <sup>*</sup> Tier 1	1,2
Town Shopping Center <sup>**</sup> Tier 2	1,2
Homestead	29
N. De Anza	51
N. Vallco	13
S. De Anza	35
Bubb	
Monta Vista Village	9
Other	1
Major Employers	
With VTC Tier 1	3,4
Citywide	3,4
With VTC Tier 2	3,4

Adopted Version

Certified Version

GPA Referendum

# Detail: Modifications to Strikethrough

the City																		
o	Tier 1	1,207,774	600,000	-	750,000	750,000	148	339	191	-	2,034	2,034						
i	Shopping District**	<del>1,207,774</del>	<del>120,774</del>	-	<del>2,000,000</del>	<del>2,000,000</del>	<del>148</del>	<del>339</del>	<del>191</del>	-	<del>389</del>	<del>389</del>						
er	Tier 2	1,207,774	485,000	-	1,500,000**	1,500,000**	148	339	191	-	2,923	2,923						
	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	123	123	-	49	146	97						
	N. Vallco	133,147	133,147	-	3,069,676	3,069,676	315	315	-	554	1154	600						
	S. De Anza	352,283	352,283	-	130,708	130,708	315	315	-	6	6	-						

Adopted Version

the City																		
o	Tier 1	1,207,774	600,000	-	750,000	750,000	148	339	191	-	2,034	2,034						
i	Shopping District**	<del>1,207,774</del>	<del>120,774</del>	-	<del>2,000,000</del>	<del>2,000,000</del>	<del>148</del>	<del>339</del>	<del>191</del>	-	<del>389</del>	<del>389</del>						
er	Tier 2	1,207,774	485,000	-	1,500,000**	1,500,000**	148	339	191	-	2,923	2,923						
	Homestead	291,408	291,488	-	69,550	69,550	126	126	-	600	750	150						
	N. De Anza	56,708	56,708	-	2,081,021	2,081,021	123	123	-	49	146	97						
	N. Vallco	133,147	133,147	-	3,069,676	3,069,676	315	315	-	554	1154	600						
	S. De Anza	352,283	352,283	-	130,708	130,708	315	315	-	6	6	-						

Certified Version

the City																		
o	Tier 1	1,207,774	690,000	-	750,000	750,000	148	339	191	-	2,034	2,034						
i	Vallco Town Center**	<del>1,207,774</del>	<del>120,774</del>	-	<del>2,000,000</del>	<del>2,000,000</del>	<del>148</del>	<del>339</del>	<del>191</del>	-	<del>389</del>	<del>389</del>						
er	Tier 2	1,207,774	485,000	-	1,500,000**	1,500,000**	148	339	191	-	2,923	2,923						
	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	123	123	-	49	146	97						
	N. Vallco	133,147	133,147	-	3,069,676	3,069,676	315	315	-	554	1154	600						
	S. De Anza	352,283	352,283	-	130,708	130,708	315	315	-	6	6	-						

GPA Referendum



# Detail: Modifications to Strikethrough and Footnote

Vallecito Town Ctr Tier 1	3,632,065	3,823,208	798,917	8,916,179	10,220,005	1,303,826	1,116	1,429	313	24,939	3,527
Citywide	3,632,065	4,430,982	798,917	8,916,179	11,470,005	2,553,826	1,116	1,429	313	23,294	1,882
Vallecito Town Ctr Tier 2	3,632,065	3,708,208			10,970,005	2,053,826	1,116	1,429	313	25,828	4,416

\*\* Budget totals for Office and Residential allocations within the Vallecito 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 Vallecito Shopping District. See the Housing Element (Chapter 4) for additional information and requirements within the Vallecito Shopping District.

## Adopted Resolution

major				109,935	633,053	523,116					
Employers											
With VTC Tier 1	3,632,065	3,823,208	798,917	8,916,179	10,220,005	1,303,826	1,116	1,429	313	24,939	3,527
Citywide	3,632,065	4,430,982	798,917	8,916,179	11,470,005	2,553,826	1,116	1,429	313	23,294	1,882
With VTC Tier 2	3,632,065	3,708,208			10,970,005	2,053,826	1,116	1,429	313	25,828	4,416

\*\* Budget totals for Office and Residential allocations within the Vallecito 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 Vallecito Shopping District. See the Housing Element (Chapter 4) for additional information and requirements within the Vallecito Shopping District.

## Certified Resolution

Employers											
With VTC Tier 1	3,632,065	3,823,208	798,917	8,916,179	10,220,005	1,303,826	1,116	1,429	313	24,939	3,527
Citywide	3,632,065	4,430,982	798,917	8,916,179	11,470,005	2,553,826	1,116	1,429	313	23,294	1,882
With VTC Tier 2	3,632,065	3,708,208			10,970,005	2,053,826	1,116	1,429	313	25,828	4,416

\*\* Budget totals for Office and Residential allocations within the Vallecito 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 Vallecito Shopping District. See the Housing Element (Chapter 4) for additional information and requirements within the Vallecito Shopping District.

## GPA Referendum

**EXHIBIT E**

December 6, 2018

**VIA EMAIL AND FIRST CLASS MAIL**

Grace Schmidt, City Clerk  
City of Cupertino  
Cupertino City Hall, 10300 Torre Avenue  
Cupertino, California 95014

Re: Referendum of City of Cupertino Resolution No. 18-085

Dear Ms. Schmidt:

We are writing on behalf of Vallco Property Owner, LLC regarding the referendum (the "Referendum") of City of Cupertino Resolution No. 18-085, titled "A Resolution of the City Council of the City of Cupertino Approving a General Plan Amendment to Development Allocations, the General Plan Land Use Map and Development Standards Related to the Vallco Town Center Special Area" (the "General Plan Amendment"). On October 30, 2018, we submitted a Public Records Act request for a blank copy of the Referendum petition. We received your response to our request on November 9, 2018, and have reviewed the petition for compliance with the mandatory requirements of the California Elections Code.

In short, the Referendum petition fails to provide the full and accurate text of the resolution being referred, as required by the California Elections Code. This failure to comply with the Elections Code unlawfully deprived signers of the statutorily required information necessary to intelligently exercise their electoral rights. The Referendum petition is therefore facially defective and cannot be certified.

**1. The Referendum Petition Failed to Include the Full Text of the Ordinance in Violation of Elections Code section 9238.**

The Referendum petition plainly fails to comply with section 9238 of the California Elections Code, which mandates that the "full text" of a municipal referendum be included in a petition circulated for voter signatures. The General

Grace Schmidt, City Clerk  
December 6, 2018  
Page 2

Plan Amendment indicates what changes are being made to the General Plan by showing additions in underline and deletions in ~~strikethrough~~. Page LU-13 of the General Plan Amendment contains a critically important table, titled "Table LU-1: Citywide Development Allocation Between 2014-2040." In Table LU-1, the General Plan Amendment makes *significant* alterations to the development allocations for Vallco, reducing the square footage allocated to office by up to 1,250,000 square feet, and increasing the number of units allocated to residential development by as much as 2,543 units (or more than 7.5 times the number of residential units previously allocated). These changes are shown by striking out the current development allocations, and replacing them with new allocations in underlined text. Significantly, these key changes to the development allocations are not shown or otherwise discussed elsewhere in the GPA Resolution. In short, the amendments contained in Table LU-1 are arguably the most significant change to the City's General Plan.

As shown in Exhibit A hereto, however, Referendum proponents failed to faithfully reproduce the General Plan Amendment as adopted by the City Council, and the Referendum petition circulated for voter signatures completely *omitted* the strikethroughs of the current allocations. As such, signers had absolutely no way to determine how the allowable uses for the Vallco property were changing. They were left completely in the dark.

A long line of California cases have struck down initiative and referendum petitions that failed to comply with the formatting provisions of the Elections Code, especially those such as section 9238, which is intended to provide information to petition signers. (See, e.g., *Mervyn's v. Reyes* (1998) 69 Cal.App.4th 93, 104-05 [relying on an "unbroken line of initiative and referendum cases covering the period 1925 to 1998" to strike down a petition for failing to include the full text of the measure].) Moreover, where, as here, a referendum petition fails to comply with the statutory requirements, local elections officials have the *ministerial duty* to reject the petition and must refuse to take any action on it. (*Id.*; see also *Billig v. Voges* (1990) 223 Cal.App.3d 962, 968-69 ["a city clerk who refuses to accept a petition for noncompliance with the statute is only performing a *ministerial function* involving no exercise of discretion"].)

For example, in *Chase v. Brooks* (1986) 187 Cal.App.3d 657, proponents of a referendum petition against a rezoning ordinance included references to a city map number and reclassification of the property affected, but failed to attach a

related exhibit which contained the legal description of the property affected. The Court of Appeal held that proponents were required to faithfully reproduce the exhibit in their petition. Accordingly, having failed to comply with the “full text” requirement, the petition was illegal. (*Id.* at 663; see also *Mervyn’s, supra*, 69 Cal.App.4th at 97-98 [“The purpose of the full text requirement is to provide sufficient information so that registered voters can intelligently evaluate whether to sign the initiative petition and to avoid confusion”]; *Creighton v. Reviczky* (1985) 171 Cal.App.3d 1225, 1232 [invalidating petition because it “failed to provide the electors with the information [] they needed in order to exercise intelligently their rights under the referendum law”].)

Even far less egregious violations of the full text requirement have produced the same result. In *Hebard v. Bybee* (1998) 65 Cal.App.4th 1331, a referendum petition challenging an ordinance altering a land use designation in a city’s general plan merely misstated the title of the ordinance by inadvertently omitting three words. (*Id.* at 1338-40.) The Court of Appeal invalidated the referendum petition for failing to technically or substantially comply with the full text requirement. In misstating the correct title of the ordinance, the Court held, the petition failed to adequately inform voters which land was involved and thereby deprived them of vital, mandatory information. (*Id.* at 1340-41 [“[I]t is the responsibility of the petition proponents to present a petition that conforms to the requirements of the Elections Code”].)

Here, the ~~striketroughs~~ and underlines on the Development Allocation table were the *only* way for potential signers to know that the General Plan was being amended to *significantly* reduce the amount of commercial office space planned for the Vallco area of the City, and replace it with at least 1,645 units of much needed housing. Yet the striketroughs of the *current* allocations are completely absent, leaving signers with no way to determine which allocations are going away and which allocations are replacing them. To the contrary, the information provide provided to the voters was completely nonsensical.

These changes were not merely technical edits. Rather, they provide critical information about a central component of the General Plan Amendment. “Better Cupertino”—the group responsible for circulating the Referendum petition—has been vocal in its opposition to the transformation of Vallco into an alleged “office complex.” It is completely misleading for this group to oppose proposed development at Vallco because it includes “too much office,” and “worsens the

housing shortage,” and then fail to provide potential signers with information showing that the proposed Vallco Town Center development would actually *reduce* the amount of office currently allowed at Vallco by more than *half*. In fact, Referendum proponents falsely told potential signers that the project would still include 2 million square feet of office. (See Exhibit B.)

Furthermore, the housing crisis in the Bay Area is a topic of serious concern for many voters, and it is reasonable to assume that many would be reluctant to sign a Referendum petition if they knew that the resolution being referred provided for an additional 1,645 to 2,534 units of housing for Cupertino residents. By failing to show the changes being made to the residential housing allocations, this critical information was withheld from potential signers.

As clearly illustrated by the cases discussed above, failure to provide signers with the complete and accurate text of the resolution being referred fails to satisfy the clear legislative purpose of the full text requirement. This is a plain, direct, and facial violation of the Elections Code. The Referendum petition must be rejected.

## **2. City Clerks Have a Ministerial Duty to Reject an Initiative Petition that Fails to Comply With the Requirements of the Elections Code.**

Pursuant to the Elections Code and well-established case law, where, as here, a referendum petition fails to comply with mandatory statutory requirements, local elections officials have the *ministerial duty* to reject the petition and must refuse to take any action on it. (See, e.g., *Billig v. Voges* (1990) 223 Cal.App.3d 962, 969 [clerks have a ministerial duty to reject a petition that facially violates the statutory requirements of the Elections Code].) California courts have not wavered on this point:

[C]lerks throughout the state are mandated by the constitution to implement and enforce the statute’s procedural requirements. *In the instant case, respondent had the clear and present ministerial duty to refuse to process appellants’ petition because it did not comply with the procedural requirements.*

(*Id.* [upholding clerk's rejection of petition for omitting a portion of the measure's full text (emphasis added)]; see also *Myers v. Patterson* (1987) 196 Cal.App.3d 130, 136 [rejecting argument that clerk could in any way waive proponents' statutory violation: "Defendant's duties as city registrar include the *ministerial* function of ascertaining whether the procedural requirement for submitting an initiative measure have been met" (internal quotations omitted)].)

When faced with petition errors and omissions, the clerk must not be put in a position where she must make a judgment call, resort to her own discretion, or rely on extrinsic evidence regarding the petition's alleged compliance with the law:

If, according to appellants, a petition must be accepted regardless of its compliance with the statute, then the statute is unenforceable. . . .

Therefore, a city clerk who refuses to accept a petition for noncompliance with the statute is only performing a ministerial function involving no exercise of discretion.

(*Billig, supra*, 223 Cal.App.3d at 968-69 [rejecting the flawed argument that a clerk can simply ignore petition errors (underscoring added)]; see also *Ley v. Dominguez* (1931) 212 Cal. 587, 602 [the "duties and powers of the city clerk in reference to his examination of referendum petitions ... is purely ministerial and not judicial" (underscoring added)].)<sup>1</sup>

Based on the foregoing, it is without question that the Referendum is not entitled to be processed for the ballot or to otherwise be acted upon. (See, e.g., *Billig, supra*, 223 Cal.App.3d at 969.) Given that the City's duties in this respect are purely ministerial, the City has no authority to excuse proponents' failure to comply with the law. To the contrary, the City is obligated, *as a matter of law*, to

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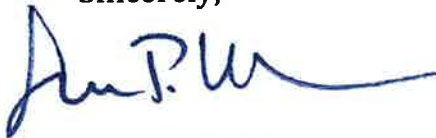
<sup>1</sup> See also *Rodriguez v. Solis* (1991) 1 Cal.App.4th 495, 501-02 ["A ministerial act is an act that a public officer is required to perform in a prescribed manner in obedience to the mandate of legal authority and without regard to his own judgment or opinion concerning such act's propriety or impropriety, when a given state of facts exist. Discretion, on the other hand, is the power conferred on public functionaries to act officially according the dictates of their own judgment" (underscoring added)].) Thus, there is simply no room for discretion or judgment on the part of the clerk when reviewing the petition.

Grace Schmidt, City Clerk  
December 6, 2018  
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reject this defective Referendum in order to avoid the waste of taxpayer funds and protect the integrity of the electoral process.

Thank you for your prompt attention to this letter. Please note that we reserve all rights in connection with this matter. I can be reached at (415) 389-6800. If I am not available to speak with you, please speak to Hilary Gibson, who is working with me on this matter.

Sincerely,



Sean P. Welch

SPW/pas

cc: Rocio Fierro, City Attorney  
Mayor Darcy Paul and City Council



# **EXHIBIT A**

Table LU-1 on page LU-13 in City of Cupertino Resolution No. 18-085:

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	2,447,800	2,464,613	17,113	404	826	122	1,336	1,805	449
Vallejo Town Center	Tier 1	1,207,774	600,000	-	750,000	750,000	148	339	191	-	2,034	2,034
	Tier 2	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	-	123	123	-	49	146	97
N. Vallejo	133,147	133,147	-	3,069,676	3,069,676	-	315	315	-	564	1154	600
S. De Anza	352,283	352,283	-	130,708	130,708	-	315	315	-	6	6	-
Bubb	-	-	-	444,753	444,753	-	-	-	-	-	-	-
Monte Vista Village	94,051	99,698	5,647	443,140	456,735	13,595	-	-	-	828	878	50
Other	144,964	144,964	-	119,894	119,894	-	-	-	-	18,039	18,166	127
Major Employers	-	-	-	109,938	633,053	523,118	-	-	-	-	-	-
With Vallejo Town Ctr Tier 1	3,632,065	3,823,208	-	10,220,005	10,220,005	1,116	1,429	313	-	21,412	24,939	3,527
Citywide	3,632,065	4,430,982	798,917	11,470,005	11,470,005	1,116	1,429	313	-	21,412	23,294	1,682
With Vallejo Town Ctr Tier 2	3,632,065	3,708,208	-	10,970,005	10,970,005	2,053,826	1,116	1,429	313	-	25,828	4,416

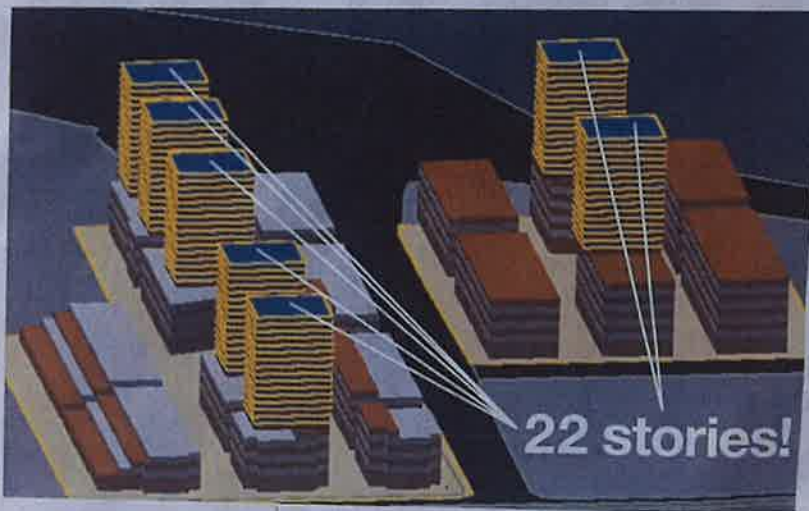
Table LU-1 in the Referendum Petition of City of Cupertino Resolution No. 18-085:

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	Tier 2	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
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S. De Anza	352,283	352,283	-	130,708	130,708	-	315	315	-	6	6	-
Bubb	-	-	-	444,753	444,753	-	-	-	-	-	-	-
Monte Vista Village	94,051	99,698	5,647	443,140	456,735	13,595	-	-	-	828	878	50
Other	144,964	144,964	-	119,894	119,894	-	-	-	-	18,039	18,166	127
Major Employers	-	-	-	109,938	633,053	523,118	-	-	-	-	-	-
With VTC Tier 1	3,632,065	3,823,208	-	10,220,005	10,220,005	1,116	1,429	313	-	21,412	24,939	3,527
Citywide	3,632,065	4,430,982	798,917	11,470,005	11,470,005	1,116	1,429	313	-	21,412	23,294	1,682
With VTC Tier 2	3,632,065	3,708,208	-	10,970,005	10,970,005	2,053,826	1,116	1,429	313	-	25,828	4,416

# **EXHIBIT B**

Minimum Public (on ground)	50
Open Space (Aired)	

The 2018 Vallco plan is *much worse* than what we voted down in 2016 as Measure D.



- Still hiding buildings up to 9 stories under green roof
- Adding 13 stories *above* the green roof!
- Went from 800 to 2,400 apartments
- Still with almost 2,000,000 sq. ft. of office
- Retail reduced *again* by 1/3
- We'll say it again: *seven 22-story buildings!!!*

**BETTER  
CUPERTINO**

- *Informed, empowered residents who are engaged in civic matters*
- *Transparency and accountability in local and regional government*
- *Sensible growth aligned with the needs and interests of a majority of residents*

web: [bettercupertino.org](http://bettercupertino.org) • newsletter: [bettercupertino.org/contact](http://bettercupertino.org/contact) • support: [bettercupertino.org/donate](http://bettercupertino.org/donate)



**Total Square Feet At Vallco**



**The 2018 Vallco plan is much worse than what we voted down in 2016 as Measure D.**



- Still hiding buildings up to 9 stories under green roof
- Adding 13 stories above the green roof
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- Retail reduced again by 1/3
- We'll say it again: seven 22-story buildings!!

**BETTER CUPERTINO**

**Out-of-town  
Paid  
Disrupters**

**SERVING THE  
DEVELOPER**



**Now it's this:**

