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FILED
JAN 08 2020
Clerk of the Court
Superior Court of CA County of Santa Clara
BY *[Signature]* DEPUTY
T. ARMENTA

6 Attorneys for Defendant/Respondent
CITY OF CUPERTINO

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

11 VALLCO PROPERTY OWNER LLC,
12 Plaintiff/Petitioner,
13 v.
14 CITY OF CUPERTINO, and DOES 1-10,
15 Defendants/Respondents.

Case No. 19CV355457

**STIPULATION AND JOINT REQUEST
TO EXTEND STAY OF LITIGATION
TO INCLUDE ADMINISTRATIVE
RECORD PENDING OUTCOME OF
RELATED CASE; [PROPOSED]
ORDER TO STAY LITIGATION**

Action Filed Sept. 20, 2019

18 This litigation challenges Defendant/Respondent City of Cupertino’s August 20, 2019,
19 adoption of amendments to the City’s General Plan, and September 3, 2019 adoption of related
20 zoning amendments, regarding a roughly 51-acre property (“Vallco Property”) owned by
21 Plaintiff/Petitioner Vallco Property Owner LLC (“Vallco”). On October 28, 2019, this Court
22 entered an order staying this litigation, with the exception of the deadline of for preparation and
23 certification of the administrative record, in light of (i) the pending decision in a case before this
24 Court challenging the City’s approval of a mixed-use development project on that same property
25 pursuant to Senate Bill 35 (*Friends of Better Cupertino v. City of Cupertino* Santa Clara County
26 Superior Court, Case No. 18CV330190 (“SB 35 Litigation”)) and (ii) the commencement of the
27 City’s effort to plan for an alternative development for the Vallco Property. The Court heard oral
28 argument in the SB 35 Litigation on December 19, 2019, and the Parties now wish to extend the

1 deadline for preparation of the administrative record to be conterminous with the stay in the
2 remainder of this litigation.

3 **BACKGROUND**

4 CEQA provides that in an action such as this, the City must prepare and certify the record
5 of administrative proceedings (“Administrative Record”) within 60 days from the date the
6 plaintiff/petitioner has filed a request for preparation of the same. That time limit may be
7 extended upon stipulation or for good cause, and CEQA provides that “such extensions shall be
8 liberally granted by the court” where appropriate. *See* Pub. Resources Code § 21167.6(b)-(c).
9 By prior stipulation and order, the deadline for certification of the record is January 10, 2020.
10 The City has compiled the bulk of the documents that could potentially comprise the
11 administrative record, but has not yet reviewed those documents for comprehensiveness or
12 applicable privileges.

13 The SB 35 Litigation addresses the Vallico Property. Moreover, the City is commencing
14 an additional planning effort for the Vallico Property. Accordingly, to avoid potentially
15 unnecessary litigation expenses, and to preserve the Court’s and the parties’ resources (and, in
16 the City’s case, to devote its resources to the forthcoming planning effort), the parties requested,
17 and this Court ordered, that, with the exception of the administrative record, this litigation be
18 stayed in all respects until thirty (30) days after the Court issues a final judgment in the SB 35
19 Litigation. The parties now request that the deadline for the administrative record be stayed to
20 coincide with the remainder of the stay.

21 **STAY AGREEMENT**

22 Subject to this Court’s approval, the City and Vallico, by and through their counsel of
23 record, agree as follows:

24 1. The deadline for preparation and certification of the Administrative Record shall
25 be stayed in all respects until thirty (30) days after the Court issues a final judgment in the SB 35
26 Litigation.

27 2. Either party may seek to lift the stay by *ex parte* application with 7-days’ notice to
28 the other party.

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DATED: January 7, 2020

COBLENTZ PATCH DUFFY & BASS LLP

By: 
KATHARINE VAN DUSEN

Attorneys for Plaintiff/Petitioner
VALLCO PROPERTY OWNER LLC

DATED: January 7, 2020

SHUTE, MIHALY & WEINBERGER LLP

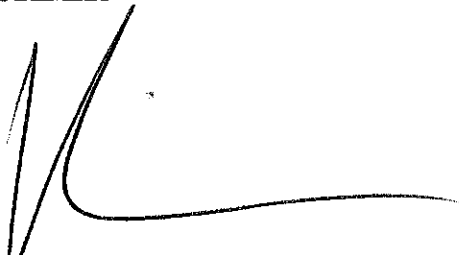
By: 
ROBERT S. PERLMUTTER

Attorneys for Defendant/Respondent
CITY OF CUPERTINO

~~PROPOSED~~ ORDER

IT IS SO ORDERED.

DATED: 1/8, 2020


JUDGE OF THE SUPERIOR COURT
Hon. Helen E. Williams

1197568.2



**SUPERIOR COURT OF CALIFORNIA
 COUNTY OF SANTA CLARA
 DOWNTOWN COURTHOUSE
 191 NORTH FIRST STREET
 SAN JOSÉ, CALIFORNIA 95113
 CIVIL DIVISION**

FILED
 JAN 08 2020
 Clerk of the Court
 Superior Court of CA County of Santa Clara
 BY I. Armenta DEPUTY
I. ARMENTA

RE: **VALLCO PROPERTY OWNER LLC vs CITY OF CUPERTINO**
 Case Number: **19CV355457**

PROOF OF SERVICE

STIPULATION AND JOINT REQUEST TO EXTEND STAY OF LITIGATION TO INCLUDE ADMINISTRATIVE RECORD PENDING OUTCOME OF RELATED CASE; ORDER TO STAY LITIGATION was delivered to the parties listed below the above entitled case as set forth in the sworn declaration below.

If you, a party represented by you, or a witness to be called on behalf of that party need an accommodation under the American with Disabilities Act, please contact the Court Administrator's office at (408) 882-2700, or use the Court's TDD line (408) 882-2690 or the Voice/TDD California Relay Service (800) 735-2922.

DECLARATION OF SERVICE BY MAIL: I declare that I served this notice by enclosing a true copy in a sealed envelope, addressed to each person whose name is shown below, and by depositing the envelope with postage fully prepaid, in the United States Mail at San Jose, CA on January 08, 2020. CLERK OF THE COURT, by Ismael Armenta, Deputy.

- cc: Jonathan R Bass Coblenz Patch Duffy & Bass LLP One Montgomery St Suite 3000 San Francisco CA 94104-5500
 Heather Marie Minner Shute Mihaly & Weinberger LLP 396 Hayes St San Francisco CA 94102
 Katharine T Van Dusen COBLENTZ PATCH DUFFY & BASS LLP One Montgomery Street suite 3000 SAN FRANCISCO CA 94104