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(ENDORSED)  
**FILED**  
OCT 28 2019  
Clerk of the Court  
Superior Court of CA County of Santa Clara  
BY L. ARMENTA DEPUTY

6 Attorneys for Defendant/Respondent  
7 CITY OF CUPERTINO

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

10  
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 STAY LITIGATION PENDING  
OUTCOME OF RELATED CASE;  
~~PROPOSED~~ ORDER TO STAY  
LITIGATION**

16  
17 This litigation challenges Defendant/Respondent City of Cupertino’s August 20, 2019,  
18 adoption of amendments to the City’s General Plan, and September 3, 2019 adoption of related  
19 zoning amendments, regarding a roughly 51-acre property (“Vallco Property”) owned by  
20 Plaintiff/Petitioner Vallco Property Owner LLC (“Vallco”). As set forth below, Vallco and the  
21 City have agreed to stay this litigation in light of (i) the pending decision in a case before this  
22 Court challenging the City’s approval of a mixed-use development project on that same property  
23 pursuant to Senate Bill 35 (*Friends of Better Cupertino v. City of Cupertino* Santa Clara County  
24 Superior Court, Case No. 18CV330190 (“SB 35 Litigation”)) and (ii) the commencement of the  
25 City’s effort to plan for an alternative development for the Vallco Property.

26 **BACKGROUND**

27 In this action, Vallco challenges three City resolutions and two related zoning ordinances  
28 that amended the City’s General Plan and zoning ordinance to, among other things, change the

1 permitted land uses and designations for the Vallco Property. Specifically, Vallco challenges  
2 the City Council's approval of Resolution Nos. 19-108, 19-109, 19-110, and Ordinance Nos. 19-  
3 2187 and 19-2188 (collectively, "Amendments"). Vallco alleges that the City violated the State  
4 Planning and Zoning Law and the California Environmental Quality Act "(CEQA)" in  
5 approving the Amendments. The City disputes Vallco's allegations.

6 CEQA provides that in an action such as this, the City must prepare and certify the record  
7 of administrative proceedings ("Administrative Record") within 60 days from the date the  
8 plaintiff/petitioner has filed a request for preparation of the same. That time limit may be  
9 extended upon stipulation or for good cause, and CEQA provides that "such extensions shall be  
10 liberally granted by the court" where appropriate. *See* Pub. Resources Code § 21167.6(b)-(c).  
11 Absent an extension, the Administrative Record in this action is currently set to be certified no  
12 later than November 25, 2019.

13 In the related SB 35 Litigation, which was filed on June 25, 2018, Friends of Better  
14 Cupertino challenges the City's 2018 approval of a mixed use development project on the  
15 Vallco Property. The City issued these approvals pursuant to the streamlined approval process  
16 adopted by the Legislature in SB 35. After several rounds of motions and hearings, the  
17 dispositive hearing on the merits of the SB 35 Litigation is currently scheduled to be heard on  
18 November 1, 2019, in Department 10 of this Court before the Honorable Helen E. Williams.

19 The SB 35 Litigation addresses the Vallco Property. Moreover, the City is commencing  
20 an additional planning effort for the Vallco Property. Accordingly, to avoid potentially  
21 unnecessary litigation expenses, and to preserve the Court's and the parties' resources (and, in  
22 the City's case, to devote its resources to the forthcoming planning effort), the parties have  
23 stipulated to stay this litigation as set forth below.

#### 24 **STAY AGREEMENT**

25 Subject to this Court's approval, the City and Vallco, by and through their counsel of  
26 record, agree as follows:

27 1. With the exception of the deadline for preparation and certification of the  
28 Administrative Record, this litigation shall be stayed in all respects until thirty (30) days after

1 the Court issues a final judgment in the SB 35 Litigation.

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

4 3. The deadline for preparation and certification of the Administrative Record shall  
5 be extended for 46 days, until January 10, 2020. The parties have agreed that this paragraph of  
6 the stipulation shall take effect even without court approval, as authorized by Public Resources  
7 Code section 21167.6(c).

8 DATED: October 25, 2019

COBLENTZ PATCH DUFFY & BASS LLP



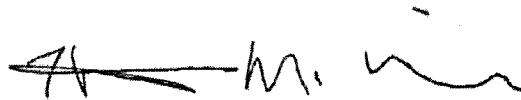
9  
10 By:

11 KATHARINE VAN DUSEN

12 Attorneys for Plaintiff/Petitioner  
13 VALLCO PROPERTY OWNER LLC

14  
15 DATED: October 24, 2019

SHUTE, MIHALY & WEINBERGER LLP



16  
17 By:

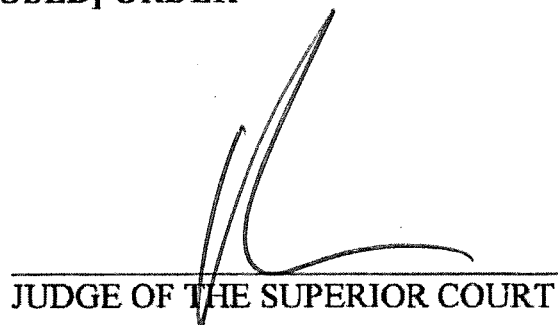
18 HEATHER M. MINNER

19 Attorneys for Defendant/Respondent  
20 CITY OF CUPERTINO

21  
22 **[PROPOSED] ORDER**

23 IT IS SO ORDERED.

24 DATED: 10/28, 2019

  
25  
26  
27 JUDGE OF THE SUPERIOR COURT

Hon. Helen E. Williams



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

(ENDORSED)  
**FILED**  
OCT 28 2019  
Clerk of the Court  
Superior Court of CA County of Santa Clara  
BY I. ARMENTA DEPUTY

**Jonathan R. Bass  
Coblentz Patch Duffy & Bass LLP  
One Montgomery St Suite 3000  
San Francisco CA 94104-5500**

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

**PROOF OF SERVICE**

**STIPULATION AND JOINT REQUEST TO STAY LITIGATION 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.

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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 October 28, 2019. CLERK OF THE COURT, by Ismael Armenta, Deputy.

cc: Martin Abraham 201 S Santa Fe Ave Ste 101 Los Angeles CA 90012