

**Q. Kitty Moore (dated June 21, 2018, 5:27PM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment Q.1:** Please place this in the Public Record for Vallco Specific Plan DEIR and Vallco SB 35 for review.

As you are aware, the Vallco site fails SB 35 qualifications due to environmental issues with the site.

**Response Q.1:** Refer to Master Response 1.

**Comment Q.2:** Additionally, I see no indication that the site had a thorough review when the City Council voted to December 4, 2014 to designate it a Priority Housing site. There was an Environmental Impact Report performed even, yet there does not appear to be a study on a site which had a gas station, two automotive centers, a giant cooling tower for the ice rink, and at least two above ground storage tanks. Reading through the Appendices for the Vallco DEIR:

Vallco DEIR: <http://www.cupertino.org/home/showdocument?id=20865>

Appendix E Part 1 (Environmental Site Assessment by Cornerstone Earth Group):  
<http://www.cupertino.org/home/showdocument?id=20875>

Appendix E Part 2 ( Environmental Site Assessment by Cornerstone Earth Group):  
<http://www.cupertino.org/home/showdocument?id=20874>

It is dismaying that the Vallco owner did not fill out the questionnaire provided by Cornerstone Earth Group regarding potential hazardous materials (a page from the Simeon questionnaire is in the attached file) and provided three older and mutually conflicting ESAs.

None of the previous ESAs mention the 1,000 gallon waste oil Underground Storage Tank on the west side of the Sears Automotive Building, yet the current ESA shows a photo of the lid presumably of the tank, and did not lift the lid! The tank apparently shows up on building plans from 1969.

**Response Q.2:** Refer to Section 5.3 Response AAA.12.

The discussion in the Draft EIR is based in part on the Phase I Environmental Site Assessment (ESA) prepared by Cornerstone Earth Group, which is included in Appendix E of the Draft EIR. The ESA was prepared in compliance with standard practice for environmental site assessments (ASTM E 1527-13, as explained on page 1 of the ESA). The scope of work performed for the ESA included site reconnaissance, drive-by observation of adjoining properties, acquisition and review of regulatory database reports of public records for the site, information on files at government agencies, and review of maps and aerial photographs, as summarized on ESA, pages 3 and discussed on page 26. As stated on page 26 of the ESA: "Sand Hill

Property Company did not complete the provided questionnaire; however, they referred Cornerstone to the previously completed reports listed in Table 4 and provided copies of each. They also provided access to the Site and contact information for Mr. Mike Rohde, General Manager of Vallco Shopping Mall, “who was briefly interviewed during our Site visit.” After this scope of work was performed, Cornerstone concluded that “[n]o significant data failures were identified during this Phase 1 ESA” (ESA, p. 31).

The ESA discusses the possible presence of a 1,000 gallon waste oil underground storage tank (UST) on-site and that there were no records found pertaining to its removal (page 137 of the Draft EIR). As stated on page 20 of the ESA: “A square access cover constructed of concrete was observed at the building exterior, in the general vicinity of the depicted waste oil UST. The access cover could not be removed with the tools available at the time of our visit.” Mitigation measure MM HAZ-1.2 on page 141 of the Draft EIR specifically addresses and mitigates the impact from the potential waste oil UST on-site: “The potential presence of a waste oil UST shall be further investigated by removing the access cover and, if uncertainty remains, the subsequent performance of a geophysical survey. If a UST is identified, it shall be removed in coordination with SCCFD and SCCDEH, and underlying soil quality shall be evaluated. If no UST is identified, soil quality at the location of the waste oil UST, as depicted in the 1969 building plan, shall be evaluated via the collection of soil samples from borings for laboratory analysis.” The project, with the implementation of the identified mitigation measures in the Draft EIR, would not result in significant hazards and hazardous materials impacts.

Refer to Master Response 5. The comment on the General Plan EIR is not a comment on the adequacy of this EIR.

**Comment Q.3:** The potential for contamination from pesticide use historically is mentioned, yet no samples were taken to deny their presence. Lead and arsenic used to be mixed with water (lead arsenate) to spray the trees locally and then they moved on to DDT. The site was an orchard at least from 1939 through 1974. The buildings show up as early as 1897 so it may be far longer pesticide use than we can imagine. Was all the soil piled on the north side of JC Penney, concentrating pesticides in it?

**Response Q.3:** Refer to Section 5.3 Response AAA.12. The Draft EIR (page 140) discloses that historic agricultural use may have resulted in potential on-site sources of soil and/or groundwater contamination. Most of the project site is developed and covered with pavement and buildings. The project site is also partially occupied. For these reasons, soil testing was not completed; rather, a comprehensive Site Management Plan and Health and Safety Plan, as well as other measures to remove residual hazardous materials on-site, shall be completed during demolition activities to manage any impacted soil prior to disposal and/or reuse on the site. As stated on pages 140-142 of the Draft EIR, when future development implementing the Specific Plan is proposed, it would be required to implement mitigation measures MM HAZ-1.1 through MM HAZ-1.4 to reduce on-site hazardous materials impacts from demolition, excavation, and construction by creating and implementing a Site Management Plan and Health and Safety Plan to establish practices for properly

handling contaminated materials, implementing measures during demolition activities to identify, remove, and clean up hazardous materials (such as contaminated soil) on-site, properly closing groundwater monitoring wells, and obtaining site closure from regulatory agencies.

**Comment Q.4:** I had been told the Main Street Apartments required some soil haul off due to contamination. I could not find this information made public. The 19,333 Vallco Parkway site is prohibited from residential by deed restriction. The contamination area is about 100' from the Vallco site. Is it possible the PCE and Freon were not always dumped out their own back door? Who would know this?

**Response Q.4:** The scope of this EIR does not include the Main Street Cupertino site or its soil off-haul. Refer to Section 5.2 Response II.L.5.

**Comment Q.5:** Please, when the non-compliance for SB 35 has been determined and announced, schedule the hearings for the consideration of removal of Vallco as a Housing Element Priority site.

**Response Q.5:** Comment noted. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

## **ATTACHMENT TO COMMENT LETTER**

**Comment Q.6:** Survey of Environmental Reporting Pertaining to Vallco Site USTs and Hazardous Materials

Vallco SB 35 and Vallco Specific Plan Site Usage

### **SUMMARY**

There are gross omissions, in the Vallco DEIR environmental reporting, namely, that a 1,000 gallon waste oil underground storage tank (UST) from 1969 was never filed as being removed and the 2018 site inspection by Cornerstone Earth Group found a lid in the location where that UST would have been located and elected to not open the lid to look inside, then claim that the Proposed Project and alternatives would have no significant impact.

**Response Q.6:** Refer to Section 5.2 Response II.Q.2.

**Comment Q.7:** This potential UST is mentioned in the current ESA, but the three reports provided by the Vallco property owner dated 2003, 2006, and 2013 which are included in the DEIR Appendices, do not mention the 1,000 gallon tank. Additionally, the Vallco property owner did not fill out the questionnaire provided by Cornerstone Earth Group and did not provide previous property owner information.

**Response Q.7:** Refer to Master Response 5 and Section 5.2 Response II.Q.2 and Section 5.3 Response AAA.12.

**Comment Q.8:** The whereabouts of a 500 gallon UST is unknown:

Fire Department records contained a contract dated June 12, 1986 between Sears, Roebuck and Company and K.E. Curtis Construction Company for the removal of a 500 gallon UST. No details regarding the contents or location of the UST were described in the contract, and no other records pertaining to a UST removal at Sears in 1986, or later, were identified during this study. It appears plausible that this contract was for the removal of the waste oil UST discussed above (if the UST is no longer present). Alternatively, a different undocumented UST may have been removed from the Site.

(Cornerstone Earth Group, Appendix E Part 1, p. 28)

**Response Q.8:** As discussed in the Draft EIR on pages 140-142, the project will implement mitigation measures MM HAZ-1.1 through MM HAZ-1.4, which include preparing and implementing a Site Management Plan (SMP) that shall document former and suspect UST locations, evaluate soil quality, and obtain facility closures to reduce on-site hazardous materials impacts to a less than significant level. Refer to Section 5.2 Response II.Q.2 and Section 5.3 Response AAA.12.

**Comment Q.9:** Readings exceeding allowable for residential:

In October 1994, the dispenser islands, product piping and vent lines associated with the gasoline USTs were removed. Subsequent soil sampling revealed petroleum hydrocarbon contamination above laboratory reporting limits in 5 of 20 soil samples collected from the gasoline UST piping area and in 4 of 5 soil samples collected from the oil UST piping area.

- TPHg was detected above laboratory reporting limits in 3 of 25 soil samples analyzed at concentrations ranging between 25 mg/kg and 3,000 mg/kg. The detected concentrations of TPHg exceeded the Water Board's Tier 1 ESL for TPHg (100 mg/kg) in 1 of the 25 samples (sample 2AST).
- Benzene was detected above laboratory reporting limits in 5 of 25 soil samples at concentrations ranging between 0.009 mg/kg and 2.4 mg/kg. The detected concentrations of benzene exceeded its residential DTSC-SL<sup>2</sup> (0.33 mg/kg) in 1 of the 25 samples (sample 2AST).
- TRPH was detected above laboratory reporting limits in 4 of 5 soil samples analyzed at concentrations ranging between 1 mg/kg and 1,300 mg/kg. The detected

<sup>2</sup> BTEX concentrations were compared to screening levels established by the California Department of Toxic Substances Control (DTSC) Human and Ecological Risk Office (HERO) (DTSC-SLs, January 2018). As recommended by the DTSC, US EPA Regional Screening Levels (RSLs) were used for analytes for which no DTSC-SLs have been established.

(Cornerstone Earth Group, Appendix E, Part 1, p. 11)

**Response Q.9:** The excerpt above is from page 11 of the ESA included in Appendix E of the Draft EIR. The discussion regarding the soil samples referenced above on the following page states: "In November 1994, approximately 4.5 cubic yards of soil reportedly was removed from the location of sample (2AST) in which the greatest concentrations of TPHg, benzene and ethylbenzene were previously reported. Analyses of a second samples collected following the soil removal work did not



detect TPHg or BTEX compounds.” The elevated levels of TPHg and BTEX (including benzene), therefore, were removed from the project site.

**Comment Q.10:** There is an existing on site battery acid neutralization chamber, not removed.

**Response Q.10:** Mitigation measure MM HAZ-1.2 on page 141 of the Draft EIR includes a measure requiring that the acid neutralization chamber be cleaned and removed in coordination with the Santa Clara County Fire Department and Santa Clara County Department of Environmental Health. The measure also requires soil quality below the chamber be evaluated. Implementation of this measure would reduce impacts from the acid neutralization chamber to a less than significant level. Refer to Section 5.3 Response AAA.12.

**Comment Q.11:** There is no mention of whether there are remaining USTs from when the orchard was operating (which was up until 1974 according to the aerial photographs). There is a group of buildings near the intersection of N. Wolfe Rd. and Stevens Creek Blvd. which may have had a UST. Sedgwick annex site, for instance, had a UST presumably for farm equipment. One building historically shows up on Vallco Parkway which may have had a UST.

**Response Q.11:** No information was identified during the ESA indicating that USTs were associated with the former orchard or associated structures. Refer to Section 5.2 Responses II.Q.2 and II.Q.8, and Section 5.3 Response AAA.12.

**Comment Q.12:** The ice rink had allegedly required some environmental cleanup which is undocumented.

**Response Q.12:** The oil staining and spilled oil at the Cupertino Ice Center was identified in the ESA and Draft EIR. Mitigation measure MM HAZ-1.2 on page 142 of the Draft EIR includes the following measure: “Existing staining and spilled oil on-site, including at the Sears Automotive Center and Cupertino Ice Center, shall be properly cleaned. When these facilities are demolished, an Environmental Professional shall be present to observe underlying soil for evidence of potential impacts and, if observed, collect soil samples for laboratory analysis.” MM HAZ-1.1 requires preparation and implementation of a Soil Management Plan and Health and Safety Plan to properly manage any impacted soil, soil vapor, or groundwater identified on the site. Implementation of these measures would reduce impacts from the oil staining and spilled oil to a less than significant level. Refer to Section 5.3 Response AAA.12.

**Comment Q.13:** There was no testing for pesticides while mentioning they were likely used. Pesticides used historically in the area include lead arsenate and DDT until they were banned. *“In Santa Clara, officials also have learned that old farmland often holds surprises. At the city’s Ulistac Natural Area, which once held an orchard and then a golf course, testing to create a wetland revealed that significant amounts of soil were contaminated with DDT, lead and arsenic...”* (Lynch)

**Response Q.13:** Refer to Section 5.2 Response II.Q.3.

**Comment Q.14:** Removing contaminated soil is expensive and may require long haul distances not anticipated in the Vallco DEIR regarding GHG:

<http://www.santacruzsentinel.com/article/NE/20150811/NEWS/150819937>

**Response Q.14:** Refer to Section 5.2 Response II.E.42.

**Comment Q.15:** Since no soil samples to determine if lead arsenate or DDT are in the soils, there can be no way of denying their presence. Additionally, the JC Penney site has a large mound of soil, about 20' above natural prior grade which may potentially have an even higher concentration of pesticide contamination due to collecting and depositing soil from other areas of the site there.

**Response Q.15:** Refer to Section 5.2 Response II.Q.3.

**Comment Q.16:** The site has not been cleared for residential uses and it is not clear whether the 1,000 gallon storage tank and associated piping has been removed, it seems it is in place.

**Response Q.16:** There are no restrictions on use of the project site and the results of the hazardous materials investigations completed to date and summarized in the Draft EIR do not identify any issues limiting residential use on the site. As concluded in Section 3.9 Hazards and Hazardous Materials of the Draft EIR and supporting ESA in Appendix E of the Draft EIR, the project (which includes residential development), with the implementation of the identified mitigation measures, would not result in significant hazards and hazardous materials impacts. Refer to pages 134-146 of the Draft EIR.

**Comment Q.17:** The site was designated on a map in the General Plan as retail/office/residential, a change which occurred in the General Plan Amendment December 4, 2014, and there was *no environmental survey* of the site for suitability as residential. See City Council resolution 14-211, December 4, 2014 which references the DEIR for the GPA. This site needs to be removed from the listings for residential use and have hearings according to the process outlined in the General Plan after May 31, 2018.

**Response Q.17:** Refer to Master Response 5. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**Comment Q.18:** Due to the findings on the site and need for further sampling, this site should not be included for residential until substantial environmental review has been performed.

**Response Q.18:** Refer to Section 5.2 Responses II.Q.3 and II.Q.16.

**Comment Q.19:** VALLCO SPECIAL AREA DEIR INDICATES PROJECT ON LIST OF HAZARDOUS MATERIALS SITES PURSUANT TO GOV. CODE 65962.5 NOT SB 35 ALLOWABLE

“Impact HAZ-2: The project (and project alternatives) is located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5;” See Draft Environmental Impact Report for Vallco Specific Plan Special Area, SCH# 2018022021,

p. 143, PDF 179. <http://www.cupertino.org/home/showdocument?id=20887>

The JC Penney's and the Sears Automotive sites are on the Leaking Underground Storage Tank (LUST) List compiled by the State Water Resources Control Board.

[http://geotracker.waterboards.ca.gov/profile\\_report.asp?global\\_id=T0608500770](http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T0608500770)

[http://geotracker.waterboards.ca.gov/profile\\_report.asp?global\\_id=T0608552828](http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T0608552828)

**Response Q.19:** Refer to Master Response 1.

**Comment Q.20:** Because no previous study provided by the Vallco property owner mentioned the 1,000 gallon UST which the current ESA mentions, and because that tank is from 1969, and the lack of a clear timeline on the USTs on the site, there may be others not described.

**Response Q.20:** Refer to Section 5.2 Responses II.Q.2, II.Q.3 and Section 5.3 Response AAA.12.

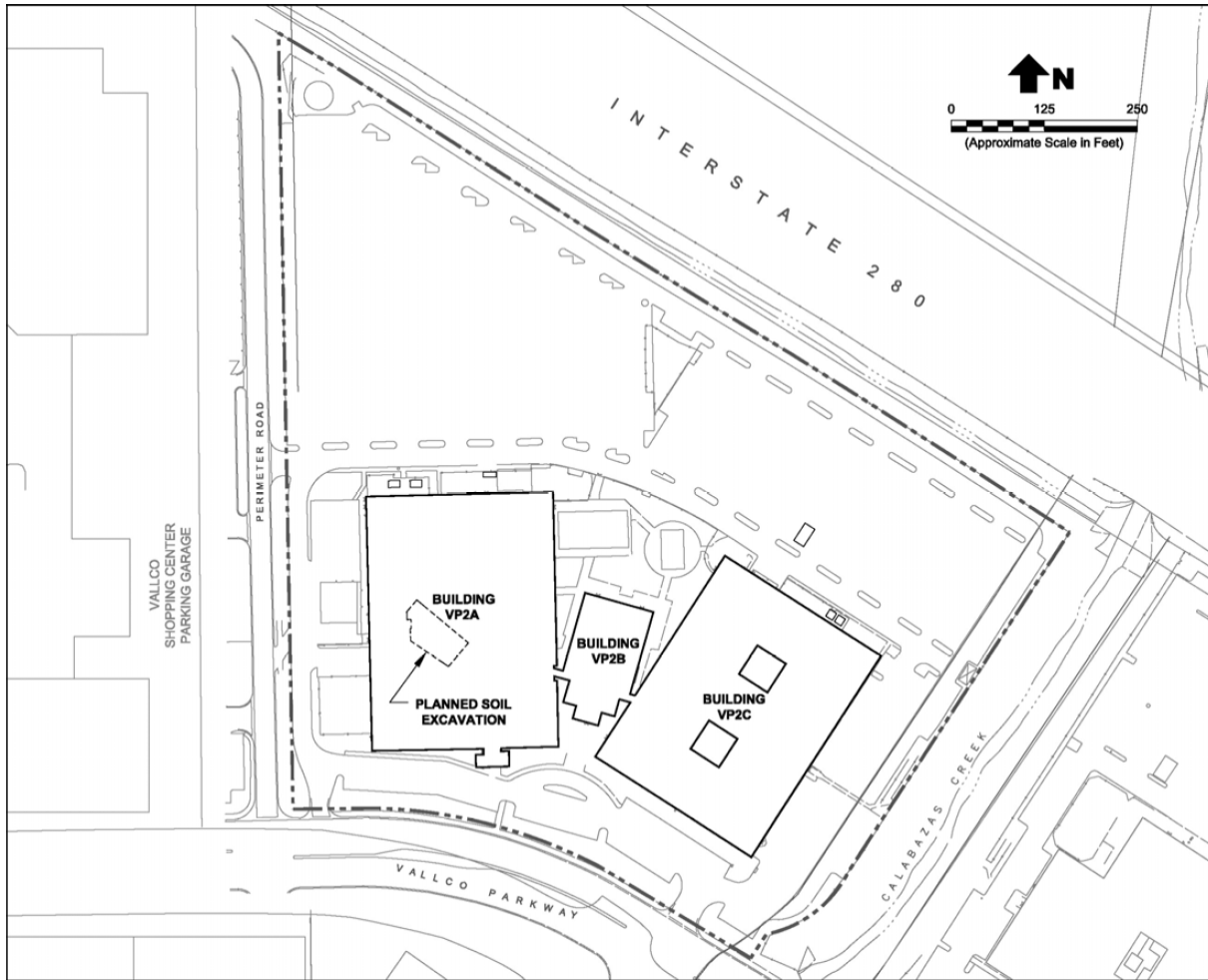
**Comment Q.21:** Lastly, state and federal law requires reporting on USTs, if the cover found is indeed the 1,000 gallon UST described, it has to be reported:

[https://www.waterboards.ca.gov/ust/tech\\_notices/docs/ca\\_fed\\_regs.pdf](https://www.waterboards.ca.gov/ust/tech_notices/docs/ca_fed_regs.pdf)

**Response Q.21:** Refer to Section 5.2 Response II.Q.3 and Section 5.3 Response AAA.12. Facility closures (including removal of USTs) shall be coordinated with the Santa Clara County Fire Department and Santa Clara County Department of Environmental Health.

**Comment Q.22:** Directly adjacent to the Vallco mall site is 19,333 Vallco Parkway, which is prohibited from housing, day cares, etc.:

[http://geotracker.waterboards.ca.gov/profile\\_report?global\\_id=T10000000740](http://geotracker.waterboards.ca.gov/profile_report?global_id=T10000000740)



The 19,333 Vallco site contamination included PCE and Freon 113, the site is closed in the public record but has a deed restriction:

- DAY CARE CENTER PROHIBITED
- ELDER CARE CENTER PROHIBITED
- HOSPITAL USE PROHIBITED
- LAND USE COVENANT
- NOTIFY AFTER CHANGE OF PROPERTY OWNER
- NOTIFY PRIOR TO CHANGE IN LAND USE
- PUBLIC OR PRIVATE SCHOOL FOR PERSONS UNDER 21 PROHIBITED
- RESIDENCE USE PROHIBITED

**Response Q.22:** Refer to Section 5.2 Response II.L.5. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**Comment Q.23:** TEXT OF SB 35 GOV. CODE 69513.4(A)(6)(E).  
Gov. Code § 69513.4(a)(6)(E):

(a) A development proponent may submit an application for a development that is subject to the streamlined, ministerial approval process provided by subdivision (b) and not subject to a conditional use permit if the development satisfies all of the following objective planning standards:

(6) The development is not located on a site that is any of the following:

(E) A hazardous waste site that is listed pursuant to Section 65962.5 or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Section 25356 of the Health and Safety Code, unless the Department of Toxic Substances Control has cleared the site for residential use or residential mixed uses.

**Response Q.23:** Refer to Master Response 1. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**Comment Q.24:** TEXT OF GOV. CODE 65962.5.

## **GOVERNMENT CODE - GOV**

### **TITLE 7. PLANNING AND LAND USE [65000 - 66499.58]**

( Heading of Title 7 amended by Stats. 1974, Ch. 1536. )

### **DIVISION 1. PLANNING AND ZONING [65000 - 66210]**

( Heading of Division 1 added by Stats. 1974, Ch. 1536. )

### **CHAPTER 4.5. Review and Approval of Development Projects [65920 - 65964.1]**

( Chapter 4.5 added by Stats. 1977, Ch. 1200. )

### **ARTICLE 6. Development Permits for Classes of Projects [65960 - 65964.1]**

( Article 6 added by Stats. 1978, Ch. 1271. )

- (a) The Department of Toxic Substances Control shall compile and update as appropriate, but at least annually, and shall submit to the Secretary for Environmental Protection, a list of all of the following:
- (1) All hazardous waste facilities subject to corrective action pursuant to Section 25187.5 of the Health and Safety Code.
  - (2) All land designated as hazardous waste property or border zone property pursuant to former Article 11 (commencing with Section 25220) of Chapter 6.5 of Division 20 of the Health and Safety Code.
  - (3) All information received by the Department of Toxic Substances Control pursuant to Section 25242 of the Health and Safety Code on hazardous waste disposals on public land.
  - (4) All sites listed pursuant to Section 25356 of the Health and Safety Code.
- (b) The State Department of Health Services shall compile and update as appropriate, but at least annually, and shall submit to the Secretary for Environmental Protection, a list of all public drinking water wells that contain detectable levels of organic contaminants and that are subject to water analysis pursuant to Section 116395 of the Health and Safety Code.
- (c) The State Water Resources Control Board shall compile and update as appropriate, but at least annually, and shall submit to the Secretary for Environmental Protection, a list of all of the following:
- (1) All underground storage tanks for which an unauthorized release report is filed pursuant to Section 25295 of the Health and Safety Code.

- (2) All solid waste disposal facilities from which there is a migration of hazardous waste and for which a California regional water quality control board has notified the Department of Toxic Substances Control pursuant to subdivision (e) of Section 13273 of the Water Code.
- (3) *All cease and desist orders issued after January 1, 1986, pursuant to Section 13301 of the Water Code, and all cleanup or abatement orders issued after January 1, 1986, pursuant to Section 13304 of the Water Code, that concern the discharge of wastes that are hazardous materials.*
- (d) The local enforcement agency, as designated pursuant to Section 18051 of Title 14 of the California Code of Regulations, shall compile as appropriate, but at least annually, and shall submit to the Department of Resources Recycling and Recovery, a list of all solid waste disposal facilities from which there is a known migration of hazardous waste. The Department of Resources Recycling and Recovery shall compile the local lists into a statewide list, which shall be submitted to the Secretary for Environmental Protection and shall be available to any person who requests the information.
- (e) The Secretary for Environmental Protection shall consolidate the information submitted pursuant to this section and distribute it in a timely fashion to each city and county in which sites on the lists are located. The secretary shall distribute the information to any other person upon request. The secretary may charge a reasonable fee to persons requesting the information, other than cities, counties, or cities and counties, to cover the cost of developing, maintaining, and reproducing and distributing the information.
- (f) *Before a lead agency accepts as complete an application for any development project which will be used by any person, the applicant shall consult the lists sent to the appropriate city or county and shall submit a signed statement to the local agency indicating whether the project and any alternatives are located on a site that is included on any of the lists compiled pursuant to this section and shall specify any list. If the site is included on a list, and the list is not specified on the statement, the lead agency shall notify the applicant pursuant to Section 65943. The statement shall read as follows:*

HAZARDOUS WASTE AND SUBSTANCES STATEMENT
<p>The development project and any alternatives proposed in this application are contained on the lists compiled pursuant to Section 65962.5 of the Government Code. Accordingly, the project applicant is required to submit a signed statement that contains the following information:</p>
<p>Name of applicant:  Address:  Phone number:  Address of site (street name and number if available, and ZIP Code):  Local agency (city/county):  Assessor's book, page, and parcel number:  Specify any list pursuant to Section 65962.5 of the Government Code:  Regulatory identification number:  Date of list:</p>
<p>_____ Applicant, Date _____</p>



(g) The changes made to this section by the act amending this section, that takes effect January 1, 1992, apply only to projects for which applications have not been deemed complete on or before January 1, 1992, pursuant to Section 65943.

*(Amended by Stats. 2012, Ch. 39, Sec. 26. (SB 1018) Effective June 27, 2012.)*

**Response Q.24:** No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**Comment Q.25: VALLCO SPECIFIC PLAN DEIR**

---

**Impact HAZ-1: The project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would not create a significant hazard to the public or the environment through routine transport, use, disposal, or foreseeable upset of hazardous materials; or emit hazardous emissions or hazardous materials within one-quarter mile of an existing or proposed school. (Less than Significant Impact with Mitigation Incorporated)**

---

**Project**

As described in Section 3.9.1.2 (and discussed in more detail in Appendix E: Phase I Environmental Site Assessment), potential on-site sources of contamination relate to historic and/or existing agricultural use, chemical storage and use, underground storage tanks, oil-water separators and acid neutralization chambers, hydraulic lifts, lead-based paint, and ACMs. There is a potential for on-site soil, soil vapor, and groundwater contamination above regulatory screening levels for residential and commercial uses due to historic and existing hazardous materials use, generation, and storage.

Construction of the project (and the General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would result in the demolition of existing structures and excavation up to a maximum depth of 20 to 30 feet for below ground parking. Unless properly handled and disposed of, the removal and transport of on-site hazardous materials could present a risk to the environment (including LP Collins Elementary School/Bright Horizons at Cupertino Pre-School, which are within 0.25 miles of the project site to the west), construction workers, and future occupants.

The proposed project (and project alternatives) do not propose any on-site use of hazardous materials other than small quantities of herbicides and pesticides for landscaping maintenance and cleaning and pool chemicals. The use, storage, and transportation and disposal of pool cleaning and maintenance chemicals would be managed in accordance with federal, state, and local laws and regulations that ensure on-site use, storage, transportation and disposal of chemicals will result in a less than significant impact. These laws and regulation include the Hazardous Materials Transportation Act which protects the public and environment from the risks associated with the transportation of hazardous materials, Department of Transportation 49 Code of Federal Regulations [CFR] 173.3 which specify how hazardous materials are to be contained, EPA 40 CFR 264.175 which specifies how hazardous materials are to be contained, and OSHA 29 CFR 1910.106 (e)(2)(iii) which specifies how hazardous materials are to be transferred safely. No other routine use, storage, transportation, or disposal of hazardous materials is anticipated as part of the project (and project alternatives).

**Mitigation Measures:**

**MM HAZ-1.1:** A Site Management Plan (SMP) and Health and Safety Plan (HSP) shall be prepared and implemented for demolition and redevelopment activities under the proposed project (and the General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative). The purpose of the SMP and HSP is to establish appropriate management practices for handling impacted soil, soil vapor, and groundwater or other materials that may potentially be encountered during construction activities, especially in areas of former

Figure 1: p. 140 Vallco DEIR Circulated May 24, 2018

hazardous materials storage and use, and the profiling of soil planned for off-site disposal and/or reuse on-site. The SMP shall document former and suspect UST locations, hazardous materials transfer lines, oil-water separators, neutralization chambers, and hydraulic lifts, etc. The SMP shall also identify the protocols for accepting imported fill materials, if needed. The SMP shall be submitted to the City and CCDEH for approval prior to commencement of construction (including demolition) activities.

**MM HAZ-1.2:** The site contains equipment and facilities associated with past activities that are known to or may contain residual hazardous materials. The following measures shall be implemented under the proposed project (and the General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) during building demolition and shall be indicated on demolition plans:

- Sears and JC Penney Automotive Centers:
  - Sears: Remnant piping that appears to have formerly distributed grease, oil and transmission fluid from storage locations to the service bays located along interior building walls, ceilings and within the basement shall be properly removed and disposed, and stains and residual oil shall be cleaned from the interior building surfaces. This work shall be coordinated with the SCCFD.
  - Sears: The below ground oil-water separator (connected to floor drains within the building) and an acid neutralization chamber (connected to drains within a former battery storage room) shall be cleaned and removed. This work shall be coordinated with the SCCFD and SCCDEH. Soil quality below each of the structures shall be evaluated via sampling and laboratory analyses.
  - Sears: The potential presence of a waste oil UST shall be further investigation by removing the access cover and, if uncertainty remains, the subsequent performance of a geophysical survey. If a UST is identified, it shall be removed in coordination with the SCCFD and SCCDEH, and underlying soil quality shall be evaluated. If no UST is identified, soil quality at the location of the waste oil UST, as depicted on the 1969 building plan, shall be evaluated via the collection of soil samples from borings for laboratory analyses.
  - Sears and JC Penney: Each of the below-ground lift casings and any associated hydraulic fluid piping and reservoirs from hydraulic lifts shall be removed and properly disposed. An Environmental Professional shall be retained to observe the removal activities and, if evidence of leakage is identified, soil sampling and laboratory analyses shall be conducted.
  - JC Penney: The 750 gallon oil-water separator shall be properly removed and appropriately disposed during redevelopment activities.

Figure 2: p. 141 Vallco DEIR Circulated May 24, 2018



- Existing staining and spilled oil on-site, including at the Sears Automotive Center and Cupertino Ice Center, shall be properly cleaned. When these facilities are demolished, an Environmental Professional shall be present to observe underlying soil for evidence of potential impacts and, if observed, collect soil samples for laboratory analyses.
- If the lead-based paint on-site is flaking, peeling, or blistering, it shall be removed prior to demolition. Applicable OSHA regulations shall be followed; these include requirements for worker training and air monitoring and dust control. Any debris containing lead shall be disposed appropriately.
- An asbestos survey shall be completed of the buildings prior to their demolition in accordance with the National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines. NESHAP guidelines require the removal of potentially friable ACMs prior to building demolition or renovation that may disturb the ACM.
- Once existing buildings and improvements are removed, soil sampling shall be completed to evaluate if agricultural chemicals and lead are present. The agricultural pesticide sampling shall focus on former orchard and row crop areas, as well as in the vicinity of outbuilding (barns and sheds) that were formerly located of the southeast portion of the site. Testing for lead contamination shall be completed at the former structure locations. The sampling, which shall follow commonly accepted environmental protocols, shall be performed prior to soil excavation activities in order to appropriately profile the soil for off-haul to a disposal facility. The analytical data shall be compared to either residential screening levels and/or the specific acceptance criteria of the accepting facility. If this soil is planned to be reused on-site, it shall be compared to residential screening levels and/or natural background levels of metals.

**MM HAZ-1.3:** Prior to issuance of demolition and/or grading permits, groundwater monitoring wells shall be properly destroyed in accordance with the SCVWD Ordinance 90-1.

**MM HAZ-1.4:** As part of the facility closure process for occupants that use and/or store hazardous materials, the SCCFD and SCCDEH typically require that a closure plan be submitted by the occupant that describes required closure activities, such as removal of remaining hazardous materials, cleaning of hazardous material handling equipment, decontamination of building surfaces, and waste disposal practices, among others. Facility closures shall be coordinated with the Fire Department and SCCDEH to ensure that required closure activities are completed prior to issuance of demolition and/or grading permits.

Implementation of the proposed project (and General Plan Buildout with Maximum Residential Alternative, and Retail and Residential Alternative), with the implementation of mitigation measures MM HAZ-1.1 through -1.4, would reduce on-site hazardous materials impacts from demolition,

Figure 3: p. 142 Vallco DEIR Circulated May 24, 2018

excavation, and construction to a less than significant level by creating and implementing an SMP and HSP to establish practices for properly handling contaminated materials, implementing measures during demolition activities to identify, remove, and clean up hazardous materials on-site, properly closing groundwater monitoring wells, and obtaining site closure from regulatory agencies. **(Less Than Significant Impact with Mitigation Measures Incorporated)**

#### **General Plan Buildout with Maximum Residential Alternative**

The General Plan Buildout with Maximum Residential Alternative would result in the same hazardous materials impacts as described above for the proposed project. See Impact HAZ-1 and mitigation measures MM HAZ-1.1 through -1.4. **(Less than Significant Impact with Mitigation Incorporated)**

#### **Retail and Residential Alternative**

The Retail and Residential Alternative would result in the same hazardous materials impacts as described above for the proposed project. See Impact HAZ-1 and mitigation measures MM HAZ-1.1 through -1.4. **(Less than Significant Impact with Mitigation Incorporated)**

#### **Occupied/Re-Tenanted Mall Alternative**

The Occupied/Re-Tenanted Mall Alternative assumes no buildings would be demolished. This alternative would include exterior and interior tenant improvements, however. The exterior and interior building improvements would be subject to the existing regulations of the SCCFD, SCCDEH, OSHA, NESHAP, and SCVWD, as described above for the proposed project.

A discussion of this alternative is provided in the EIR for informational purposes only. This alternative is a permitted land use, and can be implemented without further discretionary approvals from the City or environmental review under CEQA. **(Less than Significant Impact: Not a CEQA Impact)**

---

**Impact HAZ-2:** The project (and project alternatives) is located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5; however, the project (and project alternatives) would not create a significant hazard to the public or the environment as a result. **(Less than Significant Impact)**

---

#### **Project and All Project Alternatives**

The project site does not contain any open hazardous materials cases listed on the Cortese list databases, although the closed UST cases at the Sears Automotive Center and JC Penney are identified. Therefore, the existence of a Cortese list site in the Specific Plan area would not result in any hazardous material impacts different from the impacts discussed in Impact HAZ-1. **(Less than Significant Impact)**

Figure 4: p. 143 Vallco DEIR Circulated March 24, 2018.

**Response Q.25:** No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

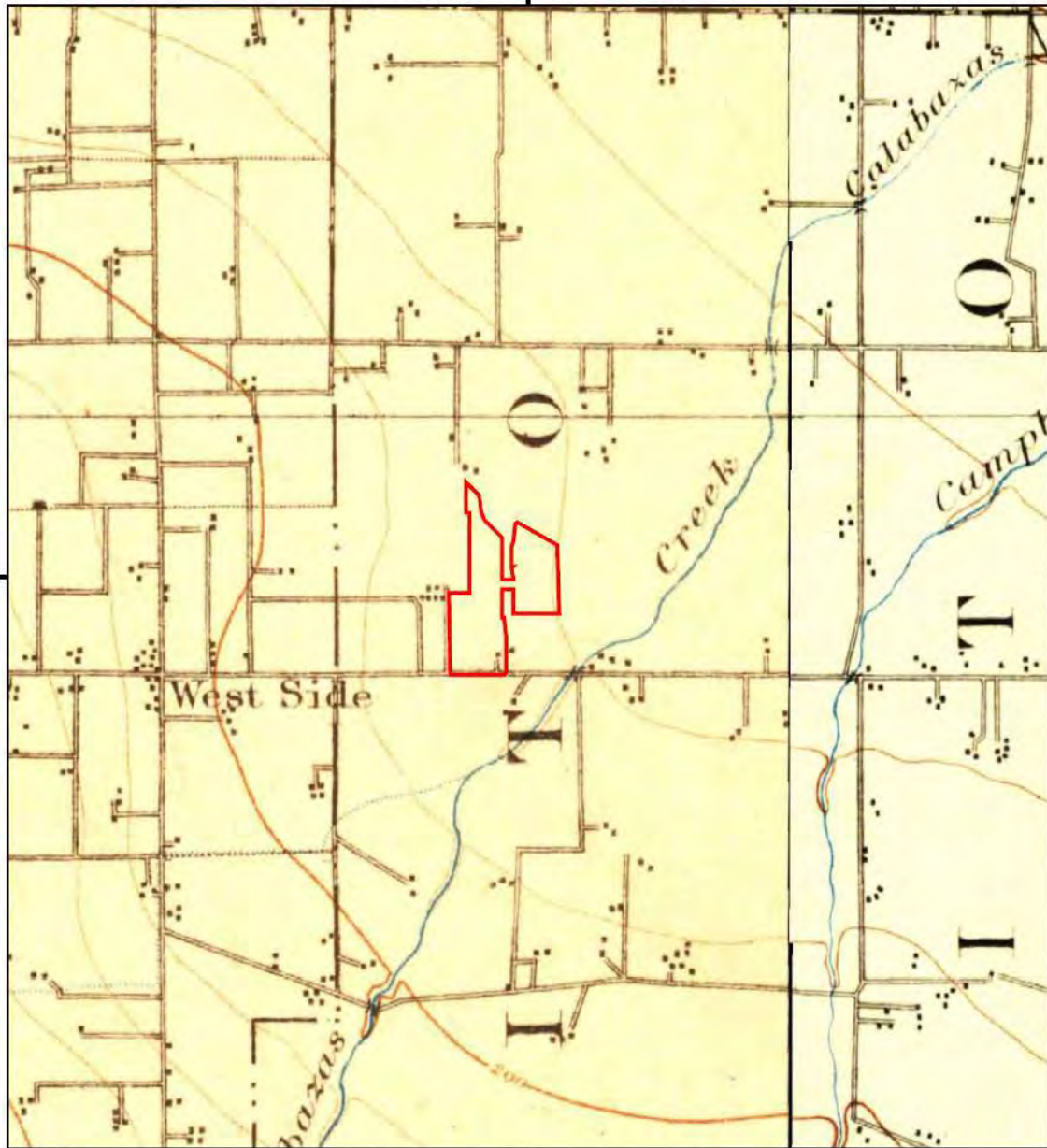


**Comment Q.26:** This 1897 Historical Topo Map indicates the buildings in the furthest south and east corner of the property at what is now the NE corner of N. Wolfe Rd. and Stevens Creek Blvd.

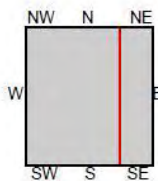
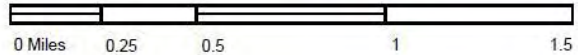


Historical Topo Map

1897



This report includes information from the following map sheet(s).



TP, Palo Alto, 1897, 15-minute  
NE, San Jose, 1897, 15-minute

SITE NAME: Phase I ESA  
ADDRESS: 10123 North Wolfe Road  
Cupertino, CA 95014  
CLIENT: Cornerstone Earth Group



5158480 - 4 page 19

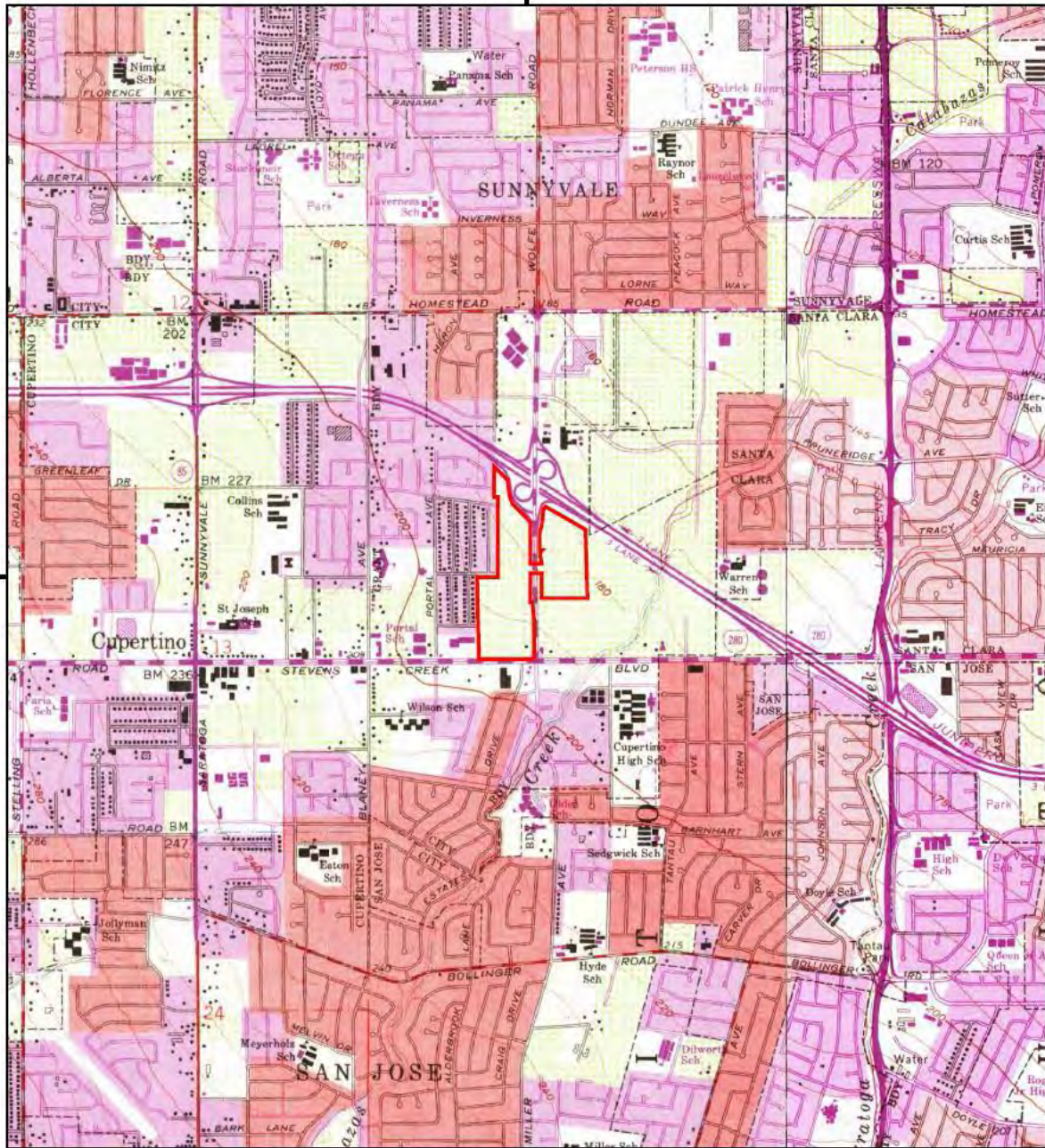


Historically, there was no mound indicated to the north of the JC Penney building:

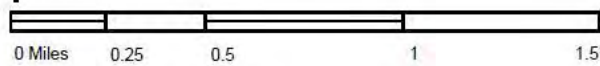


### Historical Topo Map

1968



This report includes information from the following map sheet(s).



TP, Cupertino, 1968, 7.5-minute  
E, San Jose West, 1968, 7.5-minute

SITE NAME: Phase I ESA  
ADDRESS: 10123 North Wolfe Road  
Cupertino, CA 95014  
CLIENT: Cornerstone Earth Group



5158480 - 4 page 11

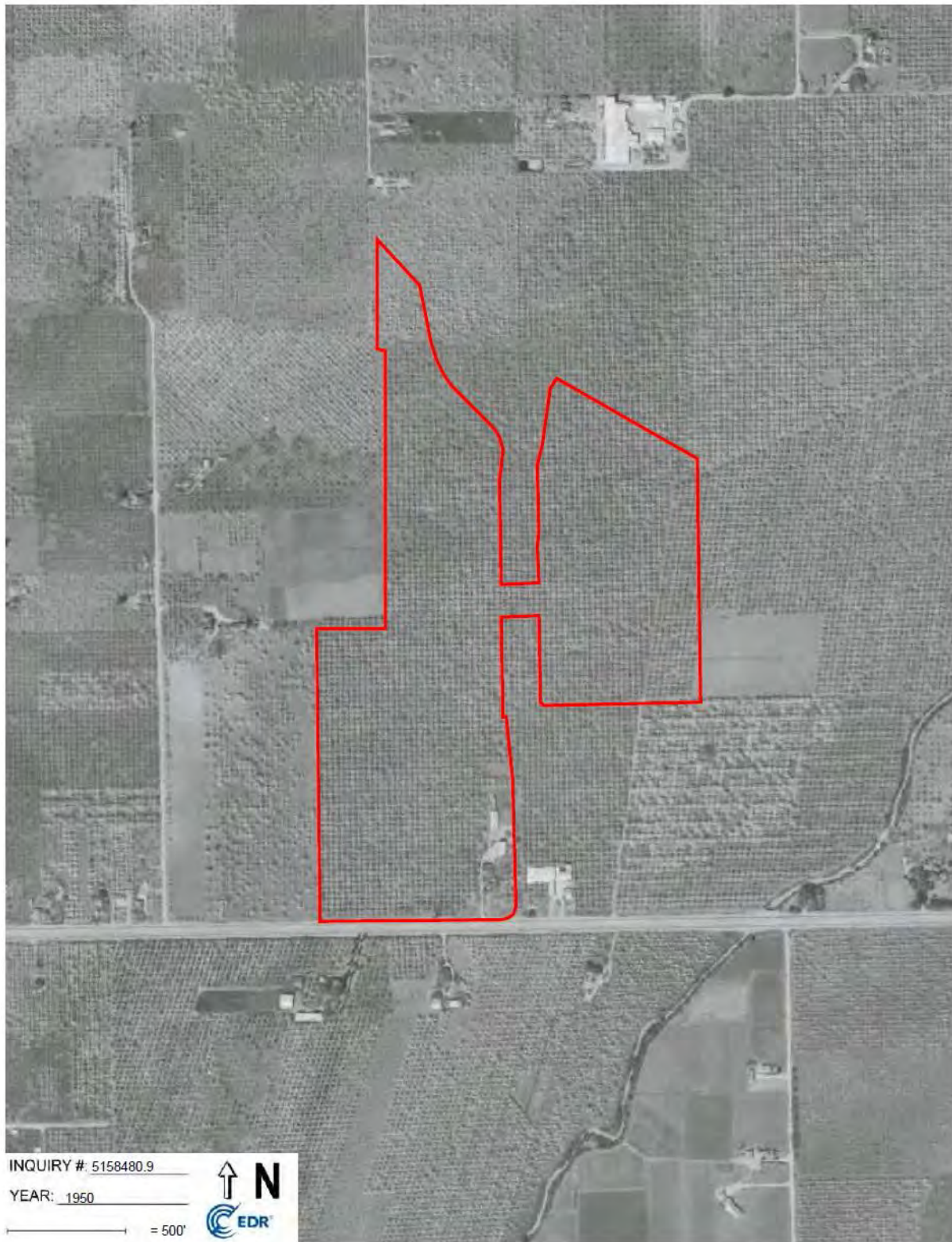


This is the first aerial photograph in the ESA, clearly the property is filled with trees and the buildings are shown near Stevens Creek Blvd.





This photograph from 1950 shows the continued use as an orchard:



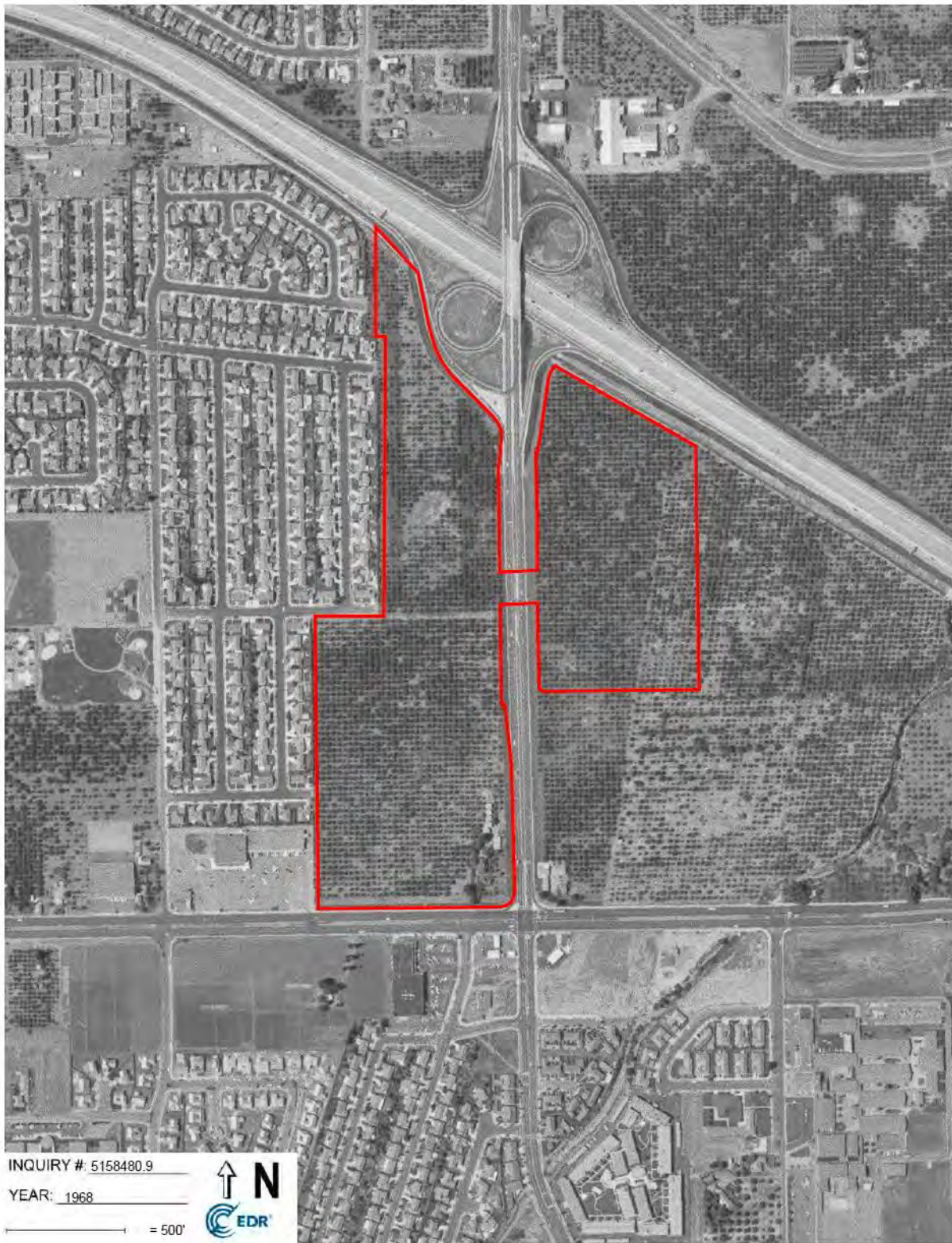


The property is still in use as an orchard in 1963:

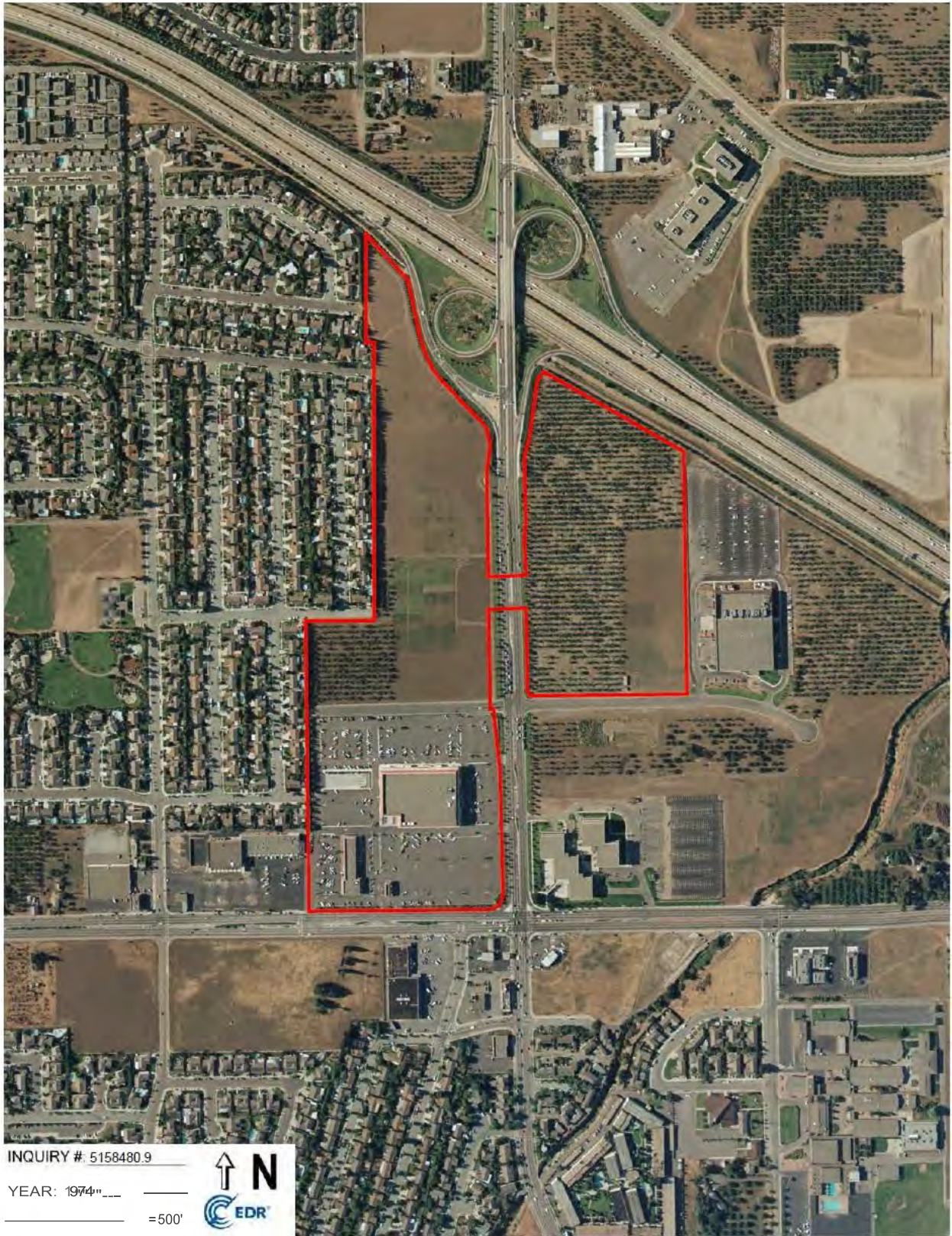




Still an orchard in 1968 (minimum 30 years of orchard use):











INQUIRY # 5158480.9

YEAR: 1981--

=500'



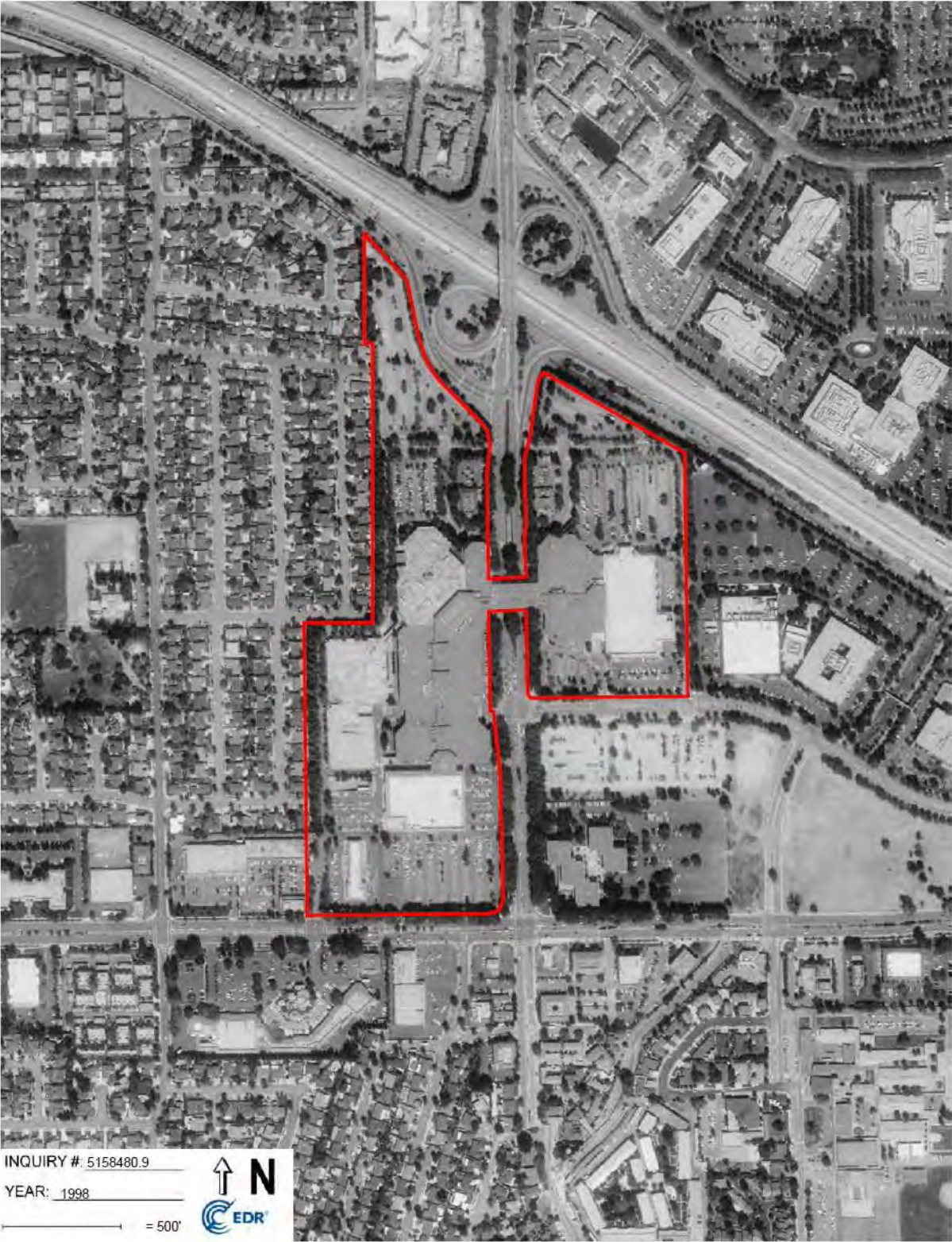
EDR






INQUIRY # 5158480.9  
YEAR: 1991  
=500'  
CEDR









INQUIRY # 5158480.9  
YEAR: .2006—  
=500' 









**Response Q.26:** No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**Comment Q.27:**



### 3.2 CHRONOLOGY OF PROPERTY USE

The following historical Property use summary was compiled using the historical data gathered during the various activities of this assessment as referenced in Section 3.4.

- 1939** Based on a review of historical aerial photographs, the Property was developed with orchards. The surrounding areas of the Property were developed with orchards, agricultural land, and farmhouses.
- 1950** Based on a review of historical aerial photographs, the Property and surrounding areas were developed similar to that observed in the 1939 aerial photographs.
- 1963** Based on a review of historical aerial photographs, the Property was developed with orchards. The surrounding areas to the north and east were developed with orchards. A residential neighborhood was located on the surrounding area to the west of the Property. The surrounding area to the south of the Property was developed with orchards followed by Stevens Creek Boulevard and a gas station and retail strip center.
- 1970** Based on a review of a historical single-frame orthophotograph, the Property was undeveloped. A residential neighborhood was located on the surrounding area to the west of the Property. Highway 280 was developed to the north of the Property followed by undeveloped land. The surrounding area to the east of the Property was undeveloped. A square-shaped building, currently occupied by Sears, was developed adjacent to the south of the Property. Stevens Creek Boulevard was located further south of the Property followed by a gas station and a retail strip center.
- According to a *Polk's Business Directory*, the Property address was not listed.
- 1977** A permit was issued to Valco Fashion Park by the City of Cupertino Building Inspection Department for the construction of shopping mall.
- 1979** According to a *Haine's Business Directory*, Valco Fashion Park was listed at the Property address.
- 1983** According to a *Haine's Business Directory*, Valco Fashion Park was listed at the Property address.
- 1987** According to a *Haine's Business Directory*, Valco Fashion Park was listed at the Property address.
- 1989** Based on a review of historical aerial photographs, the Property was developed with a building that fits the footprint of the current Property building. A residential neighborhood was located on the surrounding area to the west of the Property. Highway 280 was located to the north of the Property followed by commercial sites. The





**3.3 DOCUMENTS PROVIDED BY DAVID J. POWERS & ASSOCIATES**

To help evaluate the presence of Recognized Environmental Conditions at the Site, Cornerstone reviewed and relied upon the documents provided by David J. Powers & Associates listed in Table 4. Please note that Cornerstone cannot be liable for the accuracy of the information presented in these documents. ASTM E1527-13 does not require the Environmental Professional to verify independently the information provided; the Environmental Professional may rely on the information unless they have actual knowledge that certain information is incorrect. A summary of the provided documents is provided below; please refer to the original reports for complete details (Appendix E).

**Table 4. Documents Reviewed**

Date	Author	Title
May 5, 2006	Ceres Associates (Ceres)	Phase I Environmental Site Assessment Update, Vallco Fashion Mall, 10123 North Wolfe Road, Cupertino, California
January 7, 2014a	WSP Services, Inc. (WSP)	Phase I Environmental Site Assessment, Vallco Fashion Mall, 10123 North Wolfe Road, Cupertino, California 95014
June 26, 2014b	WSP Services, Inc.	Limited Phase I Environmental Site Assessment of Sears/Bay Club Facilities in the Vallco Shopping Center, Cupertino, California.
January 11, 2016	WSP Services, Inc.	Updated Information to the January 7, 2014 Phase I Environmental Site Assessment of Vallco Mall in Cupertino, California.

**3.3.1 Reported Site History**

Based on information contained in the provided prior reports, the Site historically was occupied by farmhouses and used for agricultural purposes since at least 1939. A Sears department store and an associated automotive center building reportedly were constructed on-Site by 1970, and the remaining Vallco mall structures were constructed between approximately 1974 and 1979. At the time of the Phase I ESA (WSP, 2014a), the shopping mall reportedly had approximately 110 tenant spaces with a vacancy rate of approximately 38 percent. Macys, Sears and JC Penney were listed as anchor tenants. Two detached on-Site buildings located north of the shopping mall were occupied by restaurants (TGI Fridays and Alexander’s Steakhouse). The Mall reportedly underwent significant renovations in 1988 and 2006. In 2006, two new parking structures were constructed, additional retail stores were added along the west side of Wolfe Road, and the AMC movie theatre was added to the third level of the mall. In 2012, Sears renovated their store, and the Bay Club, a fitness facility, was established in the southeast corner of the Sears building.

**3.3.2 Reported Hazardous Materials Use**

The various prior retail tenants and restaurants within the mall reportedly handled and stored a variety of retail materials, products, and foodstuffs unique to their places of business. WSP stated that no major quantities of chemicals or hazardous materials were stored on-Site at the time of the Phase I ESA (2014a). Landscape maintenance was noted to be performed under a contract with Petalon, and on-Site escalators and elevators were reported to be maintained under a contract with KONE. A maintenance supply room was reported to contain a flammable



materials storage cabinet containing numerous household size containers of paint, stains, and lacquers, as well as other common maintenance supplies. The Phase I ESA (2014a) did not identify any significant staining or stressed vegetation on-Site.

WSP indicated that although the Site is listed as being a RCRA small quantity generator of hazardous waste, no hazardous wastes reportedly are routinely generated at the mall. WSP stated that the listing likely resulted from previous tenants (Expressly Portraits, Fox Photo, Inc., Kits Camera, and The Picture People, Inc.) that were engaged in photo developing activities that generated hazardous waste. Chemicals for treatment of water in a whirlpool were reportedly stored on the portion of the rooftop above the Bay Club (WSP, 2014b). General solid wastes and trash reportedly are disposed in dumpsters and compactors located on-Site. Various materials are separated for recycling. The dumpsters and recyclable materials were noted to be serviced by Recology.

Although the Sears Automotive Center currently is unoccupied, WSP reported that in 2014 bulk product oil was stored in aboveground contained tanks within the eastern portion of the Automotive Center building. Waste oils were contained within an aboveground storage tank (AST), and several drums of oils and lubricants within containment were stored in the same area. The Automotive Center was noted to store tires, batteries, and small quantities of retail oils and lubricants in the basement. Hydraulic lifts were reported to be present within the building, and several unidentified surface caps for access to potential below ground equipment installations were noted by WSP in the paved parking area south of the Automotive Center (these features were observed by Cornerstone to be located on the east side of the building and are further discussed in Section 7.2).

Four gasoline and two motor oil underground storage tanks (USTs) reportedly were removed from the Sears Automotive Center in 1985; associated dispenser islands and product lines were removed from the Site in 1994. Additionally, a 350-gallon diesel UST and a 350-gallon waste oil UST at JC Penney reportedly were removed from the Site in 1989. A 750-gallon oil-water separator at JC Penney also was closed in-place in 1994.

Following various soil and ground water quality studies, and soil removal activities, the leaking underground storage tank (LUST) cases at JC Penney and Sears were closed by the Santa Clara Valley Water District (SCVWD) in 1994 and 1999, respectively. WSP (2014a) concluded that these LUST cases represent historical recognized environmental conditions (RECs), and recommended that *any future subsurface disturbance in the areas of the former LUSTs at the Sears Automotive Center and the JC Penney locations should be performed with care with an awareness of the past releases in these areas.* The LUST cases and the Sears Automotive Center area discussed further in subsequent sections of this Phase I ESA.

WSP (2014b), which focused on the Sears property, provided a similar recommendation and stated that *because of the former presence of the underground storage tanks, the hydraulic lifts currently in use, and the possibility of underground installations, any future disturbance or investigation in the area of the Sears Automotive Center (removal of the building and/or excavation) should be performed with care and an awareness of the potential for petroleum or chemical releases in these areas.*

WSP (2016) indicated that the Sears retail operations and Automotive Center were closed and vacated as of October 4, 2014, and that JC Penny was expected to close by April 2016. WSP (2016) recommended that *the closure activities of these premises be monitored and coordinated with the Santa Clara Fire Department to ensure that no residual hazardous materials or*



## **SECTION 4: RECORDS REVIEW**

### **4.1 STANDARD ENVIRONMENTAL RECORD SOURCES**

Cornerstone conducted a review of federal, state and local regulatory agency databases provided by Environmental Data Resources (EDR) to evaluate the likelihood of contamination incidents at and near the Site. The database sources and the search distances are in general accordance with the requirements of ASTM E 1527-13. A list of the database sources reviewed, a description of the sources, and a radius map showing the location of reported facilities relative to the project Site are attached in Appendix A.

The purpose of the records review was to obtain reasonably available information to help identify Recognized Environmental Conditions. Accuracy and completeness of record information varies among information sources, including government sources. Record information is often inaccurate or incomplete. The Environmental Professional is not obligated to identify mistakes or insufficiencies or review every possible record that might exist with the Site. The customary practice is to review information from standard sources that is reasonably available within reasonable time and cost constraints.

#### **4.1.1 On-Site Database Listings**

Several past Site occupants were listed on various regulatory agency databases. The listings appear generally consistent with the reported history and past occupancy of the Site as summarized in Section 3.3. Sears Automotive Center and JC Penney were listed as closed LUST cases, and on other databases related to the use and storage of hazardous materials.

Sears was identified on the Statewide Environmental Evaluation and Planning System (SWEEPS) UST database, which lists seven USTs at Sears including four gasoline and two motor oil USTs, and a 1,000 gallon waste oil UST. As previously discussed, four gasoline and two motor oil USTs were removed in 1985; the 1,000 gallon waste oil UST is not discussed in the SCVWD case closure documents. Sears Automotive Center also was listed on a County database of facilities that operate ASTs; a total AST capacity of 1,800 gallons was noted.

Vallco Fashion Park was listed in the California Hazardous Material Incident Report System (CHMIRS) database, which contains information on reported hazardous material incidents (accidental releases or spills). The listing indicates that 18 gallons of non-PCB mineral oil was released to on-Site pavements and a storm drain in 1999 as a result of a traffic accident involving a PG&E vehicle that was transporting a transformer. The spill reportedly was contained and cleaned. A second CHMIRS listing indicates that 50 gallons of hydraulic fluid were released to grease traps and possible to the sanitary sewer in 2014. The spill reportedly was contained and cleaned. These incidents appear unlikely to have significantly impacted the Site.



Macy's additionally was listed in the CHMIRS database and on the Emergency Response Notification System (ERNS) database resulting from a reported 1 gallon spill of mineral oil from a failed PG&E transformer in 1999. The spill was noted to have been cleaned by the responsible party. Ceres (2006) stated that PG&E indicated that PCBs were removed from transformers in the area in the late 1970s and early 1980s. However, the ERNS listing identifies the material spilled at "Oil, Misc: Transformer (PCB: 92 ppm)." The ERNS listing additionally indicates that contaminated soil was removed. Based on the reported small volume of oil spilled and the report that impacted soil was removed, this incident appears unlikely to have significantly impacted the Site.

Expressly Portraits was listed on the ERNS database resulting from a spill in 1996 of liquid waste containing silver (5 gallons) into secondary containment. This incident appears unlikely to have significantly impacted the Site.

Macy's and JC Penney also were listed on the Emissions Inventory (EMI) database, which contains toxics and criteria pollutant emissions data collected by the California Air Resources Board and local air pollution agencies. These listings appear likely to have been associated with the operation of diesel fueled emergency generators at these businesses.

Vallco Shopping Mall, JC Penney, Macy's, R Jacobs Group, Bath & Body Works, Ice Center Enterprises, Fox Photo, Kits Camera, Expressly Portraits and The Picture People were identified at the Site addresses on the HAZNET database, which contains data extracted from the copies of hazardous waste manifests received each year by the DTSC. Listed wastes disposed from the Site were categorized as other organic solids, laboratory waste chemicals, material containing PCBs, unspecified organic liquid mixture, latex waste, oxygenated solvents, inorganic solid waste, asbestos containing waste, unspecified alkaline solution, oil-containing waste, metal sludge and photochemical/photoprocessing waste.

Kits Camera, The Picture People, Sears and Vallco Fashion Park were identified on a Resource Conservation and Recovery Act (RCRA) database as Small Quantity Generators (SQGs) of hazardous waste. No violations were noted.

#### **4.1.2 Nearby Spill Incidents**

Based on the information presented in the agency database report, no nearby off-Site spill incidents were reported that appear likely to significantly impact soil, soil vapor or ground water beneath the Site. The potential for impact was based on our interpretation of the types of incidents, the locations of the reported incidents in relation to the Site and the assumed ground water flow direction.

#### **4.1.3 Further Review of Database Listings**

To obtain additional information regarding the on-Site LUST cases at the Sears Automotive Center and JC Penney, a cursory review of readily available documents obtained from the state Geotracker (<http://geotracker.waterboards.ca.gov>) databases was performed. Geotracker is a database and geographic information system (GIS) that provides online access to environmental data. It tracks regulatory data about leaking underground storage tank (LUST), Department of Defense, Site Cleanup Program and Landfill sites.

Brief summaries of the Sears Automotive Center and JC Penney LUST cases are presented below.



#### 4.1.3.1 JC Penney Store No. 427, 10150 Wolfe Road

Two 350 gallon diesel USTs and one 500 gallon waste oil UST were previously located on-Site. The first diesel UST was used for several years and then abandoned in place in 1985 when a leak was suspected. The second diesel UST was installed adjacent to the first UST within a 4-inch thick concrete vault in 1985. In 1989, water was observed in the second UST, and it was taken out of service. The 500 gallon waste oil UST presumably was used until 1985, when the associated JC Penney automotive maintenance facility ceased operations.

The three USTs were emptied, excavated, and removed in 1989. Soil samples collected directly beneath the diesel tanks contained Total Petroleum Hydrocarbons as diesel (TPHd) at concentrations up to 6,600 milligrams per kilogram (mg/kg). Soil samples collected from beneath the waste oil UST contained TPH as oil (TPHo) at concentrations up to 1,400 mg/kg and TPH as diesel at concentrations up to 71 mg/kg. The Water Board's Tier 1 Environmental Screening Levels (ESLs)<sup>1</sup> for TPHd and TPHo are 230 mg/kg and 5,100 mg/kg, respectively.

Soil removal reportedly was subsequently performed at each UST excavation. Approximately 78 tons of soil were removed from the diesel UST excavation; TPHd reportedly was not detected above laboratory reporting limits in confirmation soil samples collected after soil removal.

Approximately 225 tons of soil were removed from the waste oil UST excavation; one soil sample collected at an approximate depth of 8 feet in the waste oil UST excavation contained total oil and grease (TOG) at a concentration of 3,800 mg/kg. Analyses of other confirmation soil samples collected from the waste oil tank excavation contained TOG at up to 110 mg/kg and TPHd at up to 14 mg/kg. During removal of the waste oil UST, an oil/water separator was observed along the south wall of the excavation. The oil/water separator was not removed due to concerns for the structural integrity of the nearby building. Analyses of soil samples collected below the separator reportedly did not detect TPHg, TPHd, TOG or BTEX compounds. In 1994, the 750 gallon separator was steam cleaned and closed in place by filling it with cement grout under County Fire Department oversight.

A ground water monitoring well (MW-1) was installed in 1990 near the excavations. TPHd was detected at concentrations at up to 0.2 milligrams per liter (mg/L) in ground water samples collected from MW-1 in 1990; its ground water ESL is 0.1 mg/L. Three additional ground water monitoring wells (MW-2, 3 and 4) were installed later in 1990, and a ground water monitoring program was implemented between 1990 and 1993. Analyses of ground water samples collected during 1992 and 1993 typically did not detect TPHd or benzene, toluene, ethylbenzene or xylenes (BTEX) compounds at concentrations exceeding their respective laboratory reporting limits. Ground water was reported at depths between approximately 120 and 140 feet. A perched water bearing zone also was noted between depths of approximately 80 and 95 feet; this zone reportedly was not consistently encountered at the Site.

In 1992, supplemental investigations were performed to evaluate soil quality relating to the removed diesel and waste oil USTs. One boring was advanced to an approximate depth of 115 feet in the vicinity of the former diesel USTs. Soil samples from various depths were analyzed

<sup>1</sup> Environmental Screening Levels (San Francisco Bay, Regional Water Quality Control Board, February 2016) are used to screen sites for potential human health concerns where releases of hazardous chemicals to soil have occurred. ESLs are risk-based concentrations derived from standardized equations combining exposure information assumptions with toxicity data. Under most circumstances, the presence of a chemical in soil at concentrations below the corresponding screening level can be assumed not to pose a significant health risk.



for TPHd and BTEX compounds; these compounds were not detected above laboratory reporting limits. Nine borings were advanced in the vicinity of the former waste oil UST. Selected soil samples from the nine borings were analyzed for TOG, total recoverable petroleum hydrocarbons (TRPH), TPHd, TPH as gasoline (TPHg), and BTEX compounds. TOG was detected in soil samples at concentrations up to 4,010 mg/kg. TRPH was detected in one soil sample at a concentration of 240 mg/kg. The TOG concentrations detected were significantly higher than TRPH detections, which potentially may indicate that a large portion of the detected TOG concentrations may be caused by naturally occurring organic matter, not by the petroleum releases from the removed USTs.

The SCVWD stated that it appears that the extent of soil contamination has been sufficiently defined and that contaminated soil has been effectively removed, with the exception of 3,800 mg/kg of TOG detected in the sidewall of the waste oil UST excavation. The SCVWD also stated that the residual soil contamination does not appear to pose a significant threat to ground water. The SCVWD issued a case closure letter in September 1994. The case closure letter noted that Water District Ordinance 90-1 requires that the four ground water monitoring wells be properly destroyed when they are no longer in use.

#### 4.1.3.2 Sears Automotive Center, 10101 North Wolfe Road

In 1985, two 12,000 gallon gasoline USTs, two 5,000 gallon gasoline USTs, and two 550 gallon oil USTs were removed from the Site. Soil samples were collected from the edge of the concrete UST anchoring slabs (four samples from the gasoline UST excavation and one sample from the oil UST excavation). Laboratory reports were not available within the records reviewed; however, hand written notes indicate that 4.7 and 19.6 mg/kg were detected in two soil samples from the gasoline UST excavation (14 foot depth). These concentrations presumably represent TPHg; the specific analyses conducted were not described.

In October 1994, the dispenser islands, product piping and vent lines associated with the gasoline USTs were removed. Subsequent soil sampling revealed petroleum hydrocarbon contamination above laboratory reporting limits in 5 of 20 soil samples collected from the gasoline UST piping area and in 4 of 5 soil samples collected from the oil UST piping area.

- TPHg was detected above laboratory reporting limits in 3 of 25 soil samples analyzed at concentrations ranging between 25 mg/kg and 3,000 mg/kg. The detected concentrations of TPHg exceeded the Water Board's Tier 1 ESL for TPHg (100 mg/kg) in 1 of the 25 samples (sample 2AST).
- Benzene was detected above laboratory reporting limits in 5 of 25 soil samples at concentrations ranging between 0.009 mg/kg and 2.4 mg/kg. The detected concentrations of benzene exceeded its residential DTSC-SL<sup>2</sup> (0.33 mg/kg) in 1 of the 25 samples (sample 2AST).
- TRPH was detected above laboratory reporting limits in 4 of 5 soil samples analyzed at concentrations ranging between 1 mg/kg and 1,300 mg/kg. The detected

<sup>2</sup> BTEX concentrations were compared to screening levels established by the California Department of Toxic Substances Control (DTSC) Human and Ecological Risk Office (HERO) (DTSC-SLs, January 2018). As recommended by the DTSC, US EPA Regional Screening Levels (RSLs) were used for analytes for which no DTSC-SLs have been established.



concentrations of TRPH do not exceeded the Water Board's Tier 1 ESL for TRPH of 5,100 mg/kg.

- Toluene was detected in 4 of 25 soil samples at up to 16 mg/kg, which does not exceed the residential DTSC-SL (1,100 mg/kg).
- Ethylbenzene was detected in 3 of 25 soil samples at up to 23 mg/kg. The detected concentrations of ethylbenzene exceeded its residential RSL (5.8 mg/kg) in 1 of 25 soil samples (sample 2AST).
- Xylenes were detected in 3 of 25 soil samples at up to 150 mg/kg, which does not exceed the residential RSL (580 mg/kg).

In November 1994, approximately 4.5 cubic yards of soil reportedly was removed from the location of sample (2AST) in which the greatest concentrations of TPHg, benzene and ethylbenzene were previously reported. Analyses of a second samples collected following the soil removal work did not detect TPHg or BTEX compounds.

At the request of the SCVWD, a supplemental investigation was performed in 1999 to assess the potential for ground water contamination from the removed USTs. Seven direct push borings were advanced to approximate depths of 22 to 44 feet. Soil samples were collected, and the deepest sample from each boring was submitted for laboratory analysis. Low concentrations of ethylbenzene and xylenes (below their respective residential RSLs) were detected in one soil sample; benzene, toluene, TPHg, and Methyl tert Butyl Ether (MtBE)/fuel oxygenates were not detected above their respective laboratory reporting limits. Ground water was not encountered. One of the seven borings (GP-6) was advanced near the location of former sample (2AST) in which the greatest concentrations of TPHg, benzene and ethylbenzene were previously reported. These analytes were not detected in the soil sample analyzed from GP-6 collected from a depth of 22 feet.

In December 1999, the SCVWD issued a case closure letter indicating that no further action related to the UST release is required.

Note that the UST removal report (Blain Tech Services, 1985) and the SCVWD case closure summary (1999) indicate that the two 550 gallon USTs contained new motor oil, which also is consistent with the SWEEPS UST database listings and a building plan reviewed by Cornerstone at the County Fire Department. As discussed below in Section 4.2, the building plan depicts two adjacent 500<sup>3</sup> gallon new oil USTs and a nearby 1,000 gallon waste oil UST. Some reports prepared subsequent to the 1985 UST removals, however, depict one of the 550 gallon USTs as having contained waste oil, which appears to be incorrect. As previously noted, the 1,000 gallon waste oil UST is not discussed in the SCVWD case closure documents.

Additionally, inspection notes from October 1994 prepared by the County Fire Department indicate that two 1½ inch diameter oil pipes and a 3 inch diameter waste oil pipe were pressure tested and subsequently abandoned in place by filling them with concrete. These pipes presumably lead to the waste oil and two new oil USTs that were located on the west side of the building.

<sup>3</sup> These appear to have been referenced as 550 gallons in the UST removal documents and subsequent reports.





**4.2 ADDITIONAL ENVIRONMENTAL RECORD SOURCES**

The following additional sources of readily ascertainable public information for the Site also were reviewed during this Phase I ESA.

**4.2.1 City and County Agency File Review**

Cornerstone requested available files pertaining to the Site at the following public agencies: the Cupertino Building Department, Santa Clara County Fire Department (FD), and the Santa Clara County Department of Environmental Health (DEH).

The building department files contained a very large volume of records pertaining to the Site that appeared to be related mainly to tenant improvement conducted by occupants of the mall. No records indicative of Recognized Environmental Conditions were readily apparent within the Building Department files; however, due to the large volume of records, only a cursory review was feasible within the time and budget constraints of this Phase I ESA.

The information reviewed at the FD and DEH that pertains to hazardous material use and storage at the Site is summarized in Table 5.

**Table 5. File Review Information**

Agency Name	Date	Occupant	Remarks
<b>10101 North Wolfe Road</b>			
FD	1969	Sears Auto Center	Building plans depict several features associated with the auto center building including 1) two adjacent 500 gallon new oil USTs and a nearby 1,000 gallon waste oil UST located west of the building, 2) a sump pump in the southwest corner of the building's basement, 3) multiple hydraulic vehicle lifts, 4) a battery storage room with drains leading to a below ground neutralization chamber located east of the building, 5) a below ground sand and grease interceptor located east of the building, 6) grease, oil and transmission fluid distribution piping throughout the interior of the building, 7) an elevator within the southeast portion of the building, and 8) two 10HP air compressors within the northeast corner of the basement.
FD	1986	Sears	A contract dated June 12, 1986 between Sears, Roebuck and Company and K.E. Curtis Construction Company for the removal of a 500 gallon UST. No details regarding the contents or location of the UST were described in the contract.

**Table 5 (Continued). File Review Information**

Agency Name	Date	Occupant	Remarks
<b>10101 North Wolfe Road</b>			
FD	Various	Sears Auto Center	Hazardous materials inventories indicate that various automotive related hazardous materials were stored on-site included oils, transmission fluid, brake fluid, antifreeze, lead-acid batteries, and refrigerants, among others. These materials were noted to be contained in drums and ASTs. Wastes generated at the site were noted to include waste oil, waste gasoline, used oil filters, used batteries, waste antifreeze, and waste from a below grade oil/water separator, among others.
DEH	1991, 1993, 1999, 2003, 2007 and 2010	Sears Auto Center	<p>Inspection reports noting multiple violations including unlabelled waste containers, open containers, improper recordkeeping, improper management of lead wheel weights, lack of proper training and lack of secondary containment.</p> <p>The presence of an oil/water separator is noted that reportedly was connected to four floor drains within the auto service shop.</p> <p>A spill of hydraulic oil was noted near a dumpster on the west side of the facility in 1991. Cleanup was required. In 1999, an area of etched concrete and chemical residue from "battery acid and neutralizing" was noted outside of a service bay.</p>
FD	1996-1999	Jiffy Lube	Jiffy Lube is noted to have operated within the northern portion of the auto service building between 1996 and 1999. The facility is noted to have used seven ASTs with capacities between 150 and 500 gallons for storage of motor oils, transmission fluid, antifreeze, used oil and used antifreeze.
DEH	2004 and 2007	Sears Auto Center	Chemical inventories. Listed items are generally consistent with FD records summarized above.
FD	2012-2015	Bay Club	Pool treatment chemicals (calcium hypochlorite and muriatic acid) were noted to be stored in a roof-top shed.
<b>10333 North Wolfe Road</b>			
FD	1998-2012	Macy's	Permits and correspondence indicate that a diesel fueled emergency generator with a 75 gallon double walled AST was present on the building roof.
DEH	2004	Macy's	Hazardous waste inventory listing broken and damaged cosmetic products.
DEH	2008	Macy's	Inspection report noting violations including an unlabeled waste drum and lack of proper recordkeeping.
DEH	2014	Macy's	Hazardous waste inventory listing returned/expired cosmetic waste and fragrances.



**Table 5 (Continued). File Review Information**

Agency Name	Date	Occupant	Remarks
<b>10150 North Wolfe Road</b>			
FD	1998-2012	JC Penney	Inspection reports and chemical inventories document the presence of a diesel fueled emergency generator with a 25 gallon, double walled AST located on the second floor within the eastern portion of the building. Diesel also was noted to be stored within a double contained 55-gallon drum in 1998. Refrigerants (Freon 11), cooling water treatment products (corrosion inhibitors), miscellaneous maintenance and custodial products, and paints also were noted to be present.
DEH	2012 and 2016	JC Penney	Chemical inventories listing diesel fuel (150 gallons), along with unspecified corrosives, aerosols, flammables, oxidizers, paints and maintenance products, among others. Waste bulbs, batteries and non-PCB ballasts were noted to be generated.
<b>10123 North Wolfe Road</b>			
FD and DEH	1991-2016	Vallco	Permits, inspection reports and chemical inventories document the presence of a diesel fueled emergency generator with a 170 gallon, double walled AST located in a generator room.
DEH	1992, 1993, 1996, 1999 and 2001	Expressly Portraits	Inspection reports indicate that the facility generated waste photo processing chemicals. Violations associated with recordkeeping, training and container labeling were noted.
FD	1993-2008	Ice Chalet	Chemical inventories document the presence of Freon 22 (10,000 cubic feet) and refrigerant oil (600 gallons).
FD	1993-2001	Kits Cameras/ Ritz Cameras/ Expressly Portraits	Chemical inventories document the presence photo processing chemicals (fixers, stabilizers and developers, etc.).
DEH	2003	The Picture People	Inspection report and correspondence indicate that the facility generated waste photo processing chemicals (705 gallons in 2003). Violations associated with recordkeeping were noted.
DEH	2014	Vallco Mall	Various correspondence indicate that a fire in an elevator pump room on the third floor was extinguished by sprinklers and resulted in oily water being discharged in the vicinity of the pump room and to underlying areas on the second and first floors. It was reported that no impacts to soil or storm drains occurred, and that the release was cleaned up by a restoration contractor.

**Table 7 (Continued). Summary of Readily Observable Site Features**

<b>General Observation</b>	<b>Comments</b>
Hoods and Ducting	Not Observed
Hydraulic Lifts	Observed as described above
Incinerator	Not Observed
Petroleum Pipelines	Not Observed
Petroleum Wells	Not Observed
Ponds or Streams	Not Observed
Railroad Lines	Not Observed
Row Crops or Orchards	Not Observed
Stockpiles of Soil or Debris	Not Observed
Sumps or Clarifiers	Observed as described above
Transformers	Observed as described above
Underground Storage Tanks	Possible waste oil UST at Sears Automotive Center
Vehicle Maintenance Areas	Observed as described above
Vehicle Wash Areas	Not Observed
Wastewater Neutralization Systems	Observed as described above

The comment "Not Observed" does not warrant that these features are not present on-Site; it only indicates that these features were not readily observed during the Site visit.

(Cornerstone Earth Group, pp. 8-15, PDF 12-19)

SITE PHOTOS FROM ENVIRONMENTAL SITE ASSESSMENT



Photograph 5. Elevator equipment with hydraulic fluid in drip pan.



Photograph 6. One of three on-site emergency generators.



Photograph 7. Interior of Cupertino Ice Center.



Photograph 8. Refrigeration equipment at Cupertino Ice Center.





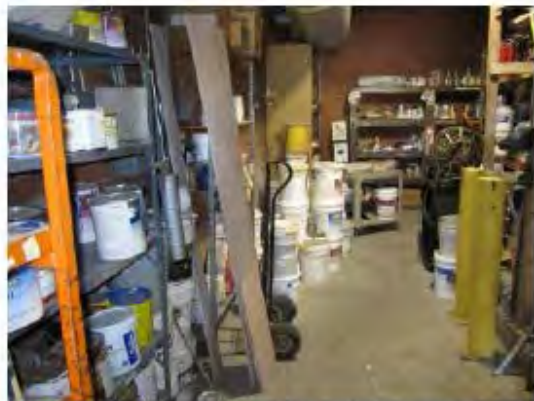
Photograph 11. Oily water on floor of mechanical room at Cupertino Ice Center.



Photograph 12. Typical trash compactor and associated hydraulic fluid AST.



Photograph 13. Pool chemicals stored in stairwell at Bay Club.



Photograph 14. Vallco facility maintenance storage room.



Photograph 15. Sears Automotive Center (SAC) building.



Photograph 16. Interior of SAC building.



Photograph 17. Staining on floor of battery room at SAC.



Photograph 18. Former hydraulic lifts (filled with concrete) at SAC.



Photograph 19. Remnant distribution piping and staining on floor in basement at SAC.



Photograph 20. Staining on floor near drain at former compressor location in basement at SAC.



Photograph 21. Waste oil drain in floor slab, capped drain pipe in wall and wall staining in basement at SAC.



Photograph 22. Remnant hydraulic lift piping (unpainted) in basement at SAC.





Photograph 23. Concrete access cover (near storm drain) at the suspected waste oil UST location at SAC.



Photograph 24. Steel cover of acid neutralization chamber adjacent to battery room at SAC.



Photograph 25. Steel covers to oil/water separator at SAC.



Photograph 26. Former auto service area at JC Penney.



Photograph 27. Former hydraulic lift filled with pea gravel at JC Penney.



Photograph 28. Secondary containment area at JC Penney.

**Response Q.27:** Refer to Master Response 5. The above excerpts from Appendix E of the Draft EIR do not raise any issues about the adequacy of the EIR. For this reason, no further response is required.



## **SECTION 8: ENVIRONMENTAL QUESTIONNAIRE AND INTERVIEWS**

### **8.1 ENVIRONMENTAL QUESTIONNAIRE / OWNER INTERVIEW**

To help obtain information on current and historical Site use and use/storage of hazardous materials on-Site, we provided environmental questionnaires to each of the three property owners. A completed questionnaire was obtained from Simeon/Wolfe Properties pertaining to parcel APN 316-20-088; a copy is attached in Appendix D. Based on our review of the completed questionnaire, Wolfe Properties LLC purchased the parcel in 2012. It reportedly was historically used as an overflow parking lot associated with Vallco Shopping Mall. Since 2015, Apple, Inc. reportedly has been using the parcel for construction storage purposes. No information indicative of Recognized Environmental Conditions was noted. A completed questionnaire was not received from KCR Development pertaining to APN 316-20-092. Based on other data reviewed by Cornerstone, the parcel owned by KCR historically was used for agricultural purposes and subsequently used as an overflow parking lot associated with Vallco Shopping Mall (similar to the Simeon/Wolfe Properties parcel).

Sand Hill Property Company did not complete the provided questionnaire; however, they referred Cornerstone to the previously completed reports listed in Table 3 and provided copies of each. They also provided access to the Site and contact information for Mr. Mike Rohde, General Manager of Vallco Shopping Mall, who was briefly interviewed during our Site visit.

### **8.2 INTERVIEWS WITH PREVIOUS OWNERS AND OCCUPANTS**

Contact information for previous Site owners and occupants was not provided to us. Therefore, interviews with previous Site owners and occupants could not be performed.

## **SECTION 9: FINDINGS, OPINIONS AND CONCLUSIONS (WITH RECOMMENDATIONS)**

Cornerstone performed this Phase I ESA in general accordance with ASTM E1527-13 to support David J. Powers & Associates in evaluation of Recognized Environmental Conditions. Our findings, opinions and conclusions are summarized below.

### **9.1 HISTORICAL SITE USAGE**

Based on the information obtained during this study, the Site historically was used for agricultural purposes (orchards and row crops), and what appears to have been a residence with several associated outbuildings were present on the southeast portion of the Site. A Sears retail store and a separate automotive center building, with an associated gasoline station, were constructed on-Site in approximately 1970. The other currently existing Vallco mall structures were constructed between approximately 1974 and 1979, and include structures formerly occupied by other anchor tenants (Macys and JC Penney) and two detached on-Site buildings located north of the shopping mall that were occupied by restaurants (TGI Fridays and Alexander's Steakhouse). JC Penney operated an automotive repair facility on the eastern side of their building until approximately 1985.



**Response Q.28:** No forms pursuant to Government Code Section 65962.5 are required under CEQA. A discussion of the project site being included on a list of hazardous materials sites complied pursuant to Government Code Section 65962.5 is discussed in Section 3.9 of the Draft EIR. The above excerpt from Appendix E of the Draft EIR does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**Comment Q.29: HISTORICAL SITE USE**

Simeon environmental questionnaire (Sand Hill Property company did not fill one out and no previous owners information was provided to Cornerstone Earth Group). Notice ASTs and USTs are asked about, along with many other items:



**OTHER SITE FEATURES AND INFORMATION**

8) Please indicate if you are aware of any of the following structures, features, or activities currently or formerly at the site.

Structure/Feature	Yes	No	Do Not Know
Aboveground Storage Tanks (ASTs)			X
Agricultural fields			X
Agricultural or drinking water supply wells			X
Air emission control systems			X
Areas where garbage or other wastes have been disposed on-site			X
Boilers			X
Chemical mixing or processing activities			X
Chemical storage areas			X
Current or former drainage ditches, ponds, or streams			X
Dry cleaning equipment			X
Dry wells			X
Elevators			X
Emergency generators			X
Equipment maintenance or repair areas			X
Fill materials placed on-site (i.e., fill used to build up the site elevation to current level)			X
Ground water monitoring wells			X
Ground water or soil remediation systems			X
Hydraulic lifts			X
Incinerators			X
Manufacturing machinery			X
Medical Waste			X
Oil or gas wells			X
Petroleum pipelines			X
Railroad lines			X
Septic tanks			X
Stockpiles of soil or debris			X
Storage sheds			X
Sumps, clarifiers, oil/water separators, or similar structures			X
Transformers			X
Underground Storage Tanks (USTs)			X
Vapor or dust control hoods and ducting			X
Waste burning areas (i.e. burn pit) or ash disposal area			X

If you checked yes to any of the above, please provide additional information here or attach to this questionnaire.

**Response Q.29:** Refer to Section 5.2 Responses II.Q.2 and II.Q.7.

## **Comment Q.30:**



### **9.2 CHEMICAL STORAGE AND USE**

Prior hazardous materials use and storage at the Site was predominantly associated with the Sears Automotive Center and the JC Penney Automotive Center. These facilities stored a variety of automotive related hazardous materials USTs, ASTs, drums and smaller containers. Both facilities currently are vacant. Past photo-related mall tenants (e.g., Expressly Portraits, Fox Photo, Inc., Kits Camera, and The Picture People, Inc.) were engaged in photo developing activities that utilized photoprocessing chemicals and generated associated hazardous waste.

Hydraulic fluid is used on-Site within elevator equipment and trash compactors. Diesel fuel is stored in ASTs associated with three on-Site emergency generators. Pool water treatment chemical are used at the Bay Club fitness center. Other water treatment chemicals, such as corrosion and scale inhibitors and biocides, are used in the operation of HVAC equipment. Various facility maintenance products, consisting mainly of paint related products and janitorial supplies, also are used and stored on-Site.

At the Sears Automotive Center, remnant piping that appears to have formerly distributed grease, oil and transmission fluid from storage locations to the service bays remains along interior building walls, ceilings and within the basement. Residual lubricants within the piping were observed to be dripping onto the concrete floor slab and walls at several locations, mainly within the basement. Also, at the former location of two air compressors with the basement, the floor slab surrounding a floor drain also was heavily stained with oil. Staining also was observed on the floor of a former battery storage room. We recommend that the observed piping be properly removed and disposed, and that stains and residual oil be cleaned from the interior building surfaces. This work should be coordinated with the Santa Clara County Fire Department.

Near refrigeration equipment at the Cupertino Ice Center, oil staining and a spill (approximately 1 to 2 gallons) of what appeared to be oily water on the concrete floor slab also were observed. We recommend that the observed staining and spilled oil be cleaned.

The staining and spilled oil on concrete flooring at the Sears Automotive Center and the Cupertino Ice Center appeared unlikely to have significantly impacted underlying soil quality. However, when these facilities are demolished, we recommend that an Environmental Professional be present to observe underlying soil for evidence of potential impacts and, if observed, collect soil samples for laboratory analyses.

### **9.3 AGRICULTURAL USE**

The Site was used for agricultural purposes for several decades. Pesticides may have been applied to crops in the normal course of farming operations. Residual pesticide concentrations may remain in on-Site soil. If elevated concentrations of agricultural chemicals are present, mitigation or soil management measures may be required during construction/earthwork activities. We recommend performing soil sampling to evaluate if agricultural chemicals are present. The sampling should focus of former orchard and row crop areas, as well as in the vicinity of outbuilding (barns and sheds) that were formerly located of the southeast portion of the Site; pesticides and/or pesticide application equipment commonly were stored in such outbuildings. Testing for lead contamination also shall be completed at the former structure locations. The sampling, which shall follow commonly accepted environmental protocols, shall be performed prior to soil excavation activities in order to appropriately profile the soil for off-haul to a disposal/accepting facility. The analytical data shall be compared to either residential



screening levels and/or the specific acceptance criteria of the accepting facility. If this soil is planned to be reused on-site, it shall be compared to residential screening levels and/or natural background levels of metals.

#### **9.4 UNDERGROUND STORAGE TANKS**

Two 350 gallon diesel USTs and one 500 gallon waste oil UST were previously located near the JC Penney Automotive Center and were removed in 1989. Two 12,000 gallon gasoline USTs, two 5,000 gallon gasoline USTs, and two 550 gallon oil USTs were removed from the Sears Automotive Center in 1985. As summarized in Section 4.1.3, soil and ground water quality studies and soil removal activities subsequently were conducted at these facilities. The SCVWD issued case closure letters to JC Penney and Sears in 1994 and 1999, respectively. Residual petroleum hydrocarbons remain in place near the former USTs; however, the reported residual contaminant concentrations generally do not exceed the Water Board's current Tier 1 ESLs or residential screening levels established by the DTSC and US EPA. Thus, the residual contaminants do not appear to pose a significant risk to current or future Site occupants.

A building plan from 1969 for the Sears Automotive Center that was reviewed by Cornerstone depicts a 1,000 gallon waste oil UST on the west side of the building. Similarly, the SWEEPS UST database lists seven USTs at Sears (the six USTs that were removed in 1985, and the 1,000 gallon waste oil UST). No records pertaining to the removal of a 1,000 gallon waste oil UST were identified during this study. During our Site visit, an access cover was observed in the pavement in the vicinity of the waste oil UST depicted on the 1969 building plan. Thus, it appears that a waste oil UST may remain on-Site. We recommend that the potential presence of a waste oil UST be further investigation by removing the access cover and, if uncertainty remains, the subsequent performance of a geophysical survey. If a UST is identified, it should be removed in coordination with the Santa Clara County Fire Department and DEH, and underlying soil quality should be evaluated. If no UST is identified, soil quality at the location of the waste oil UST, as depicted on the 1969 building plan, should be evaluated via the collection of soil samples from borings for laboratory analyses.

Fire Department records contained a contract dated June 12, 1986 between Sears, Roebuck and Company and K.E. Curtis Construction Company for the removal of a 500 gallon UST. No details regarding the contents or location of the UST were described in the contract, and no other records pertaining to a UST removal at Sears in 1986, or later, were identified during this study. It appears plausible that this contract was for the removal of the waste oil UST discussed above (if the UST is no longer present). Alternatively, a different undocumented UST may have been removed from the Site.

#### **9.5 OIL-WATER SEPARATORS AND ACID NEUTRALIZATION CHAMBER**

At the Sears Automotive Center, an oil-water separator (connected to floor drains within the building) and an acid neutralization chamber (connected to drains within a former battery storage room) were identified during this study. We recommend that these below ground features be cleaned and removed. This work should be coordinated with the Santa Clara County Fire Department and DEH. Soil quality below each of the structures should be evaluated via sampling and laboratory analyses.

In 1994, the 750 gallon oil-water separator at the JC Penny Automotive Center was steam cleaned and closed in place by filling it with cement grout under County Fire Department oversight. Based on reported soil sampling data, this separator does not appear to have



significantly impacted underlying soil quality. However, it likely will require removal and appropriate disposal during redevelopment activities.

#### **9.6 HYDRAULIC LIFTS**

Multiple former hydraulic lifts were observed with the service bays at the Sears and JC Penny Automotive Centers. The inner lift cylinders appeared to have been removed and the outer steel casings were filled with concrete (at Sears) and pea gravel (at JC Penney). We recommend that each of the below ground lift casings and any associated hydraulic fluid piping and reservoirs be removed and properly disposed. An Environmental Professional should be retained to observe the removal activities and, if evidence of leakage is identified, soil sampling and laboratory analyses should be conducted.

#### **9.7 LEAD-BASED PAINT AND TERMITE CONTROL PESTICIDES**

The Consumer Product Safety Commission banned the use of lead as an additive in paint in 1978. Based on the age of the building(s), lead-based paint may be present. The removal of lead-based paint is not required prior to building demolition if the paint is bonded to the building materials. However, if the lead-based paint is flaking, peeling, or blistering, it should be removed prior to demolition. In either case, applicable OSHA regulations must be followed; these include requirements for worker training, air monitoring and dust control, among others. Any debris containing lead must be disposed appropriately.

Additionally, soil adjacent to structures that are painted with lead-containing paint can become impacted with lead as a result of the weathering and/or peeling of painted surfaces. Soil near wood framed structures also can be impacted by pesticides historically used to control termites. Lead and/or pesticides often are identified in soil near old residences and associated outbuildings, such as those historically located on the southeast portion of the Site. Prior to redevelopment of the Site, we recommend that shallow soil at the former structure locations be evaluated for the possible presence of lead and pesticides.

#### **9.8 IMPORTED SOIL**

If the planned development will require importing soil for Site grading, we recommend documenting the source and quality of imported soil. The DTSC's Clean Fill Advisory (2001) provides useful guidance on evaluating imported fill.

#### **9.9 POTENTIAL ENVIRONMENTAL CONCERNS WITHIN THE SITE VICINITY**

Based on the information obtained during this study, no hazardous material spill incidents have been reported in the Site vicinity that would be likely to significantly impact the Site. However, as is typical to many commercial areas, several facilities in the vicinity were reported as hazardous materials users. If leaks or spills occur at these facilities, contamination could impact the Site, depending upon the location of the property, the magnitude of the release, and the effectiveness of cleanup efforts.

#### **9.10 GROUND WATER MONITORY WELLS**

In 1990, four ground water monitoring wells were installed on-Site to evaluate potential impacted from the former USTs at JC Penney. No records pertaining to the current status of these wells were identified during this study. Due to stored construction materials, the reported



well locations were not accessible at the time of our visit; one location appears to be below the parking garage constructed to the south of the JC Penney building. Prior to redevelopment of the Site, these wells should be properly destroyed in accordance with SCVWD Ordinance 90-1.

### **9.11 FACILITY CLOSURE**

As part of the facility closure process for occupants that use and/or store hazardous materials, the Santa Clara County Fire Department and DEH typically require that a closure plan be submitted by the occupant that describes required closure activities, such as removal of remaining hazardous materials, cleaning of hazardous material handling equipment, decontamination of building surfaces, and waste disposal practices, among others. We recommend that facility closure be coordinated with the Fire Department and DEH to ensure that required closure activities are completed prior to redevelopment of the Site.

### **9.12 SITE MANAGEMENT PLAN**

We recommend preparing a Site Management Plan (SMP) and Health and Safety Plan (HSP) for the proposed demolition and redevelopment activities. The purpose of these documents will be to establish appropriate management practices for handling impacted soil, soil vapor and ground water or other materials that may potentially be encountered during construction activities, especially in areas of former hazardous materials storage and use, and the profiling of soil planned for off-Site disposal. The Site Management Plan should document former and suspect UST locations, hazardous materials transfer lines, oil-water separators, neutralization chambers, and hydraulic lifts, etc. The SMP also would provide the protocols for accepting imported fill materials.

### **9.13 ASBESTOS CONTAINING BUILDING MATERIALS (ACBMS)**

Due to the age of the on-Site structure(s), building materials may contain asbestos. Because demolition is planned, an asbestos survey is required by local authorities and/or National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines. NESHAP guidelines require the removal of potentially friable ACBMs prior to building demolition or renovation that may disturb the ACBM.

### **9.14 DATA GAPS**

ASTM Standard Designation E 1527-13 requires the Environmental Professional to comment on significant data gaps that affect our ability to identify Recognized Environmental Conditions. A data gap is a lack of or inability to obtain information required by ASTM Standard Designation E 1527-13 despite good faith efforts by the Environmental Professional to gather such information. A data gap by itself is not inherently significant; it only becomes significant if it raises reasonable concerns. No significant data gaps were identified during this Phase I ESA.

### **9.15 DATA FAILURES**

As described by ASTM Standard Designation E 1527-13, a data failure occurs when all of the standard historical sources that are reasonably ascertainable and likely to be useful have been reviewed and yet the historical research objectives have not been met. Data failures are not uncommon when attempting to identify the use of a Site at five year intervals back to the first use or to 1940 (whichever is earlier). ASTM Standard Designation E 1527-13 requires the Environmental Professional to comment on the significance of data failures and whether the



data failure affects our ability to identify Recognized Environmental Conditions. A data failure by itself is not inherently significant; it only becomes significant if it raises reasonable concerns. No significant data failures were identified during this Phase I ESA.

### 9.16 RECOGNIZED ENVIRONMENTAL CONDITIONS

Cornerstone has performed a Phase I ESA in general conformance with the scope and limitations of ASTM E 1527-13. This assessment identified the following Recognized Environmental Conditions<sup>4</sup>.

- Documents reviewed during this study, as well as observations at the Site, indicate that a 1,000 gallon waste oil UST may be present on the west side of the Sears Automotive Center building. No documents pertaining to the removal of this UST or the evaluation of soil quality at the UST location were identified. There is a potential that this UST, if present, may have impacted soil, soil vapor and/or ground water at the Site.
- An oil-water separator (connected to floor drains within the building) and an acid neutralization chamber (connected to drains within a former battery storage room) were identified during this study on the east side of the Sears Automotive Center building. There is a potential that these features may have impacted soil, soil vapor and/or ground water at the Site.
- Vehicle lift components (e.g., outer lift cylinder casings and possibly associated hydraulic fluid piping and reservoirs) remain in ground at the JC Penney Automotive Center and within the northern portion of the Sears Automotive Center that is not underlain by the basement. There is a potential that these features may have impacted soil and/or ground water at the Site.
- In 1986, Sears, Roebuck and Company established a contract with K.E. Curtis Construction Company for the removal of a 500 gallon UST. No details regarding the contents or location of the UST were described in the contract, and no other records pertaining to a UST removal at Sears in 1986, or later, were identified. There is a potential that this unidentified UST may have impacted soil, soil vapor and/or ground water at the Site.
- The Site historically was used for agricultural purposes. There is a potential that residual pesticides could remain in Site soil. If present, this soil may require appropriate management.
- Soil adjacent to structures that are painted with lead-containing paint can become impacted with lead as a result of the weathering and/or peeling of painted surfaces. Soil near wood framed structures also can be impacted by pesticides historically used to control termites. There is a potential that residual lead and pesticide concentrations could remain in on-Site soil resulting from the prior residence and outbuildings previously located on the southeast portion of the Site.

<sup>4</sup> The presence or likely presence of hazardous substances or petroleum products on the Site: 1) due to any release to the environment; 2) under conditions indicative of a release to the environment; or 3) under conditions that pose a material threat of a future release to the environment.



This assessment identified the following Historical Recognized Environmental Conditions<sup>5</sup>:

- Two 350 gallon diesel USTs and one 500 gallon waste oil UST were previously located near the JC Penney Automotive Center and were removed in 1989. Two 12,000 gallon gasoline USTs, two 5,000 gallon gasoline USTs, and two 550 gallon oil USTs were removed from the Sears Automotive Center in 1985. The SCVWD issued case closure letters to JC Penney and Sears in 1994 and 1999, respectively, indicating that no further work was required.

Within the Sears Automotive Center building, remnant piping is present that appears to have formerly distributed grease, oil and transmission fluid from storage locations to the service bays and hydraulic fluid to vehicle lifts. Residual spilled oil and staining is present on the concrete floor slabs and walls of the building, mainly within the basement. Near refrigeration equipment at the Cupertino Ice Center, oil staining and a spill (approximately 1 to 2 gallons) of what appeared to be oily water on the concrete floor slab also were observed. The staining and spilled oil on concrete floors and walls at the Sears Automotive Center and the Cupertino Ice Center appeared unlikely to have significantly impacted underlying soil quality; thus, we do not categorize these observations as Recognized Environmental Conditions. As noted in ASTM E 1527-13, the term Recognized Environmental Condition is not intended to include de minimis conditions that generally do not present a significant threat to human health or the environment and that generally would not be the subject of an enforcement action if brought to the attention of appropriate governmental agencies. We recommend, however, that the observed staining and spilled oil be cleaned, and that the remnant piping be properly removed and disposed. Additionally, when these facilities are demolished, we recommend that an Environmental Professional be present to observe underlying soil for evidence of potential impacts and, if observed, collect soil samples for laboratory analyses.

## SECTION 10: LIMITATIONS

Cornerstone performed this Phase I ESA to support David J. Powers & Associates in evaluation of Recognized Environmental Conditions associated with the Site. David J. Powers & Associates understands that no Phase I ESA can wholly eliminate uncertainty regarding the potential for Recognized Environmental Conditions to be present at the Site. This Phase I ESA is intended to reduce, but not eliminate, uncertainty regarding the potential for Recognized Environmental Conditions. David J. Powers & Associates understands that the extent of information obtained is based on the reasonable limits of time and budgetary constraints.

Findings, opinions, conclusions and recommendations presented in this report are based on readily available information, conditions readily observed at the time of the Site visit, and/or information readily identified by the interviews and/or the records review process. Phase I ESAs are inherently limited because findings are developed based on information obtained from a non-intrusive Site evaluation. Cornerstone does not accept liability for deficiencies, errors, or misstatements that have resulted from inaccuracies in the publicly available information or from interviews of persons knowledgeable of Site use. In addition, publicly available information and field observations often cannot affirm the presence of Recognized Environmental Conditions; there is a possibility that such conditions exist. If a greater degree of confidence is desired, soil, ground water, soil vapor and/or air samples should be collected by Cornerstone and analyzed

<sup>5</sup> A past Recognized Environmental Condition that has been addressed to the satisfaction of the applicable regulatory agency or meeting unrestricted use criteria established by the applicable regulatory agency without subjecting the Site to required controls or restrictions.

MAPPED SITES SUMMARY

Target Property Address:  
10123 NORTH WOLFE ROAD  
CUPERTINO, CA 95014

Click on Map ID to see full detail.

MAP ID	SITE NAME	ADDRESS	DATABASE ACRONYMS	RELATIVE ELEVATION	DIST (ft. & mi.) DIRECTION
A1	J.C. PENNEY	10150 N WOLFE RD	FINDS		TP
A2		VALCO FASHION PARK,	CHMIRS		TP
A3	SEARS AUTOMOTIVE CEN	10123 WOLFE RD N	RGA LUST		TP
A4	SEARS AUTOMOTIVE CEN	10101 N WOLFE RD	RGA LUST		TP
A5	SEARS AUTOMOTIVE CEN	10123 N WOLFE RD	RGA LUST		TP
A6	JC PENNEY	10150 WOLFE	HIST CORTESE		TP
A7	MACY'S VALCO	10333 N WOLFE ROAD	FINDS		TP
A8	JC PENNEYS	10150 N WOLFE RD	HAZNET		TP
A9	MACY'S (VALCO #341)	10333 N WOLFE ROAD	CHMIRS, EMI		TP
A10		10123 NORTH WOLFE RD	CHMIRS, HIST CORTESE		TP
A11	JC PENNY COMPANY, ST	10150 N WOLFE ROAD	FINDS		TP
A12	VALLCO SHOPPING MALL	10123 N WOLFE RD.	HAZNET		TP
A13	MACY'S WEST 124A	10333 WOLFE RD	HAZNET		TP
A14	BATH & BODY WORKS	10123 WOLFE RD STE 2	HAZNET		TP
A15	VALLCO FASHION PARK	10123 N WOLFE RD	CUPA Listings, HAZNET		TP
A16	R JACOBS GROUP	10123 NO WOLFE RD #2	HAZNET		TP
A17	KITS CAMERAS ONE HR	10123 N WOLFE RD STE	RCRA-SQG, FINDS, ECHO		TP
A18	J. C. PENNEY CO., IN	10150 N WOLFE RD	LUST, HIST LUST, SWEEPS UST, CA FID UST		TP
A19	JC PENNEY #427	10150 N WOLFE RD	FINDS		TP
A20	SEARS ROEBUCK & CO	10101 WOLFE RD	RCRA-SQG, LUST, HIST LUST, SWEEPS UST, HIST UST,...		TP
A21	JC PENNEY	10150 N WOLFE RD	RGA LUST		TP
A22	JC PENNEY	10150 WOLFE RD N	RGA LUST		TP
A23	J.C. PENNEY	10150 N WOLFE RD	RGA LUST		TP
A24	VALLCO DENTAL CARE	10101 WOLFE RD	FINDS		TP
A25	ALEXANDER'S STEAKHOU	10330 N WOLFE RD	FINDS		TP
A26	J.C. PENNEY	10150 N WOLFE RD	RGA LUST		TP
A27	VALLCO GENERATOR ROO	10123 N WOLFE RD	FINDS		TP
A28	SEARS AUTO CENTER	10101 WOLFE RD	AST		TP
A29		10333 NORTH WOLFE RD	ERNS		TP
A30		10123 WOLF RD	ERNS		TP
A31	VALLCO FASHION PARK	10123 N WOLFE RD STE	RCRA-SQG, FINDS, ECHO, HAZNET		TP
A32	SEARS AUTOMOTIVE CEN	10101 N WOLFE RD	FINDS		TP
A33	ICE CENTER ENTERPRIS	10123 N WOLFE RD	HAZNET		TP
A34	SEARS #1468/6939	10101 N WOLFE RD	LUST, HIST UST, FINDS, ECHO		TP
A35	ICE CHALET VALLCO	10123 N WOLFE RD	FINDS		TP
A36	THE PICTURE PEOPLE I	10123 N WOLFE RD UNI	FINDS		TP
A37	JC PENNY COMPANY, ST	10150 N WOLFE ROAD	EMI		TP
A38	MACY'S VALCO	10333 N WOLFE ROAD	EMI		TP
A39	FOX PHOTO INC	10123 N WOLFE RD	HAZNET		TP

5158480.2s Page 2

(Cornerstone Earth Group, PDF 46)



MAPPED SITES SUMMARY

Target Property Address:  
10123 NORTH WOLFE ROAD  
CUPERTINO, CA 95014

Click on Map ID to see full detail.

MAP ID	SITE NAME	ADDRESS	DATABASE ACRONYMS	RELATIVE ELEVATION	DIST (ft. & mi.) DIRECTION
A40	KITS CAMERA #51	10123 N WOLFE RD	HAZNET		TP
A41	EXPRESSLY PORTRAITS	10123 NO WOLFE RD #2	HAZNET		TP
A42	THE PICTURE PEOPLE I	10123 N WOLFE RD UNI	HAZNET		TP
A43	MACY'S DEPARTMENT ST	10333 N WOLFE RD	FINDS		TP
A44	J.C. PENNEY	10150 N WOLFE RD	LUST, HIST UST		TP
Reg	INTERSIL INC	10900 N TANTAU AVENU	NPL, SEMS, RCRA-SQG, US ENG CONTROLS, ENVIROSTOR	Same	2372, 0.449, NE
45	THE PICTURE PEOPLE	19123 N WOLFE RD MS	RCRA-SQG, FINDS, ECHO	Higher	1 ft.
B46	ENTERPRISE CONTROLS	10045 ESTATES DR	EDR Hist Cleaner	Higher	165, 0.031, South
B47	ONE HOUR CLEANERS BY	10045 E ESTATES DR	RCRA-SQG, FINDS, ECHO, DRYCLEANERS, HAZNET	Higher	165, 0.031, South
B48	ONE HOUR CLEANERS BY	10045 ESTATES DR	CUPA Listings	Higher	165, 0.031, South
B49	ESTATES MOBILE SERVI	19550 STEVENS CREEK	EDR Hist Auto	Higher	196, 0.037, South
B50	TOSCO #11220	19550 STEVENS CREEK	LUST, HIST LUST	Higher	196, 0.037, South
B51	VALLCO #6 #112220-30	19550 STEVENS CREEK	UST	Higher	196, 0.037, South
B52	MOBIL	19550 STEVENS CREEK	LUST, HIST LUST, SWEEPS UST, EMI, HIST CORTESE	Higher	196, 0.037, South
B53	MOBIL SERVICE STATIO	19550 STEVENS CREEK	HIST UST	Higher	196, 0.037, South
B54	PLATINUM ENERGY #261	19550 STEVENS CREEK	LUST, SWEEPS UST, CA FID UST, CUPA Listings	Higher	196, 0.037, South
B55	TOSCO NORTHWEST CO N	19550 STEVENS CREEK	RCRA-SQG, FINDS, ECHO	Higher	196, 0.037, South
C56	TANDEM COMPUTERS LOC	19333 VALLCO PARKWAY	SEMS-ARCHIVE, RCRA-LQG, SWEEPS UST, HIST UST, CA...	Higher	211, 0.040, SE
C57	APPLE INC	19333 VALLCO PY	AST	Higher	211, 0.040, SE
C58	APPLE, INC.	19333 VALLCO PARKWAY	RCRA-LQG	Higher	211, 0.040, SE
C59	APPLE INC	19333 VALLCO PARKWAY	SLIC, BROWNFIELDS, HIST UST, EMI	Higher	211, 0.040, SE
D60	HOLIDAY CLEANERS	19720 STEVENS CREEK	EDR Hist Cleaner	Higher	230, 0.044, SSW
D61	HOLIDAY CLEANERS OF	19720 STEVENS CREEK	FINDS, DRYCLEANERS, EMI	Higher	235, 0.045, SSW
D62	WARDROB CUSTOM CLEAN	19705 STEVENS CRK BL	RCRA-SQG, FINDS, ECHO	Higher	260, 0.049, SSW
D63	MELS CLEANERS	19705 STEVNS CRK BD	EDR Hist Cleaner	Higher	260, 0.049, SSW
E64	BUSHMAN GERALD R	19480 STEVENS CREEK	EDR Hist Auto	Higher	292, 0.055, South
E65	ALLAN DOMASH	19480 STEVENS CREEK	LUST, AST, CA FID UST, CUPA Listings	Higher	292, 0.055, South
E66	JIFFY-LUBE	19480 STEVENS CREEK	AST	Higher	292, 0.055, South
E67	SHELL	19480 STEVENS CREEK	LUST, HIST LUST, HIST CORTESE	Higher	292, 0.055, South
E68	ALLAN DOMASH	19480 STEVENS CREEK	SWEEPS UST, HIST UST	Higher	292, 0.055, South
B69	ANNE E MURRAY DDS	10055 MILLER AV 104	CUPA Listings	Higher	355, 0.067, South
B70	DRS LIN & LO DMD INC	10055 MILLER AV 101	CUPA Listings, HAZNET	Higher	355, 0.067, South
71	HEWLETT-PACKARD COMP	190447 PRUNERIDGE AV	CA FID UST	Lower	620, 0.117, NNW
72	STEFFEN WILLIAM CHEV	19795 STEVENS CREEK	EDR Hist Auto	Higher	625, 0.118, SW
F73	ROBERT F HARLEY DDS	10055 N PORTAL AV 13	CUPA Listings	Higher	725, 0.137, SW
F74	THEODORE A FLOOR DDS	10055 N PORTAL AV 10	CUPA Listings	Higher	725, 0.137, SW
G75	CVS PHARMACY #17687	19499 STEVENS CREEK	RCRA-CESQG	Higher	869, 0.165, SSE
G76	CVS PHARMACY #17687	19499 STEVENS CREEK	CUPA Listings, HAZNET	Higher	869, 0.165, SSE
G77	TARGET STORE T3224	19499 STEVENS CREEK	RCRA-SQG, FINDS, ECHO	Higher	869, 0.165, SSE

(Cornerstone Earth Group, PDF 47)

MAPPED SITES SUMMARY

Target Property Address:  
10123 NORTH WOLFE ROAD  
CUPERTINO, CA 95014

Click on Map ID to see full detail.

MAP ID	SITE NAME	ADDRESS	DATABASE ACRONYMS	RELATIVE ELEVATION	DIST (ft. & mi.) DIRECTION
<a href="#">A40</a>	KITS CAMERA #51	10123 N WOLFE RD	HAZNET		TP
<a href="#">A41</a>	EXPRESSLY PORTRAITS	10123 NO WOLFE RD #2	HAZNET		TP
<a href="#">A42</a>	THE PICTURE PEOPLE I	10123 N WOLFE RD UNI	HAZNET		TP
<a href="#">A43</a>	MACY'S DEPARTMENT ST	10333 N WOLFE RD	FINDS		TP
<a href="#">A44</a>	J.C. PENNEY	10150 N WOLFE RD	LUST, HIST UST		TP
<a href="#">Reg</a>	INTERSIL INC	10900 N TANTAU AVENU	NPL, SEMS, RCRA-SQG, US ENG CONTROLS, ENVIROSTOR	Same	2372, 0.449, NE
<a href="#">45</a>	THE PICTURE PEOPLE	19123 N WOLFE RD MS	RCRA-SQG, FINDS, ECHO	Higher	1 ft.
<a href="#">B46</a>	ENTERPRISE CONTROLS	10045 ESTATES DR	EDR Hist Cleaner	Higher	165, 0.031, South
<a href="#">B47</a>	ONE HOUR CLEANERS BY	10045 E ESTATES DR	RCRA-SQG, FINDS, ECHO, DRYCLEANERS, HAZNET	Higher	165, 0.031, South
<a href="#">B48</a>	ONE HOUR CLEANERS BY	10045 ESTATES DR	CUPA Listings	Higher	165, 0.031, South
<a href="#">B49</a>	ESTATES MOBILE SERVI	19550 STEVENS CREEK	EDR Hist Auto	Higher	196, 0.037, South
<a href="#">B50</a>	TOSCO #11220	19550 STEVENS CREEK	LUST, HIST LUST	Higher	196, 0.037, South
<a href="#">B51</a>	VALLCO 76 #112220-30	19550 STEVENS CREEK	UST	Higher	196, 0.037, South
<a href="#">B52</a>	MOBIL	19550 STEVENS CREEK	LUST, HIST LUST, SWEEPS UST, EMI, HIST CORTESE	Higher	196, 0.037, South
<a href="#">B53</a>	MOBIL SERVICE STATIO	19550 STEVENS CREEK	HIST UST	Higher	196, 0.037, South
<a href="#">B54</a>	PLATINUM ENERGY #261	19550 STEVENS CREEK	LUST, SWEEPS UST, CA FID UST, CUPA Listings	Higher	196, 0.037, South
<a href="#">B55</a>	TOSCO NORTHWEST CO N	19550 STEVENS CREEK	RCRA-SQG, FINDS, ECHO	Higher	196, 0.037, South
<a href="#">C56</a>	TANDEM COMPUTERS LOC	19333 VALLCO PARKWAY	SEMS-ARCHIVE, RCRA-LQG, SWEEPS UST, HIST UST, CA...	Higher	211, 0.040, SE
<a href="#">C57</a>	APPLE INC	19333 VALLCO PY	AST	Higher	211, 0.040, SE
<a href="#">C58</a>	APPLE, INC.	19333 VALLCO PARKWAY	RCRA-LQG	Higher	211, 0.040, SE
<a href="#">C59</a>	APPLE INC	19333 VALLCO PARKWAY	SLIC, BROWNFIELDS, HIST UST, EMI	Higher	211, 0.040, SE
<a href="#">D60</a>	HOLIDAY CLEANERS	19720 STEVENS CREEK	EDR Hist Cleaner	Higher	230, 0.044, SSW
<a href="#">D61</a>	HOLIDAY CLEANERS OF	19720 STEVENS CREEK	FINDS, DRYCLEANERS, EMI	Higher	235, 0.045, SSW
<a href="#">D62</a>	WARDROB CUSTOM CLEAN	19705 STEVENS CRK BL	RCRA-SQG, FINDS, ECHO	Higher	260, 0.049, SSW
<a href="#">D63</a>	MELS CLEANERS	19705 STEVNS CRK BD	EDR Hist Cleaner	Higher	260, 0.049, SSW
<a href="#">E64</a>	BUSHMAN GERALD R	19480 STEVENS CREEK	EDR Hist Auto	Higher	292, 0.055, South
<a href="#">E65</a>	ALLAN DOMASH	19480 STEVENS CREEK	LUST, AST, CA FID UST, CUPA Listings	Higher	292, 0.055, South
<a href="#">E66</a>	JIFFY-LUBE	19480 STEVENS CREEK	AST	Higher	292, 0.055, South
<a href="#">E67</a>	SHELL	19480 STEVENS CREEK	LUST, HIST LUST, HIST CORTESE	Higher	292, 0.055, South
<a href="#">E68</a>	ALLAN DOMASH	19480 STEVENS CREEK	SWEEPS UST, HIST UST	Higher	292, 0.055, South
<a href="#">B69</a>	ANNE E MURRAY DDS	10055 MILLER AV 104	CUPA Listings	Higher	355, 0.067, South
<a href="#">B70</a>	DRS LIN & LO DMD INC	10055 MILLER AV 101	CUPA Listings, HAZNET	Higher	355, 0.067, South
<a href="#">71</a>	HEWLETT-PACKARD COMP	190447 PRUNERIDGE AV	CA FID UST	Lower	620, 0.117, NNW
<a href="#">72</a>	STEFFEN WILLIAM CHEV	19795 STEVENS CREEK	EDR Hist Auto	Higher	625, 0.118, SW
<a href="#">F73</a>	ROBERT F HARLEY DDS	10055 N PORTAL AV 13	CUPA Listings	Higher	725, 0.137, SW
<a href="#">F74</a>	THEODORE A FLOOR DDS	10055 N PORTAL AV 10	CUPA Listings	Higher	725, 0.137, SW
<a href="#">G75</a>	CVS PHARMACY #17687	19499 STEVENS CREEK	RCRA-CESQG	Higher	869, 0.165, SSE
<a href="#">G76</a>	CVS PHARMACY #17687	19499 STEVENS CREEK	CUPA Listings, HAZNET	Higher	869, 0.165, SSE
<a href="#">G77</a>	TARGET STORE T3224	19499 STEVENS CREEK	RCRA-SQG, FINDS, ECHO	Higher	869, 0.165, SSE

(Cornerstone Earth Group, PDF 48)

2013 ESA

Previous ownership of the mall:



According to Mr. Rohde and a review of public records, previous owners of the Mall property, in descending order, have included Vallco International Shopping Mall, LLC; GKK Cupertino Owner LLP, Teachers Annuity Trust, Jacobs Group, Heightman, and Westfield. The Mall underwent significant renovations in 1988 and 2006. In 2006, two new parking structures were constructed, additional parking was added south of JC Penney's, additional retail stores were added along the west side of Wolfe road, and the AMC movie theatre was added to the third level of the mall. In 2012, Sears renovated their store building and the Bay Club, a fitness facility, was established in the southeast corner of the Sears building.

Appendix E, Part 2, PDF 119

**Response Q.30:** The above excerpts are from the ESA, which is Appendix E of the Draft EIR. The findings of the ESA are summarized in Section 3.9 of the Draft EIR. Refer to Section 5.3 Response AAA.12. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**Comment Q.31:** 2006 ESA FOR MAIN VALLCO SHOPPING MALL BUILDING PROPERTY

Sears had a leak reported in April 11, 1985, as of June 31, 2001, no action had been taken. Statement conflicts with current ESA.

The following information pertains to the Property:

- 3 Expressly Portraits located at 10123 North Wolfe Road, is listed as approximately 200 feet to the southeast of the Property. The site is listed on the **ERNS** database as an emergency response notification site. One Hazardous Waste Liquid Spill of Silver was listed as occurring on June 14, 1996. According to the database, the spill was released to a secondary containment tank. After clean-up and inspection, no further action was taken. Based on the regulatory status and listing nature of this site, it is not anticipated that this site will adversely impact the environmental quality of the Property.
- 3 Kits Cameras One Hour Number 51, located at 10123 North Wolfe Road, Suite 2023, is listed as approximately 200 feet to the southeast of the Property. The site is listed as a **RCRA Generator Site**. According to the database, the facility at this site is listed as a small quantity generator, permitted to generate 100 - 1,000 kilograms per month of hazardous waste. No violations were reported. Based on the regulatory status and listing nature of this site, it is not anticipated that this site will adversely impact the environmental quality of the Property.
- 3 Vallco Fashion Park, located at 10123 North Wolfe Road, is listed as approximately 200 feet to the southeast of the Property. The site is listed as a **RCRA Generator Site**. According to the database, the facility at this site is listed as a small quantity generator, permitted to generate 100 - 1,000 kilograms per month of hazardous waste. No violations were reported. Based on the regulatory status and listing nature of this site, it is not anticipated that this site will adversely impact the environmental quality of the Property.

The following sites are within 1/8 mile of the Property:

- 1 Sears Automotive Center, located at 10123 North Wolfe Road, is listed as approximately 200 feet to the northeast of the Property. The site is listed on the **LUST** database as having had a leaking underground storage tank. According to the database, gasoline was leaked, affecting the soil only. The leak was reported on April 11, 1985. As of June 31, 2001, no action had been taken. Though listed as the same address as the Property, this site is not part of this report and is not considered part of the Property. Sears Automotive center no longer uses this address. The current address is 10101 North Wolfe Road.
- 2 JC Penny, located at 10150 North Wolfe Road, is listed as approximately 200 feet to the northeast of the Property. The site is listed on the **LUST** database as having had a leaking underground storage tank. According to the report, diesel was leaked on the site. The leak was reported on November 28, 1989. The site was issued a closure letter on September 1, 1994. The site also is listed as a **UST SITE**. The current status is inactive. Based on the regulatory status of this site it is not anticipated that this site will adversely impact the environmental quality of the Property.
- 4 Sears Automotive Center, located at 10150 North Wolfe Road, is listed as approximately 200 feet to the southeast of the Property. The site is listed on the **LUST** database as having had a leaking underground storage tank. According to the report, gasoline was leaked on the site. The leak was



Valleco International Shopping Centers 9  
Valleco Fashion Mall, Cupertino, California

May 5, 2006  
Project CA 1537-1



reported on January 1, 1988. The site was issued a closure letter on December 6, 1999. Based on the regulatory status of this site, it is not anticipated that this site will adversely impact the environmental quality of the Property. Sears Automotive center no longer uses this address. The current address is 10101 North Wolfe Road.

5 JC Penny, located at 10150 North Wolfe Road, is listed as approximately 200 feet to the southeast of the Property. The site is listed on the **LUST** database as having had a leaking underground storage tank. According to the report, diesel was leaked on the site. The leak was reported on November 16, 1989. The site was issued a closure letter on September 1, 1994. Based on the regulatory status and listing nature of this site, it is not anticipated that this site will adversely impact the environmental quality of the Property.

3 The Picture People, located at 19123 North Wolfe Road, is listed as approximately 200 feet to the southeast of the Property. The site is listed as a **RCRA Generator Site**. According to the database, the facility at this site is listed as a large quantity generator, permitted to generate over 1,000 kilograms per month of hazardous waste. No violations were reported. Based on the regulatory status and listing nature of this site, it is not anticipated that this site will adversely impact the environmental quality of the Property.

6 Sears Automotive Center, located at 10101 North Wolfe Road, is listed as approximately 300 feet to the southeast of the Property. The site is listed on the **LUST** database as having had a leaking underground storage tank. According to the report, gasoline was leaked on the site. The leak was reported on October 24, 1994. The site was issued a closure letter on December 6, 1999. Based on the regulatory status and listing nature of this site, it is not anticipated that this site will adversely impact the environmental quality of the Property.

6 Sears Roebuck & Co, located at 10101 North Wolfe Road, is listed as approximately 300 feet to the southeast of the Property. The site is listed as a **RCRA Generator Site**. According to the database, the facility at this site is listed as a small quantity generator, permitted to generate 100 - 1,000 kilograms per month of hazardous waste. No violations were reported. Based on the regulatory status and listing nature of this site, it is not anticipated that this site will adversely impact the environmental quality of the Property. The site also is listed as a **UST SITE**. The current status is inactive.

6 Jiffy Lube Store #1615, located at 10101 North Wolfe Road, is listed as approximately 300 feet to the northeast of the Property. The site is listed on the **UST** database as having an underground storage tank registered with the State Water Resources Control Board. According to the database, no violations were noted. Based upon the regulatory status and listing nature of this site, it is not anticipated that this site will adversely impact the environmental quality of the Property.

7 Tandem Location One, located at 19333 Vallico Parkway, is listed as approximately 425 feet to the northeast of the Property. The site is listed on the **UST** database as having an underground storage tank. The status is listed as inactive. According to the database, no violations were noted. Based upon the regulatory status and listing nature of this site, it is not anticipated that this site will adversely impact the environmental quality of the Property.



**8,9** Four Phase Systems Motorola Tandem, located at 19333 Vallco Parkway, is listed as approximately 550 feet to the northeast of the Property. The site is listed on the **STATE SPILLS** site. According to the database, on April 27, 1991, a spill or leak was disclosed to the San Francisco Bay Area Water Quality Control Board. Soil remediation and on-site groundwater extraction or containment action was not recommended. According to the database, the site is not an NPL site and its current status is closed. The most recent agency update was March 11, 1991. Based upon the regulatory status and listing nature of this site, it is not anticipated that this site will adversely impact the environmental quality of the Property.

The site is also listed on the **CERCLIS NFRAP** database. According to the database, no further action is planned. The EPA identification number is CAD069101152.

The following NPL sites are within one mile of the Property:

**22,23** Interstil Inc./Siemens Components, located at 10910 North Tantau Avenue and 19000 Homestead Road is listed as approximately 4,300 feet to the northeast of the Property. The site is listed as an **NPL** site. According to the database, an inadvertent industrial spill occurred that resulted in Volatile Organic Compounds (VOC) being released into the soil and groundwater. The spill was discovered in 1982. In 1983 a system was installed to extract gasses from the soil. In 1986, a "pump and treat" system was installed at the site. In February 1990, draft reports of remedial investigations for the site and off-site down gradient areas were released. As of January 13, 2006, the database lists the status as "final".

Based on the number of sites listed in the environmental database report, it is possible that groundwater in the area has been affected by a variety of contaminants. However, evidence was not found that the Property has contributed to a local groundwater problem, if one exists.





Information regarding previous or current environmental concerns at the Property was not found during Ceres Associates' regulatory review at the Santa Clara Valley Water District, Santa Clara County Environmental Health Department, or the Santa Clara County Fire Prevention Department for this Phase I ESA.

## ASBESTOS

Suspected asbestos-containing materials (ACM) including drywall and texture materials, spray-on acoustical ceiling materials, acoustical ceiling tiles, exterior stucco materials, one-foot by one-foot resilient floor tiles, roofing materials, and the cooling tower fill were noted during the Property reconnaissance. The building on the Property appears to be of the age and construction that suggests the possibility that construction materials may contain asbestos fibers. The suspect ACMs observed appeared to be in good condition and non-friable.

## SURROUNDING AREA SUMMARY AND CONCLUSIONS

A Sears Automotive Center is located approximately 400 feet south of the Property on the west side of North Wolfe Road. The site was observed to have ten hydraulic lifts and signage indicated the facility performed oil and automotive coolant changes. This would indicate used and fresh motor oil and used and fresh automotive coolant is used at the facility. Ceres Associates was unable to assess housekeeping practices at the facility from off-site visual observation. According to information reviewed at the Santa Clara Valley Water District (SCVWD), six underground storage tanks, four gasoline and two motor oil, were removed from the site in 1985. The dispenser islands and product lines were removed from the site in 1994. Sampling was performed in 1999 to assess the hydrocarbon concentration in the soil and groundwater at the site. Seven boring locations were sampled to a depth of 44 feet below ground surface. Groundwater was not encountered in the seven borings. Concentrations of ethylbenzenes, total xylenes, and lead were reported in the soil samples. The concentrations were below regulatory action levels. The site was granted case closure on December 6, 1999. The SCVWD concluded that based on soil sampling results, residual contamination in the subsurface from the former USTs are minimal. Additionally, due to the location of deep groundwater, residual contamination at the site would not likely pose a significant threat to the groundwater beneath the site. Ceres Associates did not find evidence that this site has impacted the environmental quality of the Property.

JC Penny, located adjacent to the east of the Property, is listed as a leaking underground storage tank site (LUST) in the environmental database report. According to information reviewed at the SCVWD, one 350-gallon diesel fuel UST and one 350-gallon waste oil UST were removed from the site on November 15, 1989. A 750-gallon waste oil/water sump was closed in-place on January 21, 1994. Overexcavation of approximately 303 tons of contaminated soil was performed at the diesel and waste oil UST excavations. Four monitoring wells were installed to monitor groundwater conditions beneath the site. Final monitoring results indicated non-detect levels of target analytes. A case closure letter was issued for the site by the SCVWD on September 1, 1994. This site is also listed on the UST database as having inactive UST(s). Ceres Associates did not find evidence that this site has impacted the environmental quality of the Property.



Ceres Associates  
UBS Warburg (Vallico Fashion Park, Cupertino)

2

Project CA989-1  
March 21, 2003

Only 6 USTs mentioned being removed in 1985, no mention of the 1,000 gallon waste oil UST:

**21** Sears Automotive Center, located at 10101 North Wolfe Road, is approximately 200 feet southwest of the Property. The site is listed on the LUST database as being a leaking underground storage tank site. According to information reviewed at the Santa Clara Valley Water District (SCVWD), six underground storage tanks, four gasoline and two motor oil, were removed from the site in 1985. The dispenser islands and product lines were removed from the site in 1994. Sampling was performed in 1999 to assess the hydrocarbon concentration in the soil and groundwater at the site. Seven boring locations were sampled to a depth of 44 feet below ground surface. Groundwater was not encountered in the seven borings. Concentrations of ethylbenzenes, total xylenes, and lead were reported in the soil samples. The concentration levels were below regulatory action levels. The site was granted case closure on December 6, 1999. The SCVWD concluded that based on soil sampling results, residual contamination in the subsurface from the former USTs are minimal. Additionally, due to the location of deep groundwater, residual contamination at the site would not likely pose a significant threat to the groundwater beneath the site. Ceres Associates did not find evidence that this site has impacted the environmental quality of the Property.

**Response Q.31:** Refer to Section 5.3 Response AAA.12.

**Comment Q.32:** STATE AND FEDERAL LAW REGARDING UST OWNERS AND OPERATORS

See the following for required reporting of USTs:

[https://www.waterboards.ca.gov/ust/tech\\_notices/docs/ca\\_fed\\_regs.pdf](https://www.waterboards.ca.gov/ust/tech_notices/docs/ca_fed_regs.pdf)





## State Water Resources Control Board

October 21, 2015

To: Underground Storage Tank Owners and Operators

### COMPLIANCE WITH CALIFORNIA AND FEDERAL UNDERGROUND STORAGE TANK REGULATIONS

The United States Environmental Protection Agency (U.S. EPA) issued revised underground storage tank (UST) regulations on July 15, 2015. The revisions strengthen the 1988 federal UST regulations by increasing the emphasis on properly operating and maintaining UST systems. The new federal UST regulations have been published in the Federal Register located at: <http://www.gpo.gov/fdsys/pkg/FR-2015-07-15/pdf/2015-15914.pdf>.

On August 20, 2015 the State Water Resources Control Board (State Water Board) notified California UST owners and operators they must comply with the new federal UST regulations, in addition to California UST statutes and regulations. The new federal UST regulations became effective on October 13, 2015 in Indian Territory and in those states, including California, that do not have State Program Approval. The compliance deadlines for the new requirements in the federal UST regulations range from October 13, 2015 to October 13, 2018 for those USTs installed on or before October 13, 2015. All USTs installed after October 13, 2015 must fully comply with the new applicable federal UST regulations, as well as California UST statutes and/or regulations at the time of installation.

To assist in complying with the new federal UST regulations, the U.S. EPA provides publications and other resources on their 2015 Revised Underground Storage Tank Regulations webpage at <http://www2.epa.gov/ust/revising-underground-storage-tank-regulations-revisions-existing-requirements-and-new>. Additional resources for field constructed tanks and airport hydrant fuel distribution systems are posted at <http://www2.epa.gov/ust/field-constructed-tanks-and-airport-hydrant-systems-2015-requirements>. And finally, resources for emergency generator tank systems can be found at <http://www2.epa.gov/ust/emergency-power-generator-ust-systems-2015-requirement-release-detection>.

In addition to the U.S. EPA resources, State Water Board staff has compiled a detailed table to assist California UST owners and operators in identifying new federal UST regulations that must be met in addition to California UST statute and regulations. The table contains the category of the new federal requirement, the compliance deadline dates, a detailed description of each of the new federal regulations that affect California USTs, and the citation of the federal requirement.

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | [www.waterboards.ca.gov](http://www.waterboards.ca.gov)



For more information about the new federal UST regulations, please see the U.S. EPA's 2015 Revised Underground Storage Tank Regulations webpage located at <http://www2.epa.gov/ust/revising-underground-storage-tank-regulations-revisions-existing-requirements-and-new>.

If you have any further questions regarding these new federal UST regulations, please contact me at (916) 341-5870 or [laura.fisher@waterboards.ca.gov](mailto:laura.fisher@waterboards.ca.gov) or Mr. Cory Hootman at (916) 341-5668 or [corv.hootman@waterboards.ca.gov](mailto:corv.hootman@waterboards.ca.gov)

Sincerely,

Laura S. Fisher, Chief  
UST Leak Prevention Unit and  
Office of Tank Tester Licensing

Enclosure (1)

1. Federal Underground Storage Tank Regulations That Must Be Met In Addition To California Underground Storage Tank Regulations (October 2015)

cc: [Via email only]

Julie M. Osborn, Attorney III  
Office of Chief Counsel  
State Water Resources Control Board  
[julie.osborn@waterboards.ca.gov](mailto:julie.osborn@waterboards.ca.gov)

Amantha Henkel, Chief  
UST Enforcement Unit  
State Water Resources Control Board  
[amantha.henkel@waterboards.ca.gov](mailto:amantha.henkel@waterboards.ca.gov)

Steven Linder, P.E., Manager  
Underground Storage Tanks Program  
United States Environmental Protection Agency Region 9  
[linder.steven@epa.gov](mailto:linder.steven@epa.gov)

Kenneth Dixon, California Project Officer  
Underground Storage Tanks Program  
United States Environmental Protection Agency Region 9



**FEDERAL UNDERGROUND STORAGE TANK REGULATIONS THAT MUST BE MET IN ADDITION TO CALIFORNIA UNDERGROUND STORAGE TANK REGULATIONS\***

Requirements for Underground Storage Tanks		
Category	Requirement	40 CFR
Definitions Effective October 13, 2015.	<i>Release detection</i> means determining whether a release of a regulated substance has occurred from the underground storage tank (UST) system into the environment or a leak has occurred into the interstitial space between the UST system and its secondary barrier or secondary containment around it.	280.10
	<i>Repair</i> means to restore to proper operating condition a tank, pipe, spill prevention equipment, overfill prevention equipment, corrosion protection equipment, release detection equipment or other UST system component that has caused a release of product from the UST system or has failed to function properly.	280.10
	<i>Replaced</i> means: (1) For a tank—to remove a tank and install another tank. (2) For piping—to remove 50 percent or more of piping and install other piping, excluding connectors, connected to a single tank. For tanks with multiple piping runs, this definition applies independently to each piping run.	280.10
Design & Construction Requirements Effective as Indicated.	Effective April 11, 2016, except for safe suction piping, when piping is installed or replaced; it must be double-walled and interstitially monitored.	280.20
	Effective October 13, 2015, when overfill prevention is installed or replaced, flow restrictors in vent lines may not be used to comply with the overfill requirement.	280.20(c)(3)
Notification Requirement Effective October 13, 2015.	Within 30 days of acquisition, any person who assumes ownership of a regulated underground storage tank system must submit a notice of the ownership change to the implementing agency, using the form in appendix II of part 280 of 40 Code of Federal Regulations.	280.22(b)
Compatibility Requirements Effective October 13, 2015.	Owners and operators must notify the implementing agency at least 30 days prior to switching to a regulated substance containing greater than 10 percent ethanol, greater than 20 percent biodiesel, or any other regulated substance identified by the implementing agency.	280.32(b)
	Owners and operators must be able to demonstrate compatibility of the UST system (including the tank, piping, containment sumps, pumping equipment, release detection equipment, spill equipment, and overfill equipment) with the regulated substance containing greater than 10 percent ethanol, greater than 20 percent biodiesel, or any other regulated substance identified by the implementing agency.	280.32(b)(1)
	Owners and operators may demonstrate compatibility of the UST system with the regulated substance containing greater than 10 percent ethanol, greater than 20 percent biodiesel, or any other regulated substance identified by the implementing agency by using a certification or listing of UST system equipment or components by a nationally recognized, independent testing laboratory for use with the regulated substance stored; or equipment or component manufacturer approval. The manufacturer's approval must be in writing, indicate an affirmative statement of compatibility, specify the range of biofuel blends the equipment or component is compatible with, and be from the equipment or component manufacturer.	280.32(b)(1)(i) & (ii)
	Owners and operators must maintain the compatibility certifications, listings, or equipment or component manufacturer approval of UST system equipment for as long as the UST system is used to store the regulated substance containing greater than 10 percent ethanol, greater than 20 percent biodiesel, or any other regulated substance identified by the implementing agency.	280.32(c)

\* For underground storage tanks installed after October 13, 2015, these requirements are effective at the time of installation.

This is a sampling page of the entire document.

[https://www.waterboards.ca.gov/ust/tech\\_notices/docs/ca\\_fed\\_regs.pdf](https://www.waterboards.ca.gov/ust/tech_notices/docs/ca_fed_regs.pdf)

**Response Q.32:** Refer to Section 5.3 Response AAA.12. Comment noted. The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**Comment Q.33:** SINGLE WALL UST AND ASSOCIATED SINGLE WALL PIPING REMOVAL LAW

*On September 25, 2014, California Health and Safety Code (HSC), Section 25292.05 became effective, requiring the permanent closure of all single-walled USTs by December 31, 2025. The statutory definition of UST in HSC Section 25281 includes connected piping. As a result, the universe of single-walled (SW) UST components that need to be removed and replaced includes SW tanks, as well as SW piping connected to double-walled (DW) tanks.*

Source:

[https://www.waterboards.ca.gov/water\\_issues/programs/ust/adm\\_notices/jan\\_dec2017\\_fnl\\_cal\\_ust\\_annual\\_rpt.pdf](https://www.waterboards.ca.gov/water_issues/programs/ust/adm_notices/jan_dec2017_fnl_cal_ust_annual_rpt.pdf)

History of UST fabrication materials here:

<https://www.steeltank.com/Portals/0/Articles/UST%20History.pdf?ver=2009-05-31-010756-110>

**Response Q.33:** Comment noted. The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**Comment Q.34:** STATE DENSITY BONUS LAW REQUIREMENTS PER VALLCO SB 35

*Under the State Density Bonus law, the City can only deny an incentive or concession if it finds that an incentive or concession does not result in identifiable and actual cost reductions; would have a specific, adverse impact on public health and safety or the physical environment; or would violate state or federal law. It is the City's burden to provide the evidence supporting such findings. (Vallco SB 35, p. 16, PDF 16)*

Gov. Code § 65589.5(d)(2):

*(2) The housing development project or emergency shelter as proposed would have a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without rendering the development unaffordable to low- and moderate-income households or rendering the development of the emergency shelter financially infeasible. As used in this paragraph, a "specific, adverse impact" means a significant, quantifiable, direct, and unavoidable impact, based on objective, identified written public health or safety standards, policies, or conditions as they existed on the date the application was deemed complete. Inconsistency with the zoning ordinance or general plan land use designation shall not constitute a specific, adverse impact upon the public health or safety.*

**Response Q.34:** Refer to Master Response 1. The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.



**Comment Q.35:** HOUSING ACCOUNTABILITY ACT REQUIREMENTS PER VALLCO SB 35 APPLICATION:

The Vallco SB 35 Applicant states the following:

*The City is only permitted to reject a project under these circumstances if there is a preponderance of evidence that the project would have a significant, unavoidable, and quantifiable impact on “objective, identified written public health or safety standards, policies, or conditions.” Gov. Code §65589.5(j). There is no evidence, let alone a preponderance of evidence, that the Project would have any impact on public health and safety that cannot be feasibly mitigated. A broad range of plaintiffs can sue to enforce the Housing Accountability Act, and the City would bear the burden of proof in any challenge. Gov. Code § 65589.5(k). As recently reformed in the 2017 legislative session, the Housing Accountability Act makes attorney’s fees and costs of suit presumptively available to prevailing plaintiffs, requires a minimum fine of \$10,000 per housing unit for jurisdictions that fail to comply with the act within 60 days, and authorizes fines to be multiplied by five times if a court concludes that a local jurisdiction acted in bad faith when rejecting a housing development. (Vallco SB 35, p. 17, PDF 17)*

There is “...a preponderance of evidence that the project would have a significant, unavoidable, and quantifiable impact on “objective, identified written public health or safety standards, policies, or conditions.” Gov. Code §65589.5(j)” (Vallco SB 35, p. 17, PDF 17)

**Response Q.35:** Refer to Master Response 1. The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**Comment Q.36:** VALLCO SPECIFIC PLAN DRAFT ENVIRONMENTAL IMPACT REPORT SUMMARY

The Environmental Impact Report for the Cupertino General Plan Community Vision 2015- 2040, certified December 4, 2014 studied the following scenario at Vallco:

*The General Plan EIR analyzed the demolition of the existing 1,207,774 square foot mall and redevelopment of the site with up to 600,000 square feet of commercial uses, 2.0 million square feet of office uses, 339 hotel rooms, and 800 residential dwelling units within the Vallco Special Area (Vallco DEIR, p. xiii, PDF 14)*

*The SB 35 plan was not studied, nor anything remotely close to it, in the General Plan EIR. The General Plan EIR, however, found significant unavoidable impacts with mitigation to air quality (AQ-1, AQ-2, AQ-3, AQ-6), noise (NOISE-3, NOISE-5), and traffic (TRAF-1, TRAF-2, and TRAF-6) as tabulated in EIR Table 2.2, Executive Summary, Summary of Impacts and Mitigation Measures. (GP DEIR, pp. 8-28, PDF 14-34). The DEIR for Vallco Special Area has numerous significant and unavoidable impacts with mitigation, and indicates the site is on a hazardous materials listing pursuant to Gov. Code § 65962.5*

**Response Q.36:** Refer to Master Responses 1 and 5. The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**Comment Q.37:** The Draft Environmental Impact Report for the Vallco Special Area Specific Plan, a.k.a. Vallco Shopping District Specific Plan, circulated for public 45 day review May 24, 2018 studied the following Proposed Project and project alternatives:

Table 1: Vallco DEIR Summary of Project and Alternatives

<b>Summary of Project and Project Alternative Development</b>						
	<b>Land Uses</b>					
	<b>Commercial</b> (square footage)	<b>Office</b> (square footage)	<b>Hotel</b> (rooms)	<b>Residential</b> (dwelling units)	<b>Civic Space</b> (square feet)	<b>Green Roof</b> (acres)
<b>Proposed Specific Plan</b>	600,000	2,000,000	339	800	65,000	30
<b>Project Alternatives</b>						
General Plan Buildout with Maximum Residential Alternative	600,000	1,000,000	339	2,640	65,000	30
Retail and Residential Alternative	600,000	0	339	4,000	0	0
Occupied/Re-Tenanted Mall Alternative	1,207,774	0	148	0	0	0

(Vallco DEIR, p. xiii, PDF 14)

The Vallco SB 35 application has 2,402 residential units, 400,000 SF retail, 1,810,000 SF office and a roof park. The Vallco SB 35 configuration is similar to the Vallco DEIR Project Alternative “General Plan Buildout with Maximum Residential Alternative” which has 2,640 residential units, 600,000 SF retail, 339 hotel rooms and only 1,000,000 SF office. Note that 148 of the 339 hotel rooms are under construction and nearing completion. The Vallco Project Alternatives were based on the Vallco SB 35 plans and the results of the Vallco DEIR apply to the Vallco SB 35 plan, although, due to the number of significant negative impacts with mitigation, the Vallco SB 35 plan warrants an environmental impact report on its’ specific configuration.



Table 2: Comparison of SB 35 Plan to Projects studied in various EIRs

<b>Projects at Vallco Studied in GP EIR or Vallco Special Area DEIR vs. SB 35 Plan</b>						
	<b>Commercial SF</b>	<b>Office SF</b>	<b>Hotel Rooms</b>	<b>Residential Dwelling Units</b>	<b>Civic Space</b>	<b>Green Roof (acres)</b>
<b>General Plan EIR 2014</b>						
	600,000	2,000,000	339	800	no	no
<b>Vallco Special Area DEIR 2018</b>						
<b>Proposed Project</b>	600,000	2,000,000	339	800	65,000	30
<b>Project Alternatives</b>						
General Plan Buildout with Maximum Residential Alternative	600,000	1,000,000	339	2,640	65,000	30
Retail and Residential Alternative	600,000	0	339	4,000	0	0
Occupied/Re-tenanted Mall	1,207,774	0	148	0	0	0
<b>Vallco SB 35 Plan</b>	400,000	1,810,000	(148 under construction)	2,402	0	“Up to 26 acres” <sup>1</sup>

**Response Q.37:** The rationale for the project alternatives is described on pages 15-16 of the Draft EIR. The EIR project alternatives are not based on the Vallco Town Center SB 35 project. Refer to Master Response 1. The scope of the EIR does not include evaluating the environmental impacts of the SB 35 project.

**Comment Q.38:** The Draft Environmental Impact Report for the Vallco Special Area Specific Plan states the following **significant negative impacts with mitigation:**

*SECTION 6.0 SIGNIFICANT AND UNAVOIDABLE IMPACTS*

*As discussed in detail in Section 3.0, the project, General Plan Buildout with Maximum Residential Alternative, and Retail and Residential Alternative would result in the following significant and unavoidable impacts:*

- *Impact AQ-2: The construction of the project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would violate air quality standard or contribute substantially to an existing or projected air quality violation.*

***(Significant and Unavoidable Impact with Mitigation Incorporated)***

- *Impact AQ-3: The operation of the project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would violate air quality standard or contribute substantially to an existing or projected air quality violation.*

***(Significant and Unavoidable Impact with Mitigation Incorporated)***

- *Impact AQ-4: The proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would result in a cumulatively considerable net increase of criteria pollutants (ROG, NOx, PM10, and/or PM2.5) for which the project region is non-attainment under an applicable federal or state ambient air quality standard. (Significant and Unavoidable Impact with Mitigation Incorporated)*

- *Impact AQ-6: The proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would expose sensitive receptors to substantial construction dust and diesel exhaust emissions concentrations. (Significant and Unavoidable Impact with Mitigation Incorporated)*

- *Impact AQ-9: Implementation of the proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would cumulatively contribute to air quality impacts in the San Francisco Bay Area Air Basin.*

***(Significant and Unavoidable Impact with Mitigation Incorporated)***

- *Impact NOI-1: The project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would not expose persons to or generation of noise levels in excess of standards established in the General Plan Municipal Code, or applicable standard of other agencies. (Significant and Unavoidable Impact with Mitigation Incorporated)*

- *Impact NOI-3: The project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project. (Significant and Unavoidable Impact with Mitigation Incorporated)*

- *Impact NOI-4: The project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project. (Significant and Unavoidable Impact with Mitigation Incorporated)*

- *Impact NOI-6: The project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would result in a cumulatively considerable permanent noise level increase at existing residential land uses. (Significant and Unavoidable Impact with Mitigation Incorporated)*

- *Impact TRN-1: Under existing with project conditions, the project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system; and conflict with an applicable congestion management*



*program, including standards established for designated roads or highways. (Significant and Unavoidable Impact with Mitigation Incorporated)*

- *Impact TRN-2: Under background with project conditions, the project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system; and conflict with an applicable congestion management program, including standards established for designated roads or highways. (Significant and Unavoidable Impact with Mitigation Incorporated)*

- *Impact TRN-7: The project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would result in a considerable contribution to a significant cumulative transportation impact. (Significant and Unavoidable Impact with Mitigation Incorporated) (Vallco DEIR, pp. 406-407, PDF 442-443)*

**Response Q.38:** The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**Comment Q.39:** The following tables from the Vallco Specific Plan DEIR describe the sources and health effects which arise from the air pollutants mentioned in the Air Quality portion of the DEIR:

Table 3: DEIR Health Effects of Air Pollutants

<b>Table 3.3-1: Health Effects of Air Pollutants</b>		
<b>Pollutants</b>	<b>Sources</b>	<b>Primary Effects</b>
Carbon Monoxide (CO)	<ul style="list-style-type: none"> <li>• Incomplete combustion of fuels and other carbon-containing substances, such as motor exhaust</li> <li>• Natural events, such as decomposition of organic matter</li> </ul>	<ul style="list-style-type: none"> <li>• Reduced tolerance for exercise</li> <li>• Impairment of mental function</li> <li>• Impairment of fetal development</li> <li>• Death at high levels of exposure</li> <li>• Aggravation of some heart diseases (angina)</li> </ul>
Nitrogen Dioxide (NO <sub>2</sub> )	<ul style="list-style-type: none"> <li>• Motor vehicle exhaust</li> <li>• High temperature stationary combustion</li> <li>• Atmospheric reactions</li> </ul>	<ul style="list-style-type: none"> <li>• Aggravation of respiratory illness</li> <li>• Reduced visibility</li> </ul>
Ozone (O <sub>3</sub> )	<ul style="list-style-type: none"> <li>• Atmospheric reaction of organic gases with nitrogen oxides in sunlight</li> </ul>	<ul style="list-style-type: none"> <li>• Aggravation of respiratory and cardiovascular diseases</li> <li>• Irritation of eyes</li> <li>• Impairment of cardiopulmonary function</li> </ul>
Lead (Pb)	<ul style="list-style-type: none"> <li>• Contaminated soil</li> </ul>	<ul style="list-style-type: none"> <li>• Impairment of blood functions and nerve conduction</li> <li>• Behavioral and hearing problems in children</li> </ul>
Suspended Particulate Matter (PM <sub>2.5</sub> and PM <sub>10</sub> )	<ul style="list-style-type: none"> <li>• Stationary combustion of solid fuels</li> <li>• Construction activities</li> <li>• Industrial processes</li> <li>• Atmospheric chemical reactions</li> </ul>	<ul style="list-style-type: none"> <li>• Reduced lung function</li> <li>• Aggravation of the effects of gaseous pollutants</li> <li>• Aggravation of respiratory and cardiorespiratory diseases</li> <li>• Increased cough and chest discomfort</li> <li>• Reduced visibility</li> </ul>
Sulfur Dioxide (SO <sub>2</sub> )	<ul style="list-style-type: none"> <li>• Combustion of sulfur-containing fossil fuels</li> <li>• Smelting of sulfur-bearing metal ores</li> <li>• Industrial processes</li> </ul>	<ul style="list-style-type: none"> <li>• Aggravation of respiratory diseases (asthma, emphysema)</li> <li>• Reduced lung function</li> <li>• Irritation of eyes</li> <li>• Reduced visibility</li> </ul>

(Vallco DEIR, p. 52 PDF 88)



Table 4: DEIR Health Effects of Air Pollutants

Table 3.3-1: Health Effects of Air Pollutants		
Pollutants	Sources	Primary Effects
Toxic Air Contaminants	<ul style="list-style-type: none"> <li>• Cars and trucks, especially diesels</li> <li>• Industrial sources such as chrome platers</li> <li>• Neighborhood businesses such as dry cleaners and service stations</li> <li>• Building materials and product</li> </ul>	<ul style="list-style-type: none"> <li>• Cancer</li> <li>• Chronic eye, lung, or skin irritation</li> <li>• Neurological and reproductive disorders</li> </ul>

(Vallco DEIR, p. 53, PDF 89)

The above significant and unavoidable impacts with mitigation represent: “...a preponderance of evidence that the project would have a significant, unavoidable, and quantifiable impact on “objective, identified written public health or safety standards, policies, or conditions.” Gov. Code §65589.5(j)” (Vallco SB 35, p. 17, PDF 17). Setbacks Non-Compliance – Applicant does not Reference Existing Curb

**Response Q.39:** Refer to Master Response 1. The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**Comment Q.40: REFERENCES**

City of Cupertino. "GPA-2014 EIR." General Plan Amendment 2014 Environmental Impact Report. Cupertino, 7 October 2014.

Cornerstone Earth Group. "Phase 1 Environmental Site Assessment 118-71-2 Appendix E Part 1." Environmental Site Assessment. 26 February 2018. <<http://www.cupertino.org/home/showdocument?id=20875>>.

"GP 2014 and Amendments 2015." Cupertino Community Vision 2040 (Dec. 4, 2014) and Amendments to Community Vision 2040 Resolution No. 15-087, October 20, 2015. Cupertino, 4 December 2014. <<http://www.cupertino.org/our-city/departments/community-development/planning/general-plan/general-plan/archived-general-plans>>.

"GP EIR." City of Cupertino General Plan Environmental Impact Report. Cupertino, 7 October 2014. <<http://64.165.34.13/weblink/0/edoc/391441/Exhibit%20CC%2010-07-14%201%20Draft%20EIR.pdf?searchid=5baf2925-bdeb-4f76-a575-e11bcc9ab7da>>.

Group, Cornerstone Earth. "Phase 1 Environmental Site Assessment 118-71-2 Appendix E Part 2." ESA Part 2. Cupertino, 26 February 2018. <<http://www.cupertino.org/home/showdocument?id=20874>>.

Lynch, April. "Cities in Valley Respond to Risk of Pesticides in Parklands." Mercury News 4 November 2007. 21 June 2018. <<https://www.mercurynews.com/2007/11/04/cities-in-valley-respond-to-risk-of-pesticides-in-parklands/>>.

Vallco DEIR. "Draft Environmental Impact Report, Vallco Special Area Specific Plan, SCH# 2018022021." Cupertino, 24 May 2018. <<http://www.cupertino.org/our-city/departments/community-development/planning/major-projects/vallco>>.

VTC SB 35 App. "Vallco Town Center SB 35 Development Application." Cupertino, 27 March 2018. <<http://www.cupertino.org/home/showdocument?id=19613>>.

"VTC SB 35 Plan." Vallco Town Center SB 35 Development Application Architectural Drawings Part 3. Cupertino, 27 March 2018. <<http://www.cupertino.org/home/showdocument?id=19621>>.

**Response Q.40:** The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.



**R. Kitty Moore (dated June 22, 2018, 1:45PM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment R.1:** Please notice that only the current Vallco ESA shows the FD records, the previous ESAs provided by Vallco Property owner show no records from the FD. This information is in the attachments.

I have attached the records the FD provided Cornerstone Earth Group.

**Response R.1:** Refer to Master Response 5. Refer to Section 5.3 Response AAA.12. The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**Comment R.2:** The hazardous materials apparently onsite should be registered where? Aren't there some state and federal laws which must be complied with?

**Response R.2:** Section 3.9 in the Draft EIR provides an overview of the regulatory framework for hazards and hazardous materials. Locally, the Santa Clara County Fire Department (SCCFD) administers Hazardous Materials Business Plans, Underground Storage Tanks, California Fire Code, Hazardous Materials Storage Ordinance, and Toxic Gas Ordinance. The Santa Clara County Department of Environmental Health (SCCDEH) administers the Hazardous Waste Generator Program, Hazardous Waste Tiered Permitting, Aboveground Petroleum Storage Act, and California Accidental Release Prevention Program. The SCCFD and SCCDEH have records of hazardous material use and storage on-site. Also refer to Section 5.3 Response AAA.12.

**Comment R.3:** I am particularly curious about the 10,000 cu ft of Freon 22, the status of the battery acid neutralization chamber, the ASTs, removal of USTs with no documentation, and the accounting errors on the USTs.

**Response R.3:** Refer to Section 5.3 Response AAA.12.

**Comment R.4:** You have this information all at your fingertips. It seems to me that stating the Vallco Site is compliant, would make the City Complicit (in fact the lack of information the city has provided the various ESA's is darn curious! That is in the attachment as well.

**Response R.4:** The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**Comment R.5: ATTACHMENT TO COMMENT LETTER**  
**ENVIRONMENTAL RECORDS SUMMARY TABLE FROM ESA**



**4.2 ADDITIONAL ENVIRONMENTAL RECORD SOURCES**

The following additional sources of readily ascertainable public information for the Site also were reviewed during this Phase I ESA.

**4.2.1 City and County Agency File Review**

Cornerstone requested available files pertaining to the Site at the following public agencies: the Cupertino Building Department, Santa Clara County Fire Department (FD), and the Santa Clara County Department of Environmental Health (DEH).

The building department files contained a very large volume of records pertaining to the Site that appeared to be related mainly to tenant improvement conducted by occupants of the mall. No records indicative of Recognized Environmental Conditions were readily apparent within the Building Department files; however, due to the large volume of records, only a cursory review was feasible within the time and budget constraints of this Phase I ESA.

The information reviewed at the FD and DEH that pertains to hazardous material use and storage at the Site is summarized in Table 5.

**Table 5. File Review Information**

Agency Name	Date	Occupant	Remarks
<b>10101 North Wolfe Road</b>			
FD	1969	Sears Auto Center	Building plans depict several features associated with the auto center building including 1) two adjacent 500 gallon new oil USTs and a nearby 1,000 gallon waste oil UST located west of the building, 2) a sump pump in the southwest corner of the building's basement, 3) multiple hydraulic vehicle lifts, 4) a battery storage room with drains leading to a below ground neutralization chamber located east of the building, 5) a below ground sand and grease interceptor located east of the building, 6) grease, oil and transmission fluid distribution piping throughout the interior of the building, 7) an elevator within the southeast portion of the building, and 8) two 10HP air compressors within the northeast corner of the basement.
FD	1986	Sears	A contract dated June 12, 1986 between Sears, Roebuck and Company and K.E. Curtis Construction Company for the removal of a 500 gallon UST. No details regarding the contents or location of the UST were described in the contract.



**Table 5 (Continued). File Review Information**

Agency Name	Date	Occupant	Remarks
<b>10101 North Wolfe Road</b>			
FD	Various	Sears Auto Center	Hazardous materials inventories indicate that various automotive related hazardous materials were stored on-Site included oils, transmission fluid, brake fluid, antifreeze, lead-acid batteries, and refrigerants, among others. These materials were noted to be contained in drums and ASTs. Wastes generated at the site were noted to include waste oil, waste gasoline, used oil filters, used batteries, waste antifreeze, and waste from a below grade oil/water separator, among others.
DEH	1991, 1993, 1999, 2003, 2007 and 2010	Sears Auto Center	<p>Inspection reports noting multiple violations including unlabelled waste containers, open containers, improper recordkeeping, improper management of lead wheel weights, lack of proper training and lack of secondary containment.</p> <p>The presence of an oil/water separator is noted that reportedly was connected to four floor drains within the auto service shop.</p> <p>A spill of hydraulic oil was noted near a dumpster on the west side of the facility in 1991. Cleanup was required. In 1999, an area of etched concrete and chemical residue from "battery acid and neutralizing" was noted outside of a service bay.</p>
FD	1996-1999	Jiffy Lube	Jiffy Lube is noted to have operated within the northern portion of the auto service building between 1996 and 1999. The facility is noted to have used seven ASTs with capacities between 150 and 500 gallons for storage of motor oils, transmission fluid, antifreeze, used oil and used antifreeze.
DEH	2004 and 2007	Sears Auto Center	Chemical inventories. Listed items are generally consistent with FD records summarized above.
FD	2012-2015	Bay Club	Pool treatment chemicals (calcium hypochlorite and muriatic acid) were noted to be stored in a roof-top shed.
<b>10333 North Wolfe Road</b>			
FD	1998-2012	Macy's	Permits and correspondence indicate that a diesel fueled emergency generator with a 75 gallon double walled AST was present on the building roof.
DEH	2004	Macy's	Hazardous waste inventory listing broken and damaged cosmetic products.
DEH	2008	Macy's	Inspection report noting violations including an unlabeled waste drum and lack of proper recordkeeping.
DEH	2014	Macy's	Hazardous waste inventory listing returned/expired cosmetic waste and fragrances.

**Table 5 (Continued). File Review Information**

Agency Name	Date	Occupant	Remarks
<b>10150 North Wolfe Road</b>			
FD	1998-2012	JC Penney	Inspection reports and chemical inventories document the presence of a diesel fueled emergency generator with a 25 gallon, double walled AST located on the second floor within the eastern portion of the building. Diesel also was noted to be stored within a double contained 55-gallon drum in 1998. Refrigerants (Freon 11), cooling water treatment products (corrosion inhibitors), miscellaneous maintenance and custodial products, and paints also were noted to be present.
DEH	2012 and 2016	JC Penney	Chemical inventories listing diesel fuel (150 gallons), along with unspecified corrosives, aerosols, flammables, oxidizers, paints and maintenance products, among others. Waste bulbs, batteries and non-PCB ballasts were noted to be generated.
<b>10123 North Wolfe Road</b>			
FD and DEH	1991-2016	Vallco	Permits, inspection reports and chemical inventories document the presence of a diesel fueled emergency generator with a 170 gallon, double walled AST located in a generator room.
DEH	1992, 1993, 1996, 1999 and 2001	Expressly Portraits	Inspection reports indicate that the facility generated waste photo processing chemicals. Violations associated with recordkeeping, training and container labeling were noted.
FD	1993-2008	Ice Chalet	Chemical inventories document the presence of Freon 22 (10,000 cubic feet) and refrigerant oil (600 gallons).
FD	1993-2001	Kits Cameras/ Ritz Cameras/ Expressly Portraits	Chemical inventories document the presence photo processing chemicals (fixers, stabilizers and developers, etc.).
DEH	2003	The Picture People	Inspection report and correspondence indicate that the facility generated waste photo processing chemicals (705 gallons in 2003). Violations associated with recordkeeping were noted.
DEH	2014	Vallco Mall	Various correspondence indicate that a fire in an elevator pump room on the third floor was extinguished by sprinklers and resulted in oily water being discharged in the vicinity of the pump room and to underlying areas on the second and first floors. It was reported that no impacts to soil or storm drains occurred, and that the release was cleaned up by a restoration contractor.



**Table 7 (Continued). Summary of Readily Observable Site Features**

General Observation	Comments
Hoods and Ducting	Not Observed
Hydraulic Lifts	Observed as described above
Incinerator	Not Observed
Petroleum Pipelines	Not Observed
Petroleum Wells	Not Observed
Ponds or Streams	Not Observed
Railroad Lines	Not Observed
Row Crops or Orchards	Not Observed
Stockpiles of Soil or Debris	Not Observed
Sumps or Clarifiers	Observed as described above
Transformers	Observed as described above
Underground Storage Tanks	Possible waste oil UST at Sears Automotive Center
Vehicle Maintenance Areas	Observed as described above
Vehicle Wash Areas	Not Observed
Wastewater Neutralization Systems	Observed as described above

The comment "Not Observed" does not warrant that these features are not present on-Site; it only indicates that these features were not readily observed during the Site visit.

(Cornerstone Earth Group, pp. 8-15, PDF 12-19)

**Response R.5:** The above excerpts from the ESA in Appendix E of the Draft EIR do not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**Comment R.6: SITE PHOTOS FROM ENVIRONMENTAL SITE ASSESSMENT**



Photograph 5. Elevator equipment with hydraulic fluid in drip pan.



Photograph 6. One of three on-site emergency generators.



Photograph 7. Interior of Cupertino Ice Center.



Photograph 8. Refrigeration equipment at Cupertino Ice Center.





Photograph 11. Oily water on floor of mechanical room at Cupertino Ice Center.



Photograph 12. Typical trash compactor and associated hydraulic fluid AST.



Photograph 13. Pool chemicals stored in stairwell at Bay Club.



Photograph 14. Vallco facility maintenance storage room.



Photograph 15. Sears Automotive Center (SAC) building.



Photograph 16. Interior of SAC building.



Photograph 17. Staining on floor of battery room at SAC.



Photograph 18. Former hydraulic lifts (filled with concrete) at SAC.



Photograph 19. Remnant distribution piping and staining on floor in basement at SAC.



Photograph 20. Staining on floor near drain at former compressor location in basement at SAC.



Photograph 21. Waste oil drain in floor slab, capped drain pipe in wall and wall staining in basement at SAC.



Photograph 22. Remnant hydraulic lift piping (unpainted) in basement at SAC.





Photograph 23. Concrete access cover (near storm drain) at the suspected waste oil UST location at SAC.



Photograph 24. Steel cover of acid neutralization chamber adjacent to battery room at SAC.



Photograph 25. Steel covers to oil/water separator at SAC.



Photograph 26. Former auto service area at JC Penney



Photograph 27. Former hydraulic lift filled with pea gravel at JC Penney



Photograph 28. Secondary containment area at JC Penney

**Response R.6:** The above excerpts from the ESA in Appendix E of the Draft EIR do not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**Comment R.7:** WHERE ARE FORMS PURSUANT TO GOV. CODE 65962.5



**SECTION 8: ENVIRONMENTAL QUESTIONNAIRE AND INTERVIEWS**

**8.1 ENVIRONMENTAL QUESTIONNAIRE / OWNER INTERVIEW**

To help obtain information on current and historical Site use and use/storage of hazardous materials on-Site, we provided environmental questionnaires to each of the three property owners. A completed questionnaire was obtained from Simeon/Wolfe Properties pertaining to parcel APN 316-20-088; a copy is attached in Appendix D. Based on our review of the completed questionnaire, Wolfe Properties LLC purchased the parcel in 2012. It reportedly was historically used as an overflow parking lot associated with Vallco Shopping Mall. Since 2015, Apple, Inc. reportedly has been using the parcel for construction storage purposes. No information indicative of Recognized Environmental Conditions was noted. A completed questionnaire was not received from KCR Development pertaining to APN 316-20-092. Based on other data reviewed by Cornerstone, the parcel owned by KCR historically was used for agricultural purposes and subsequently used as an overflow parking lot associated with Vallco Shopping Mall (similar to the Simeon/Wolfe Properties parcel).

Sand Hill Property Company did not complete the provided questionnaire; however, they referred Cornerstone to the previously completed reports listed in Table 3 and provided copies of each. They also provided access to the Site and contact information for Mr. Mike Rohde, General Manager of Vallco Shopping Mall, who was briefly interviewed during our Site visit.

**8.2 INTERVIEWS WITH PREVIOUS OWNERS AND OCCUPANTS**

Contact information for previous Site owners and occupants was not provided to us. Therefore, interviews with previous Site owners and occupants could not be performed.

**SECTION 9: FINDINGS, OPINIONS AND CONCLUSIONS (WITH RECOMMENDATIONS)**

Cornerstone performed this Phase I ESA in general accordance with ASTM E1527-13 to support David J. Powers & Associates in evaluation of Recognized Environmental Conditions. Our findings, opinions and conclusions are summarized below.

**9.1 HISTORICAL SITE USAGE**

Based on the information obtained during this study, the Site historically was used for agricultural purposes (orchards and row crops), and what appears to have been a residence with several associated outbuildings were present on the southeast portion of the Site. A Sears retail store and a separate automotive center building, with an associated gasoline station, were constructed on-Site in approximately 1970. The other currently existing Vallco mall structures were constructed between approximately 1974 and 1979, and include structures formerly occupied by other anchor tenants (Macys and JC Penney) and two detached on-Site buildings located north of the shopping mall that were occupied by restaurants (TGI Fridays and Alexander's Steakhouse). JC Penney operated an automotive repair facility on the eastern side of their building until approximately 1985.

**Response R.7:** Refer to Section 5.2 Response II.Q.28.

**Comment R.8:** Where Did Each ESA Collect Their Info From?  
WSP 2014 ESA:



# PHASE I ENVIRONMENTAL SITE ASSESSMENT

## Vallco Fashion Mall

10123 North Wolfe Road, Cupertino, California 95014  
Prepared at the Request of Sand Hill Property Company

January 7, 2014

## Client

Sand Hill Property Company  
203 Redwood Shores Parkway, Suite 200  
Redwood City, CA 94065

## Consultant

WSP Services, Inc.  
2025 Gateway Place Suite 435  
San Jose, CA 95110  
Tel: 408-453-6100

## WSP Contacts

Rick Freudenberger  
[rick.freudenberger@wspgroup.com](mailto:rick.freudenberger@wspgroup.com)

Betsy Mitton  
[Betsy.mitton@wspgroup.com](mailto:Betsy.mitton@wspgroup.com)

### 4.3 Review of Local Records

WSP contacted the Santa Clara County Fire Department for information on any aboveground or underground storage tanks, hazardous waste storage, inspections, and plans associated with the mall property. According to the Santa Clara County Fire Department, no records were found.

WSP contacted the Santa Clara Valley Water District (SCVWD) for information on underground storage tanks and solvent and toxic releases affecting groundwater. The SCVWD is no longer the lead agency for solvent releases or underground storage contamination. They referred WSP to the Geotracker and Envirostor websites for this information.

WSP also reviewed the State Water Resources Control Board Geotracker online system, which identifies pollution sites in the vicinity of the subject property. Other than the closed cases for the Sears and J.C Penney LUSTs, no pollution sites were identified for the subject Mall property.

WSP also reviewed the State Department of Toxic Substances Control Envirostor online system, which identifies sites that have known contamination of sites for which there may be reasons to investigate further and sites that are authorized to treat, store, dispose, or transfer hazardous waste. No contaminated sites were identified for the subject property.

WSP also reviewed the Santa Clara County Department of Environmental Health website to determine whether any hazardous substances incidents have been reported for the subject property. According to the website, no incidents have been reported.

WSP contacted the Cupertino Planning Division for information on records of environmental permits, above or underground storage tanks, complaints, violations, or incidents and is awaiting a response.

WSP contacted the Cupertino Building Division for information on records of environmental permits, above or underground storage tanks, complaints, violations, or incidents. According to the Cupertino Building Department, Public Works received on citizen complaint on February 8, 2012 regarding a

## 8 References

California State Water Resources Control. Board Geotracker Database. 2013. Geotracker Lookup System.

Environmental Data Resources, Inc. 2013. The EDR Aerial Photo Decade Package. Inquiry Number: 3792727.5-1, 5-2, 5-3, 5-4, 5-5, and 5-6. November 25.

Environmental Data Resources, Inc. 2013. The EDR City Directory Abstract. Inquiry Number: 37927276. November 25.

Environmental Data Resources, Inc. 2013. The EDR Historical Topographic Map Report. Inquiry Number: 3792727.4-1. November 21.

Environmental Data Resources, Inc. 2013. The EDR Environmental Lien and AUL Search. Inquiry Number: 37927277. November 22.

Environmental Data Resources, Inc. 2013. The EDR Radius Map with GeoCheck. Inquiry Number: 3792727\_2s. November 21.

Environmental Data Resources, Inc. 2013. Sanborn® Map Report. Inquiry Number: 3792727-3. November 21.

Environmental Data Resources, Inc. 2013. EDR Property Tax Map Report. Inquiry Number: 37927278. November 21.

Environmental Data Resources, Inc. 2013. EDR Building Permit Report. Inquiry Number: 379272711. November 21.

U.S. Environmental Protection Agency. 2013. Envirofacts Online Database Search.

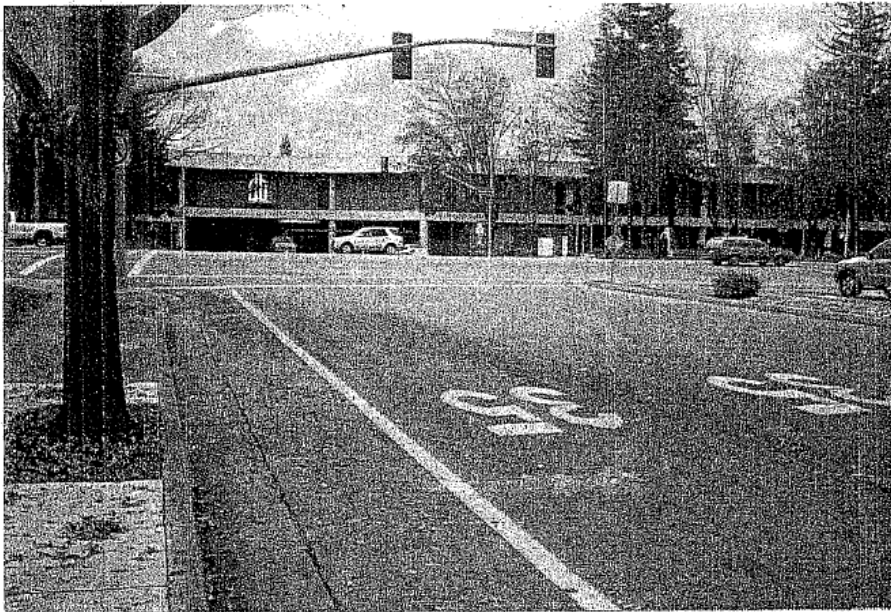
U.S. Geological Survey. 1997. Cupertino, California, Quadrangle, 7.5 Minute Series (Topographic). Scale 1:24,000.



UBS Warburg

**PHASE I  
ENVIRONMENTAL SITE ASSESSMENT**

**Vallco Fashion Park  
10123 North Wolfe Road  
Cupertino, California 95014**



555 First Street, Suite 303  
Benicia, California, 94510  
(707) 748-3170 / Fax (707) 748-3171

Ceres Associates Project CA989-1  
March 21, 2003

---

### 3.1 INTERVIEWS, RECORDS, AND HISTORICAL REVIEW

---

#### 3.2 INTERVIEWS AND REGULATORY CONTACTS

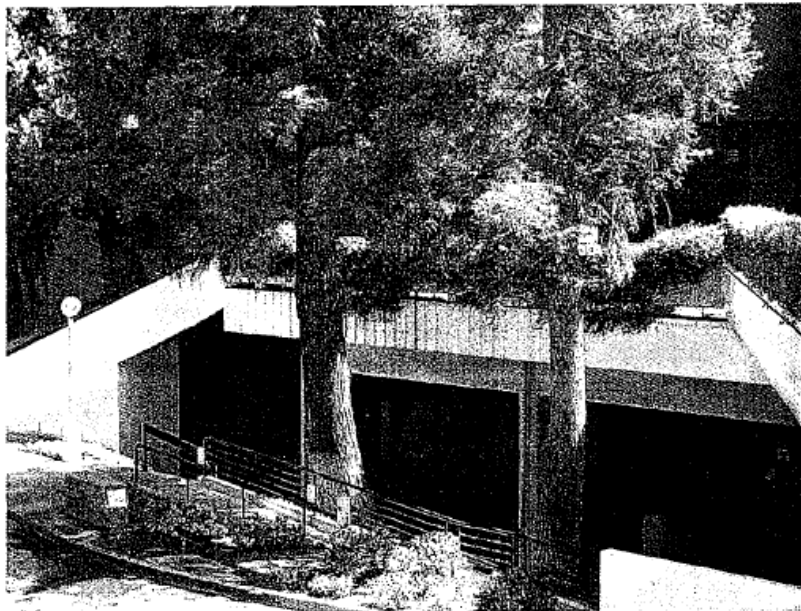
- Ceres Associates interviewed Mike Rhode, General Manager of the Vallco Fashion Park, for information regarding past uses of the Property and the use, storage, or disposal of hazardous materials on the Property. Mr. Rhode stated that there are not aboveground or underground storage tanks on the Property. Mr. Rhode indicated there is a maintenance room on the Property where typical maintenance supplies including paints, stains, and lacquers are stored. According to Mr. Rhode, the Property previously generated hazardous waste in the form of Waste photo developer. Mr. Rhode stated that landscaping maintenance is performed by an off-site company. Mr. Rhode was unaware of environmental concerns on the Property which might impact the environmental quality of the Property.
- Ceres Associates contacted the Regional Water Quality Control Board with a request to review files for the Property. According to the agency, information for the Property address was not found.
- Ceres Associates contacted the Santa Clara County Environmental Health Department with a request to review files for the Property. According to the agency, information for the Property address was not found.
- Ceres Associates contacted the Santa Clara County Fire Prevention Department with a request to review files for the Property. According to the agency, hazardous materials or underground storage tank files were not found for the Property address.
- Ceres Associates contacted the Santa Clara County Water District with a request to review files for the Property. According to the agency, information for the Property address was not found.
- Ceres Associates visited the City of Cupertino Building Inspection Department with a request to review the permit history for the Property. A building permit was found for the Property address indicating the Property was developed with the current structure in 1977. Permits were found dated 1987 for additions made to the Property building.



Vallco International Shopping Centers

PHASE I  
ENVIRONMENTAL SITE ASSESSMENT  
UPDATE

Vallco Fashion Mall  
10123 North Wolfe Road  
Cupertino, California



### 3.0 INTERVIEWS, RECORDS, AND HISTORICAL REVIEW

#### 3.1 INTERVIEWS AND REGULATORY CONTACTS

- Ceres Associates interviewed Joe Goodwin, the Maintenance Director of the Vallco Fashion Mall for information regarding past uses of the Property and the use, storage, or disposal of hazardous materials on the Property. According to Mr. Goodwin, none of the current tenants use, store or generate hazardous materials or wastes. Mr. Goodwin also told Ceres Associates that the maintenance of the elevators and escalators is done weekly by Kone USA.
- Ceres Associates interviewed Mike Rohdy, The General Manager for Vallco Fashion Mall. for information regarding past uses of the Property and the use, storage, or disposal of hazardous materials on the Property. Mr. Rohdy provided information regarding various tenants, Property and building area, vacancy rate and asbestos sampling.
- Ceres Associates contacted the Santa Clara Department of Environmental Health with a request to review files for the Property. The agency provided documents related to hazardous waste handling by photo processors that are no longer on the Property (*refer to Appendix C - Regulatory Documents and Other Reports*).
- Ceres Associates contacted the Santa Clara Water District with a request to review files for the Property. According to the agency, files for the Property address were not found.
- Ceres Associates contacted the San Francisco Bay Region Water Quality Control Board with a request to review files for the Property. According to the agency, files for the Property address were not found.

#### 3.2 ENVIRONMENTAL DATABASE REPORT

Environmental FirstSearch, Inc., provided a list of sites within designated distances of the Property that are listed by regulatory agencies. Environmental FirstSearch has also provided a map of these sites, which can be found in Appendix D - Environmental Database Report.

The environmental database report lists four **STATE** sites and two **NPL** sites between ½ and 1 mile of the Property. Between ¼ and ½ mile of the Property the database report lists six **LUST** sites. The report also lists five **LUST** sites, four **UST** sites, and two **RCRAGN** sites between ⅛ and ¼ mile of the Property. Within ⅛ mile of the Property the environmental database lists five **LUST** sites, four **UST** sites, five **RCRAGN** sites, one **ERNS** site, one **SPILLS** site, and one **NFRAP** site.



Vallco International Shopping Centers 8  
Vallco Fashion Mall, Cupertino, California

May 5, 2006  
Project CA 1537-1

**Response R.8:** Refer to Master Response 5. The references for the ESA in Appendix E of the Draft EIR are attached as appendices to the report, files at the City of Cupertino Building Department, SCCFD, and SCCDEH, and reports available on the State Water Resources Control Board Geotracker website

([http://geotracker.waterboards.ca.gov/profile\\_report.asp?global\\_id=T0608552828](http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T0608552828)

and

[http://geotracker.waterboards.ca.gov/profile\\_report.asp?global\\_id=T0608500770](http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T0608500770)).



S. **Kitty Moore (dated June 25, 2018, 8:01PM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment S.1:** Please be aware of the 1,000 Gallon UST on the west side of Sears Automotive which allegedly was installed around 1969 which would likely be leaking. It is an unaccounted for waste oil tank.

**Response S.1:** Refer to Section 5.3 Response AAA.12.

**Comment S.2:** Also Pursuant to Section 65926.5

GOVERNMENT CODE - GOV TITLE 7. PLANNING AND LAND USE [65000 - 66499.58] (Heading of Title 7 amended by Stats. 1974, Ch. 1536. ) DIVISION 1. PLANNING AND ZONING [65000 -66210] (Heading of Division 1 added by Stats. 1974, Ch. 1536. ) CHAPTER 4.5. Review and Approval of Development Projects [65920 - 65964.1] (Chapter 4.5 added by Stats. 1977, Ch. 1200. ) ARTICLE 6. Development Permits for Classes of Projects [65960 - 65964.1] (Article 6 added by Stats. 1978, Ch. 1271. ) (a) The Department of Toxic Substances Control shall compile and update as appropriate, but at least annually, and shall submit to the Secretary for Environmental Protection, a list of all of the following

(1) All hazardous waste facilities subject to corrective action pursuant to Section 25187.5 of the Health and Safety Code. (2) All land designated as hazardous waste property or border zone property pursuant to former Article 11 (commencing with Section 25220) of Chapter 6.5 of Division 20 of the Health and Safety Code. (3) All information received by the Department of Toxic Substances Control pursuant to Section 25242 of the Health and Safety Code on hazardous waste disposals on public land. (4) All sites listed pursuant to Section 25356 of the Health and Safety Code. (b) The State Department of Health Services shall compile and update as appropriate, but at least annually, and shall submit to the Secretary for Environmental Protection, a list of all public drinking water wells that contain detectable levels of organic contaminants and that are subject to water analysis pursuant to Section 116395 of the Health and Safety Code. (c) The State Water Resources Control Board shall compile and update as appropriate, but at least annually, and shall submit to the Secretary for Environmental Protection, a list of all of the following (1) All underground storage tanks for which an unauthorized release report is filed pursuant to Section 25295 of the Health and Safety Code. (2) All solid waste disposal facilities from which there is a migration of hazardous waste and for which a California regional water quality control board has notified the Department of Toxic Substances Control pursuant to subdivision (e) of Section 13273 of the Water Code. (3) All cease and desist orders issued after January 1, 1986, pursuant to Section 13301 of the Water Code, and all cleanup or abatement orders issued after January 1, 1986, pursuant to Section 13304 of the Water Code, that concern the discharge of wastes that are hazardous materials. (d) The local enforcement agency, as designated pursuant to Section 18051 of Title 14 of the California Code of Regulations, shall compile as appropriate, but at least annually, and shall submit to the Department of Resources Recycling and Recovery, a list of all solid

waste disposal facilities from which there is a known migration of hazardous waste. The Department of Resources Recycling and Recovery shall compile the local lists into a statewide list, which shall be submitted to the Secretary for Environmental Protection and shall be available to any person who requests the information. (e) The Secretary for Environmental Protection shall consolidate the information submitted pursuant to this section and distribute it in a timely fashion to each city and county in which sites on the lists are located. The secretary shall distribute the information to any other person upon request. The secretary may charge a reasonable fee to persons requesting the information, other than cities, counties, or cities and counties, to cover the cost of developing, maintaining, and reproducing and distributing the information. (f) Before a lead agency accepts as complete an application for any development project which will be used by any person, the applicant shall consult the lists sent to the appropriate city or county and shall submit a signed statement to the local agency indicating whether the project and any alternatives are located on a site that is included on any of the lists compiled pursuant to this section and shall specify any list. If the site is included on a list, and the list is not specified on the statement, the lead agency shall notify the applicant pursuant to Section 65943. The statement shall read as follows

**HAZARDOUS WASTE AND SUBSTANCES STATEMENT** The development project and any alternatives proposed in this application are contained on the lists compiled pursuant to Section 65962.5 of the Government Code. Accordingly, the project applicant is required to submit a signed statement that contains the following information Name of applicant Address Phone number Address of site (street name and number if available, and ZIP Code) Local agency (city/county) Assessor's book, page, and parcel number Specify any list pursuant to Section 65962.5 of the Government Code Regulatory identification number Date of list \_\_\_\_\_ Applicant, Date \_\_\_\_\_ (g) The changes made to this section by the act amending this section, that takes effect January 1, 1992, apply only to projects for which applications have not been deemed complete on or before January 1, 1992, pursuant to Section 65943. (Amended by Stats. 2012, Ch. 39, Sec. 26. (SB 1018) Effective June 27, 2012.)

<https://files.acrobat.com/a/preview/925ab1de-c379-4731-9490-a700477cf051>

A building plan from 1969 for the Sears Automotive Center that was reviewed by Cornerstone depicts a 1,000 gallon waste oil UST on the west side of the building. Similarly, the SWEEPS UST database lists seven USTs at Sears (the six USTs that were removed in 1985, and the 1,000 gallon waste oil UST). No records pertaining to the removal of a 1,000 gallon waste oil UST were identified during this study. During our Site visit, an access cover was observed in the pavement in the vicinity of the waste oil UST depicted on the 1969 building plan. Thus, it appears that a waste oil UST may remain on-Site. We recommend that the potential presence of a waste oil UST be further investigation by removing the access cover and, if uncertainty remains, the subsequent performance of a geophysical survey. If a UST is identified, it should be removed in coordination with the Santa Clara County Fire Department and DEH, and underlying soil quality should be evaluated. If no UST is identified, soil quality at the location of the waste oil UST, as depicted on the 1969 building plan, should be evaluated via the collection of soil samples from borings for laboratory analyses.

45

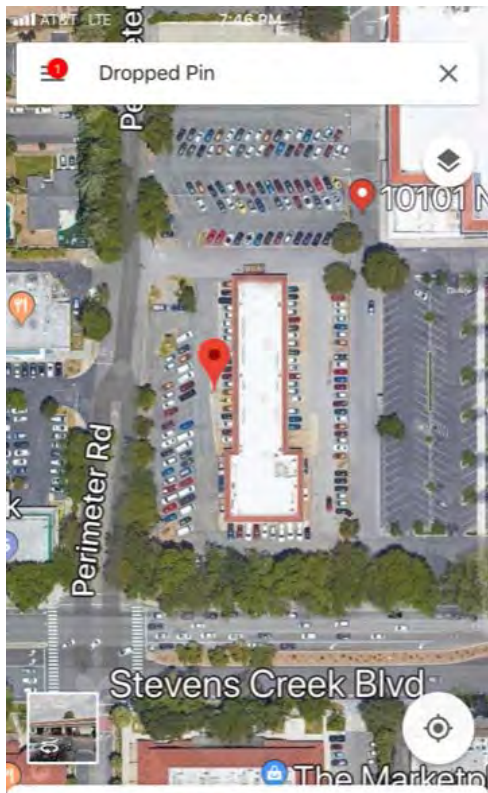




41

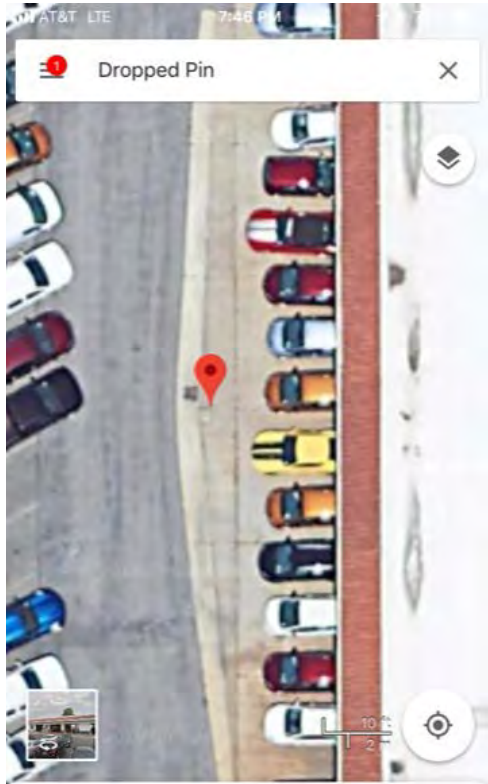
Photograph 23. Concrete access cover (near storm drain at the suspected waste oil UST location at SAC.





Dropped Pin

near I Innamed Road, Cupertino, CA 95014



Dropped Pin

near I Innamed Road, Cupertino, CA 95014



There has been no testing of lead arsenate, DDT or other pesticides which likely were used on the site over more than 40 years. I do not want this site disturbed without testing.  
Pop the lid on the alleged 1,000 gallon UST. Failure to do so and have an inspection makes the city now knowingly allow a potential hazardous waste dump go unreported and that will be your legacy.

**Response S.2:** Refer to Section 5.2 Responses II.Q.2 and II.Q.3 and Section 5.3 Response AAA.12.

**T. Kitty Moore (dated July 5, 2018, 10:23PM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment T.1:** The “Recognized Environmental Conditions” at Vallco outlined in the DEIR merit the immediate start of a Phase II Environmental Site Assessment with soil vapor testing included and then a Phase III ESA. There must be NO completion of the DEIR until both a Phase II and a Phase III is done and published.

**Response T.1:** Refer to Section 5.2 Response II.Q.3 and Section 5.3 Response AAA.12.

**Comment T.2:** I do not want the same firm to conduct the Phase II and III studies as performed the Phase I study.

**Response T.2:** Refer to Section 5.3 Response AAA.12. The above comment expresses the opinion of the commenter. The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**Comment T.3:** It is imperative that further study be completed in a timely manner.

**Response T.3:** Refer to Section 5.2 Responses II.Q.3 and Section 5.3 Response AAA.12.

**Comment T.4:** Vallco Specific Plan DEIR is missing most of the following items from the General Plan, emphasis has been added and comments in red where needed:

**Goal LU-1:** Create a balanced community with a mix of land uses that supports thriving businesses, all modes of transportation, complete neighborhoods and a healthy community

**Response T.4:** Table 3.11-1 starting on page 165 of the Draft EIR is a summary of the project and project alternatives consistency with applicable General Plan policies and strategies that have been adopted for the purpose of avoiding or mitigating an environmental effect.

As explained in the General Plan (page I-10), General Plan goals are broad statement of values or aspirations needed to achieve the City’s vision. General Plan policies are more precise statements that guide the actions of City staff, developers, and policy makers necessary to achieve the goals. General Plan strategies are specific tasks that the City will undertake to implement the policies and work toward achieving the goals. The EIR, accordingly, focuses on the project’s consistency with General Plan policies and strategies (which achieve the General Plan goals). The project’s consistency with Goal LU-1 is, therefore, addressed through the analysis of the project’s consistency with the implementing policies and strategies to achieve Goal



LU-1, including policies LU-1.1, and -1.4, are discussed in Table 3.11-1 of the Draft EIR.

**Comment T.5:** **Table LU-1:** Citywide Development Allocation Between 2014-2020: allocate a minimum 600,000 SF retail, 389 residential units, 2,000,000 SF office, 339 hotel rooms.

**Response T.5:** Refer to Section 5.2 Response II.E.21. The development allocations in the above comment match what is identified on page LU-13 of the General Plan in Table LU-1 for the project site. As described in the Draft EIR (page 7), the General Plan EIR analyzed the demolition of the existing 1,207,774 square foot mall and redevelopment of the site with up to 600,000 square feet of commercial uses, 2.0 million square feet of office, 339 hotel rooms, and 800 dwelling units within the Vallco Special Area. Because the Vallco Shopping Mall existed on the site when Community Vision 2015-2040 was adopted, and it was unclear when a project would be developed on the site, General Plan Table LU-2 indicates the square footage of the existing mall in the commercial development allocation to ensure that the mall did not become a non-conforming use on the site. Maintaining a minimum of 600,000 square feet of retail on the project site is identified as part of General Plan Strategy LU-19.1.4.

The General Plan development allocations are discussed in Section 3.14 of the Draft EIR.

**Comment T.6:** **Table LU-1:** Citywide Development Allocation Between 2014-2020: 389 residential units will be allocated to Vallco as a Priority Housing Element Site (see also HE-1.3.1 and Table HE-5).

**Response T.6:** Refer to Section 5.2 Response II.T.5.

**Comment T.7:** **Policy LU-1.4:** Land Use in all Citywide Mixed- Use Districts. Encourage land uses that support the activity and character of mixed-use districts and economic goals.

**Response T.7:** CEQA does not require consistency with a general plan policy to be analyzed unless the policy was adopted for the purpose of avoiding or mitigating an environmental effect. See CEQA Guidelines, Appendix G, Section X.b). For this reason, the project's consistency with the above policy is not discussed in the Draft EIR. Refer to Section 5.2 Response II.T.4.

**Comment T.8:** **Policy LU-1.X:** Jobs/Housing Balance. Strive for a more balanced ratio of jobs and housing units. (No calculations provided)

**Response T.8:** CEQA does not require the analysis of a jobs/housing balance, nor is there an identified threshold of significance. For this reason, the above General Plan policy is not specifically addressed. The residential population and number of jobs/employees were estimated for each of the project and project alternative, as discussed on pages 401-403 in Section 4.0 Growth-Inducing Impacts of the Draft EIR. In addition, the EIR Amendment includes a brief discussion of the jobs/housing ratio on pages 1-2.

**Comment T.9:** **Figure LU-2:** Community Form Diagram: Maximum residential density for Vallco Shopping District Special Area is 35 units per acre. (This is inconsistent with the General Plan allocations and city wide totals).

**Response T.9:** Refer to page 16 under Section 2.4.3 of the Draft EIR, which describes that the previous project and project alternatives would amend the General Plan to reflect the maximum residential density allowed on the site.

**Comment T.10:** STRATEGIES:

**LU-19.1.1: Master Developer. Redevelopment will require a master developer in order remove the obstacles to the development of a cohesive district with the highest levels of urban design.**  
(This was not included)

**Response T.10:** Refer to Section 5.2 Responses II.T.4 and II.T.7. The above strategy was not adopted for the purpose of avoiding or mitigating an environmental effect. For this reason, the project's consistency with the above policy is not discussed in the Draft EIR.

**Comment T.11:** LU-19.1.2: Parcel Assembly. Parcel assembly and a plan for complete redevelopment of the site is required prior to adding residential and office uses. **Parcelization is highly discouraged** in order to preserve the site for redevelopment in the future.

**Response T.11:** Refer to Section 5.2 Response II.T.7. The above strategy was not adopted for the purpose of avoiding or mitigating an environmental effect. Nonetheless, the project and project alternative consistency with the strategy is discussed in Table 3.11-1 of the Draft EIR.

**Comment T.12:** LU-19.1.3: Complete Redevelopment. The "town center" plan should be based on complete redevelopment of the site in order to ensure that the site can be planned to carry out the community vision.

**Response T.12:** Refer to Section 5.2 Responses II.T.4 and T.II.7. The above strategy was not adopted for the purpose of avoiding or mitigating an environmental effect. For this reason, the project's consistency with the above policy is not discussed in the Draft EIR.

**Comment T.13:** LU-19.1.4: Land Use. The following uses are allowed on the site (see Figure LU-2 for residential densities and criteria):

1. Retail: High-performing retail, restaurant and entertainment uses. **Maintain a minimum of 600,000 square feet of retail that provide a good source of sales tax for the City. Entertainment uses may be included but shall consist of no more than 30 percent of retail uses.**
2. Hotel: **Encourage** a business class hotel with conference center and active uses including main entrances, lobbies, retail and restaurants on the ground floor.
3. Residential: **Allow** residential on upper floors with **retail and active uses on the ground floor.**



Encourage a mix of units for young professionals, couples and/or active seniors who like to live in an active “town center” environment. (This is discriminatory towards families with children, seniors with disabilities, and low income non-professional workers).

4. Office: Encourage high-quality office space arranged in a pedestrian-oriented street grid with **active uses on the ground floor, publicly-accessible streets and plazas/green space**.

**Response T.13:** The consistency of the project and project alternatives with the above strategy is discussed in Table 3.11-1 of the Draft EIR.

**Comment T.14:** LU-19.1.5: “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.

**Response T.14:** The consistency of the project and project alternatives with the above strategy is discussed in Table 3.11-1 of the Draft EIR.

**Comment T.15:** 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.** (this is essentially a trail for Apple employees to traverse between campuses at the expense of Vallco)

**Response T.15:** Refer to Section 5.2 Responses II.T.4 and II.T.7. The above strategy was not adopted for the purpose of avoiding or mitigating an environmental effect. For this reason, the project’s consistency with the above policy is not discussed in the Draft EIR.

**Comment T.16:** 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 and Main Street. (These corridors have unhealthy noise and pollution levels; pedestrians and bicyclists should be protected with separation from the roadway with increased setbacks).

**Response T.16:** Refer to Section 5.2 Responses II.T.4 and II.T.7. The above strategy was not adopted for the purpose of avoiding or mitigating an environmental effect. For this reason, the project’s consistency with the above policy is not discussed in the Draft EIR.

The noise and air quality impacts of the project and project alternatives are discussed in Sections 3.13 and 3.3 in the Draft EIR.

**Comment T.17:** LU-19.1.8: Open Space.

Open space in the form of a central town square on the west and east sides of the district interspersed with plazas and “greens” that create community gathering spaces, locations for public art, and event space for community events.

**Response T.17:** Refer to Section 5.2 Responses II.T.4 and II.T.7. The above strategy was not adopted for the purpose of avoiding or mitigating an environmental effect. Nonetheless, the project and project alternative consistency with the strategy is discussed in Table 3.11-1 of the Draft EIR.

**Comment T.18:** LU-19.1.9: Building Form.

Buildings should have high-quality architecture, and an emphasis on aesthetics, human scale, and create a sense of place. Taller buildings should provide appropriate transitions to fit into the surrounding area.

LU-19.1.10: Gateway Character.

High-quality buildings with architecture and materials befitting the gateway character of the site. The project should provide gateway signage and treatment.

**Response T.18:** Refer to Section 5.2 Responses II.T.4 and II.T.7. The above strategies were not adopted for the purpose of avoiding or mitigating an environmental effect. Nonetheless, the project and project alternative consistency with these strategies is discussed in Table 3.11-1 of the Draft EIR.

**Comment T.19:** LU-19.1.11: Phasing Plan.

A phasing plan that lays out the timing of infrastructure, open space and land use improvements that ensures that elements desired by the community are included in early phases.

**Response T.19:** Refer to Section 5.2 Responses II.T.4 and II.T.7. The above strategy was not adopted for the purpose of avoiding or mitigating an environmental effect. For this reason, the project’s consistency with the above policy is not discussed in the Draft EIR.

**Comment T.20:** LU-19.1.12: Parking.

Parking in surface lots shall be located to the side or rear of buildings. Underground parking beneath buildings is preferred. Above grade structures shall not be located along major street frontages. In cases, where above-grade structures are allowed along internal street frontages, they shall be lined with retail, entries and active uses on the ground floor. All parking structures should be designed to be architecturally compatible with a high quality “town center” environment.

LU-19.1.13: Trees.

**Retain trees along the Interstate 280, Wolfe Road and Stevens Creek Boulevard to the extent feasible, when new development are proposed.**

LU-19.1.14: Neighborhood Buffers.

Consider buffers such as **setbacks**, landscaping and/or building transitions to buffer abutting single family residential areas from visual and noise impacts.

Policy LU-27.7: Protect residential neighborhoods from noise, traffic, light and visually intrusive effects from more intense development with landscape buffers, site design, setbacks, and other appropriate measures.

Policy M-1.2: Participate in the development of new multi-modal analysis methods and impact thresholds as required by Senate Bill 743. However, until such impact thresholds are developed, continue to optimize mobility for all modes of transportation while striving to maintain the following intersection Levels of Service (LOS) at AM and PM peak traffic hours:

- Major intersections: LOS D;
- Stevens Creek Boulevard and De Anza Boulevard: LOS E+;
- Stevens Creek Boulevard and Stelling Road: LOS E+; and
- De Anza Boulevard and Bollinger Road: LOS E+

(This policy is absolutely NOT met. See the traffic study.)

**Response T.20:** The consistency of the project and project alternatives with the above strategies is discussed in Table 3.11-1. Refer to Section 5.2 Responses II.T.4 and II.T.7.

**Comment T.21:** POLICY M-4.7: VALLCO SHOPPING DISTRICT TRANSFER STATION  
Work with VTA and/or other transportation service organizations to study and develop a transit transfer station that incorporates a hub for alternative transportation services such as, car sharing, bike sharing and/or other services.

(Vallco is currently operating as a transit hub and park and ride according to the Vallco DEIR, this shall continue with ample parking provided for commuters).

**Response T.21:** Refer to Section 5.2 Responses II.T.4 and II.T.7. The above strategy was not adopted for the purpose of avoiding or mitigating an environmental effect. For this reason, the project's consistency with the above policy is not discussed in the Draft EIR.



**U. Jon Willey (dated July 6, 2018, 4:30PM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment U.1:** From the city website, it indicates that you are the principle planner for the Vallco Specific Plan and I have a few questions. I read a couple weeks ago in the Q&A in the Cupertino Scene about the Vallco SB35 and it left me with more questions than it answered. Would you answer my following questions, and if it helps, I will gladly come to the Planning Department.

1. The rules for Vallco are specified in the General Plan – clarify/confirm
  - The General Plan says Vallco requirements are per a developer Specific Plan that is to be reviewed and either approved or rejected by the City Council - clarify/confirm.
  - The Specific Plan is to detail the building heights, building mass, building locations, public spaces, and uses, and so the City Council can accept or reject the Specific Plan - clarify/confirm.
  - For there to be Residential and Office at Vallco, the site must be rezoned which is to be approved by the City Council . . . but Vallco consists of about 7 parcels, so does the City have to rezone all the parcels or can the City Council rezone just specific parcels to add Residential and rezone just specific parcels for Office, and leave some parcels as Retail only?
2. In the Cupertino Scene article and from what I have read for the SB35 law, it appears that the developers project must meet the General Plan requirements...which would then indicate that the City Council does have the authority to reject building heights, site density, and amounts of Residential Units and Office space...is that correct?
3. For Marina, the site is ~8 acres and about ½ was designated for the hotel and about ½ was designated for the residential. Then for the residential half, the four acres at 35 units per acre and with the added bonus for low income, the allowed RU's was then 188 units. But for Vallco to come up with 2400 Residential Units, I think it would require the full 50 acres to be used in the calculation. This seems to indicate that the Vallco developer is being treated very differently than Marina... please clarify.

Thank you for your assistance

**Response U.1:** The comment does not raise any issues about the adequacy of the EIR. The following response to the planning-related questions were provided from City staff via email on July 10, 2018 to the commenter:

Apologies for the delay. We're developing FAQ's for the Vallco SB 35 project. They may help with some of your questions. In general:

A. Specific Plan development - the GP does not solely require that the specific plan be developed by a developer for the Council's consideration.

B. The City Council can adopt, either a developer prepared, or city prepared specific plan.

C. Rezoning for the site is subject to state law requirements and subject to direction and approval by the Council. Do note that the entire Vallco Shopping District is considered a Housing Priority Site.

When the SB 35 project was submitted the only applicable GP standards were the allocations for non-residential development (note that a Density Bonus concession has been requested for a reduction in the retail allocation) and residential density (35 du/acre, in addition to which a 35% Density Bonus has been requested.)

In the case of the Marina development, the hotel parcel was a separate parcel and not considered a Housing Element site. For the Vallco development, the entire site 58 acres is considered a Housing Element site; however currently ~56 acres is developable. The other +/-2 acres is under construction with the Hyatt Hotel.

Hope this helps.

V. **Geoffrey Paulsen (dated July 8, 2018, 9:02AM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment V.1:** As I said, I (along with others) appreciate your thoughtfulness with regard to Cupertino's issues. Therefore, as a private citizen, I offer you a few Vallco thoughts for your consideration.

1. Transportation.

- Some of the trip reduction tools suggested by the consultant Patrick Siegman show real promise. I especially like his ideas for reconfiguring Stevens Creek Boulevard.

**Response V.1:** The reconfiguration of Stevens Creek Boulevard is not proposed as part of this project.

**Comment V.2:**

- The upcoming Junipero Serra bike road is the greatest opportunity we have for connecting Vallco via foot and bike. Let's make sure it ties in well with the final design.

**Response V.2:** Comment noted. The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**Comment V.3:**

- Pedestrian and bicycle access through the perimeter wall is vehemently opposed by some neighbors, but such access would serve the greater good.

**Response V.3:** Comment noted. No changes are proposed to the perimeter wall as part of the project.

**Comment V.4:**

2. Trees. I know that there is a lot of support for large trees, but I want to underscore my support of large species planted in abundance.

**Response V.4:** Comment noted. As discussed in Section 3.4 Biological Resources of the Draft EIR, trees that would be removed as part of the project shall be replaced pursuant to the City's Municipal Code.

**Comment V.5:**

3. Parks. The 30-acre living roof is okay, but smaller ground level parks are also important - for convenient multigenerational recreation, youth socialization, and perhaps even solitude.

**Response V.5:** Comment noted. As described on page 29 of the Draft EIR under Section 2.4.4.1, the project (and the General Plan Buildout with Maximum Residential Alternative, Retail and Residential Alternative, and Housing Rich



Alternative) would have approximately 15 to 20 percent of the gross site area (which is approximately 10.5 to 14 acres) would be developed with open space, landscaping, and central town squares.

**Comment V.6:**

4. Height. I know this is a hot button issue, but when there is an opportunity to create ground level open space by adding height to a building next to a major freeway, I favor the open space. Since the City Council can approve a specific plan and a general plan amendment in one single action, if such an action would result in a better long-term solution, let's do it!

**Response V.6:** The above comment expresses the opinion of the commenter. The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**Comment V.7:**

5. Beauty. Ground level approachability and less massive tall buildings (pyramid-like) are design elements that have stood the test of time. In some cases, a great deal of time.

6. Environmental innovation. As one who is concerned about the environment, I would hope that you are able to help shape Vallco into a development that is truly innovative with regard to transportation, carbon sequestration, energy efficiency, and the like.

I look forward to great things for Cupertino.

**Response V.7:** The above comment expresses the opinion of the commenter. The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**W. Geoffrey Paulsen (dated July 8, 2018, 9:04AM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment W.1:** I really appreciate your thoughtfulness and attention to detail with regard to transportation and energy. Here are a few thoughts (as a private citizen) about Vallco.

1. Transportation. • Some of the trip reduction tools suggested by the consultant Patrick Siegman show real promise. I especially like his ideas for reconfiguring Stevens Creek Boulevard. • The upcoming Junipero Serra bike road is the greatest opportunity we have for connecting Vallco via foot and bike. Let's make sure it ties in well with the final design. • I know you are great supporter of connectivity, and pedestrian and bicycle access through the perimeter wall would, despite some neighbor opposition, serve the greater good.

**Response W.1:** The above comment expresses the opinion of the commenter. Refer to Section 5.2 Responses II.V.1 and II.V.2. The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**Comment W.2:**

2. Environmental innovation. As one who is concerned about the environment, I would hope that you are able to help shape Vallco into a development that is truly innovative with regard to transportation, carbon sequestration, energy efficiency, and the like. Trees can be a part of this as well.

3. Height. I know this is a hot button issue, but when there is an opportunity to create ground level parks by adding height to a building next to a major freeway, I favor the parks. Since the Council can approve a specific plan and a general plan amendment in one single action, let's do it!

Vallco can be a landmark - not just physically, but functionally.

**Response W.2:** Refer to Section 5.2 Response II.U.6. The above comment expresses the opinion of the commenter. The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**X. Geoffrey Paulsen (dated July 8, 2018, 9:06AM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment X.1:** Just a few thoughts (as a private citizen) about Vallco.

1. Beauty.
  - a. Ground level attractiveness. This is important for both for retail and recreation.
  - b. Managing the mass of tall buildings. No one wants view or sunlight to be blocked, but there are ways to reduce the size of the upper stories of a tall building to make it more attractive.

**Response X.1:** The above comment expresses the opinion of the commenter. The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**Comment X.2:**

2. Parks. The 30-acre living roof is okay, but smaller ground level parks are also important.

**Response X.2:** Refer to Section 5.2 Response II.V.5.

**Comment X.3:**

3. Relationships with neighbors. Pedestrian and bicycle access through the perimeter wall is vehemently opposed by some neighbors, but such access would serve the greater good.

**Response X.3:** Refer to Section 5.2 Response II.V.3.

**Comment X.4:**

4. Also, the neighbors will like it when there is something on the other side of the wall that's more attractive than a parking garage.
5. Youth mental health. I really appreciate your concern about youth mental health, and a well-designed Vallco can help.
  - a. Habitat for healthy youth socialization can help build social skills, reinforce self-esteem, etc.
  - b. Trees. More studies are showing that trees reduce stress - and even improve test scores.

Darcy, you always struck me as the consummate diplomat when I served with you on the Parks and Recreation commission. I know there are many concerns about Vallco, but it is my sincere hope that the ultimate project will serve to help unite what has recently become a somewhat divided city.

**Response X.4:** The above comment expresses the opinion of the commenter. The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.



**Y. Geoffrey Paulsen (dated July 8, 2018, 9:08AM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment Y.1:** Here are a few thoughts about Vallco that I'm sharing with you as a private citizen.

1. Air quality. I have always appreciated your concern for air quality, especially now that three members of my family have asthma (from living a block downwind from 280?). Therefore, I would hope that you would help shape the Vallco project into something that is a model for air quality. This can be done through multimodal transportation, an abundance of (soot-catching) large trees, and LED platinum buildings.

**Response Y.1:** The air quality impacts of the project and project alternatives are discussed in Section 3.3 of the Draft EIR. The above comment expresses the opinion of the commenter. The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**Comment Y.2:**

2. Innovation. As a realtor, I know you appreciate fine design, and I would hope that we would not shrink back from building something truly stunning at Vallco. Since the City Council can approve a specific plan and a general plan amendment in one single action, let's do it!
3. Legacy. As your years of dedicated public service in Cupertino draw to a close, I would hope that part of your legacy will be to build something in Cupertino that will endure for decades – perhaps even centuries. We could borrow some ideas from the great cities of the world, in fact even from cities in China and India.

I look forward to great things.

**Response Y.2:** The above comment expresses the opinion of the commenter. The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**Z. Liang Chao (dated July 9, 2018, 1:59PM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment Z.1:**

Page 11 of the DEIR has the following footnote:

"During the scoping process for the project, interest in including a green roof and civic space (such as a school lab facility and office space for police and fire staff) was expressed by community members, local schools, Santa Clara County Sheriff's Office, and Santa Clara County Fire Department. As a result, the project was augmented to include a 30-acre green roof and 65,000 of civic space."

I would like all documents that support the above statements from "community members, local schools, Santa Clara County Sheriff's Office, and Santa Clara County Fire Department".

Please provide me such documents immediately or as a public record request. And please include such documents in the final EIR so that the EIR is complete.

**Response Z.1:** The comments received related to green roofs, adult education and civic spaces are available on the project website at [www.envisionvallco.org](http://www.envisionvallco.org). The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**AA. Liang Chao (dated July 9, 2018, 2:19PM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment AA.1:**

Parkland requirement is in place for "parkland".

No amount of open space, town square or green roof should be allowed to replace the parkland requirement.

Any project option that does not satisfy the parkland requirement under Municipal Code Chapter 14.05 and Title 18 is NOT a legal option under the Municipal Code.

**Response AA.1:** The existing citywide parkland ratio of approximately 2.64 acres of parkland per 1,000 residents is stated on page 244 of the Draft EIR. As described in the Draft EIR (page 250-251) the estimated required parkland, pursuant

to Municipal Code Chapter 13.08, for the previous Specific Plan would be 4.3 acres, and for the General Plan Buildout with Maximum Residential, Retail and Residential, and Housing Rich Alternatives the required parkland would be 14.3 acres, 21.6 acres, and 17.6 acres, respectively. The previous project includes 10.5 to 14 acres of common open space, landscaping, and town squares, as well as a 30-acre green roof that would include outdoor use areas such as outdoor dining, playgrounds, walking paths, and picnic areas. The previous project (and alternatives including the green roof) would provide 40.5 to 44 acres of on-site open space, landscaping, town squares and/or green roof. The proposed on-site open space (whether public, private or a combination of the two) would offset the project's demand on local parkland, and provide public parkland for neighboring residents on the east side of Cupertino in the North Blaney and Vallco areas.

The City of Cupertino Municipal Code (Chapter 13.04.020) defines park as the following: "Park" means a park, reservation, playground, swimming pool, recreation center or any other area in the City, owned or used by the City or county and devoted to active or passive recreations. Based upon this definition, the open space, town square and green roof would count as parkland. Additionally, if the topography of the park land is not acceptable, the project (and project alternatives) shall dedicate land through compliance with Municipal Code Chapter 14.05 and Title 18, which helps ensure the provision of parklands meeting the City standard of a minimum of three acres per 1,000 residents (Draft EIR page 251, and as revised in Section 5.0). See Section 5.2 Response II.E.26.

**Comment AA.2:** The NOP did not mention any 30-acre roof park. There is no evaluation on the earthquake risk for the 30-acre roof park at all.

There is no estimation on the fiscal impact on the city for the roof park in maintenance.

Every acre of land at Vallco costs about \$5-6 million dollars.

Every acre of parkland requirement NOT provided onsite is a free giveaway to the developer.

For 800 housing units, that's 4.3 acres of parkland required.

For 2400 housing units, that's 14,3 acres of parkland required.

For 3000 housing units, that's 17,875 acres of parkland required. For 4000 housing units, that's 23,8 acres of parkland required.

Ground-level parkland is worth a lot of money than rooftop, which is hard to access and harder to maintain.

Please clearly specify in the table of options the amount of required parkland under Municipal Code Chapter 14.05 and Title 18 i so that the reader has a clear picture for transparency.

Only listing the 30 acre roof park without listing the required parkland is misleading. Thanks.

**Response AA.2:** Refer to Master Response 3 regarding the project description in the NOP. The potential for earthquakes to affect the proposed green roof is the same risk as is present for all structures proposed by the project. The proposed structures, including any green roof, would be subject to the California Building Code Section 183, which calls for a site-specific geotechnical investigation and



implementation of necessary design and construction techniques to minimize seismic, seismic-related, and soil hazards to acceptable levels.

The amount of required park land for the project and project alternatives is described on pages 250-252 of the Draft EIR. Refer to Section 5.2 Response II.AA.1.

**BB. Liang Chao (dated July 9, 2018, 2:28PM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment BB.1:** The EIR should clearly specify the TOTAL building height, including the rooftop structures, for transparency and accountability.

The DEIR states:

- Amenities, such as cafés or gymnasiums, may be located on the rooftop and could add up to 20 feet to the height of the buildings so long as they are centrally located on the building.
- The maximum building height would be between 45 feet and 120 feet, with taller buildings anticipated to be located closer to North Wolfe Road, on the west side of North Wolfe Road and between 90 feet and 145 feet, with the taller buildings anticipated to be located away from North Wolfe Road and Vallco Parkway.

So, are we looking at 145+20 feet as the TOTAL building height, including the rooftop structures. How about the space between the ceiling of the top floor and the green roof? Would that add another few feet?

For the purpose of the EIR, please clearly specify the TOTAL building height, including any rooftop structures.

**Response BB.1:** The maximum building heights described in the Draft EIR for the project and project alternatives (refer to Section 2.4, Project Description) are the total height of structures; therefore, any rooftop structures would be included within that maximum structure height.

CC. Liang Chao (dated July 9, 2018, 3:03PM)

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment CC.1:** The TOTAL building height will be 145 to 160 feet tall and there will be structure, even dining areas on the roof top. The fire department should give a written comment on their current ability to reach such height with their current equipment. The fire department should specify whether they need to acquire new equipment to service potential fire at the 160 feet tall.

"Personal communication" is NOT a valid source of information.  
Please obtain written communication for the record, especially for such a large scale project.

**Response CC.1:** The comment reflects the opinion of the commenter. The Santa Clara County Fire Department (SCCFD) was contacted by phone by the City's EIR consultant to discuss the details of the previous project and project alternatives and their abilities to provide adequate fire protection services. Input from SCCFD is reflected in the EIR discussion. As discussed in the Draft EIR (page 245), the SCCFD confirmed that the project (and project alternatives) would be adequately served by existing fire protection facilities. The SCCFD also participates in discussions with City staff on an on-going basis regarding development in its service area. The SCCFD also received a copy of the Draft EIR for purposes of review and comment.

**Comment CC.2:** The distance from the fire department might be small, but there will be impact on the total number of households the fire department will serve. Will the response time for other households served by the Fire Department be impacted because the Fire Department will serve more people? Such impact is NOT studied.

"The target responses times and actual 2017 response times for SCCFD for emergency incidents east of Blaney Avenue within the City of Cupertino are summarized in Table 3.15- 1."

=> The area that's east of Blaney in Cupertino is a small area. How about all other areas currently served by the SCCFD? What's their response time? Please also include their response times since adding 3- 400 more housing units and 15,000 more workers to the traffic around Vallco will affect the response time to the entire area served by SCCFD, specifically the area served by the fire station at 20215 Stevens Creek Boulevard.

"SCCFD data show that response times have increased and SCCFD attributes the increase in travel time to increased pedestrian and vehicle traffic congestion in the area."

=> How much the response time has increased? Especially in the past two years since traffic congestion has worsened. Please provide quantifiable data. How has the response time been compared with the prediction done for the Apple Park EIR in 2013?



"SCCFD has identified the need for an additional fire station on the east side of the City to continue meeting response time goals on the east side of the City. Currently, there are no available sites or potential sites identified by the SCCFD for a new fire station."

=> This seems to imply that SCCFD does NOT think it can continue to meet the response time goals WITHOUT adding a fire station for the east side of Cupertino. Since there is no available site right now, it does seem to suggest that SCCFD does expect they will NOT be able to meet the response time goals any more.

Please clarify this. And please provide documentation from SCCFD that concludes that the east of Cupertino needs a new fire station.

Impact PS-1: The project (and project alternatives) would not require new or physically altered fire protection facilities (the construction of which could cause significant environmental impacts) in order to maintain acceptable service ratios, response times, or other performance objectives. (Less than Significant Impact)"

"The project (and project alternatives) would increase the number of occupants and would likely result in an increase in fire protection service calls to the project site compared to existing conditions. Given the proximity of the Cupertino Fire Station to the project site, the SCCFD confirmed that the project (and project alternatives) would be adequately served by existing fire protection facilities and response time goals would be met."

=> This only confirms that the project area will be serviced with adequate response time. But it does not address the potential delay in response time to the other areas currently served by the SCCFD. All existing residential residents and office occupants will be impacted by adding a mega project at Vallco. But the EIR completely ignores any impact in response time to existing residents, office occupants and businesses.

"SCCFD data show that response times have increased and SCCFD attributes the increase in travel time to increased pedestrian and vehicle traffic congestion in the area. SCCFD has identified the need for an additional fire station on the east side of the City to continue meeting response time goals on the east side of the City. Currently, there are no available sites or potential sites identified by the SCCFD for a new fire station."

Specifically, SCCFD already stated that there is already delay due to "increased pedestrian and vehicle traffic congestion" and there is already a need for a new station for the east of Cupertino. How could adding 2400 to 4000 housing units plus 2 million square feet of office have no impact?

Lives are at stake. Please get a written response from the SCCFD to confirm. Thanks.

**Response CC.2:** According to Appendix G, Environmental Checklist, of the CEQA Guidelines, the project would have a significant impact related to fire protection and emergency services if it would result in *substantial adverse physical impacts* associated with the provision of new or physically altered fire protection facilities, need for new or physically altered fire protection facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for fire protection services.

The SCCFD was contacted by phone by the City's EIR consultant to discuss the details of the previous project and project alternatives and their abilities to provide adequate fire protection services. As discussed in the Draft EIR (page 245), the SCCFD confirmed that the project (and project alternatives) would be adequately served by existing fire protection facilities. The SCCFD takes into account its entire existing service area when it considers additional requests for service. The cumulative impacts to fire protection services is discussed under Impact PS-6 on page 253 of the Draft EIR. The cumulative analysis evaluates the impacts of the buildout of the General Plan and cumulative projects (including the previous project). Once the SCCFD has identified a site for a new fire station, the future fire station would be subject to site-specific CEQA environmental review and is anticipated to result in less than significant impacts. For this reason, as concluded in the Draft EIR, the previous project and project alternatives would not result in significant project-level or cumulative environmental impacts related to the provision of fire protection services.

**DD. Liang Chao (dated July 9, 2018, 3:20PM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment DD.1:** The DEIR stated:

"The Sheriff's Office is currently meeting the above response time goals. Over the last several years, there has been an increase in calls for service and an increase in traffic congestion, which have increased response times."

How much is the increase in calls for service and increase in traffic in the last few years? Quantified data should be provided in order to estimate the impact of adding 2400 to 4000 more housing units plus 2 million sqft office space to an already very congested area. Please Apple Park is NOT fully occupied yet.

The EIR should provide qualified estimated increase in calls and increase in response time due to increase in traffic congestion from the surrounding area plus the increase in congestion due to the Vallco project.

Plus, the increase in response time to all areas of Cupertino and within 5 miles of Vallco should be evaluated.

The EIR should not ONLY estimate the impacts to the future residents of Vallco. The EIR is supposed to evaluate the impacts to existing residents and businesses and provide potential mitigation methods. That's missing.

"The project (and project alternatives) would increase the number of occupants and would likely result in an increase in police protection service calls to the project site compared to existing conditions. Given the trend with increased response times, the additional growth and traffic congestion from the project (or project alternatives) could add delays to existing response times." => The DEIR recognize that there will be increase, but there is no quantifiable data to estimate the impact or how to mitigate the impact. Therefore, the conclusion that there is "less than significant impact" has no basis.

The estimated impact is based on "personal communication" with the Sheriff. For a project of such a magnitude, please obtain written communication from the Sheriff's office for transparency and accountability.

There needs to be specific data. At what level, the impact will become significant? How much delay would be considered significant? The DEIR recognizes that there will be increase in response time, but there is no estimate on how much increase. Then, there is simply no way the DEIR can conclude that the impact is "less than significant".

**Response DD.1:** According to Appendix G, Environmental Checklist, of the CEQA Guidelines, the Project would have a significant impact related to police



protection services if it would result in *substantial adverse physical impacts* associated with the provision of new or physically altered police protection facilities, need for new or physically altered police protection facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response times or other performance objectives for police protection services.

Similar to fire protection services, the Santa Clara County Sheriff's Department takes into account its entire existing service area when it considers additional requests for service. The Draft EIR (pages 253-254) describes the effect of the project and project alternatives on police protection services. As described in the Draft EIR, the previous project and project alternatives would not result in significant project-level or cumulative environmental impacts related to the provision of police protection services. As development occurs, the contract between the City and the Santa Clara County Sheriff will be modified, as necessary, to maintain acceptable response times for police protection services.

**EE. Liang Chao (dated July 9, 2018, 3:37PM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment EE.1:** The DEIR only evaluated the alternative for 800 housing units or 2400 units. The impact for 3000 or 4000 units are not considered at all.

The DEIR states

"Students in the project area attend Collins Elementary School or Eisenhower Elementary School, 97 Lawson Middle School, and Cupertino High School. Currently, 717 students are enrolled at Collins Elementary School, 624 students are enrolled at Eisenhower Elementary School, 1,228 students are enrolled at Lawson Middle School, and 2,273 students are enrolled at Cupertino High School."

All of the schools in the attendance area are at capacity or a little over capacity.

For the General Plan buildout, the DEIR estimates to add 528 elementary school students (almost an entire school) plus 158 middle school and 158 high school students.

There is simply no capacity to accommodate 528 more students in Collins or Eisenhower. Plus, more housing projects are being approved in San Jose, which will fall in Eisenhower too. At 1228 students, Lawson Middle School is at capacity too. Cupertino HS is also at its highest capacity so far.

The overall enrollment of CUSD/FUHSD might be declining, but the area with student population decline is near the south western area of the district, far away from Vallco area. In order to accept more students near the Vallco area, the districts will need to somehow re- district or encourage students to attend alternative schools, which will likely create more traffic congestion and need for transportation services. Such impact on the school districts are not identified and the mitigation methods are not identified.

The decline in student population elsewhere in the school districts do not automatically create space for students from Vallco.

The travel time to a school with more capacity needs to be considered. Additional traffic mitigation or crossing guards for the added traffic congestion should be considered.

The DEIR did not sufficiently evaluate the impact on the schools near Vallco or identify mitigation methods.

Therefore, the DEIR cannot conclude that the impact is "less than significant".

**Response EE.1:** The Draft EIR did not only evaluate the alternative for 800 housing units or 2,400 units. The Draft EIR evaluated the previous Specific Plan (800 residential units), as well as the project alternatives including the General Plan Buildout with Maximum Residential Alternative (2,640 residential units) and the

Retail and Residential Alternative (4,000 residential units). The Draft EIR Amendment included the Housing Rich Alternative (3,250 residential units). The Draft EIR describes the current enrollment and current and projected capacity information for local schools in the Cupertino Union School District and Fremont Union High School District. As described in the Draft EIR (pages 246-249) enrollment is projected to decline over the next five years, so that both the elementary and high school district would have capacity districtwide to accommodate students generated by the previous project or project alternatives. As described in the Draft EIR, school impact fees are the required method for projects to offset the demands on school facilities. Through payment of appropriate school impact fees to CUSD and FUHSD, in conformance with state law (Government Code Section 65996), the project and project alternatives would not result in significant impacts to local schools. The traffic analysis includes home to school trips as part of the distribution of residential project trips. The traffic analysis also evaluates impacts to pedestrian and bicycle facilities (Draft EIR 357-359).



**FF. Liang Chao (dated July 9, 2018, 3:48PM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment FF.1:** Cupertino Library did not provide enough program space even at the time it was built. Due to funding restrictions, around 2000, the city chose to reduce the square footage of the library than what was recommended.

Now, Cupertino Library is very short in meeting rooms, program rooms and parking spaces. The approved Master Plan may or may not be implemented and it still does not provide sufficient facility space even for the existing Cupertino population.

Cupertino has about 20,000 households now. The General Plan Build out will add 2400 more housing units. A 12% increase in population. The 2 million sqft office space will add more daytime population, which will also use the County Library.

The DEIR should provide a comparison of program spaces per 1000 library users versus other libraries to argue whether the existing library facility is sufficient for existing residents and daytime workers.

The DEIR should provide quantifiable data to estimate the impact on the library facilities, including personnel cost, more program spaces, study rooms, parking spaces etc.

The DEIR cannot simply conclude "less than significant" impact for a project of the magnitude as 2400 to 4000 housing units plus 2 million sqft by verbal communication or top- of-head thinking without any basis.

**Response FF.1:** Public services, like library services, are provided to a community as a whole and are financed on a community-wide basis. New development may create an incremental increase in the demand to the services. The amount of the demand will vary widely, depending upon the nature of development (residential vs. industrial, for example) and the specific characteristics of the development. The impact of a particular project will generally be a fiscal impact; i.e., by increasing the demand for a service, a project could cause an eventual increase in the cost of providing the service. With sufficient increased demand, a project may trigger the need for a new facility, the development of which could potentially have environmental impacts. According to Appendix G, Environmental Checklist, of the CEQA Guidelines, the project would have a significant impact related to library services if it would result in *substantial adverse physical impacts* associated with the provision of new or physically altered library facilities, need for new or physically altered library facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios or other performance objectives for library services.

As described in the Draft EIR (page 244, 250, and 255) the Santa Clara County Library District (SCCLD) identified an existing need for more programmed space at the Cupertino Library and in 2015, and the City adopted the Cupertino Civic Center Master Plan project that included expansion of the library by 2,000 square feet. An Initial Study for the project found that the library expansion would not result in significant environmental impacts. The programming expansion identified in the Cupertino Civic Center Master Plan is considered sufficient to meet the needs of buildout of the General Plan and cumulative projects (including the project and project alternatives), and is expected to be implemented within the timeframe of buildout of the cumulative projects. For this reason, the Draft EIR found the project's impact on library services to be less than significant.

**GG. Liang Chao (dated July 9, 2018, 4:05PM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment GG.1:** The east side of Cupertino is already starved on parkland. See attached for a parkland analysis done in 2014 by Chris Bencher. He concludes that

- North Blaney& Valco neighborhoods are at 16% of target allocation for parklands. The proposed Housing Element and General Plan Amendment will result in 33% reduction of park-land ratio.
- Result will be North Blaney& Valco end at only 10% of target allocation for park lands. Note that the analysis was based on the proposed General Plan in 2014, which includes maybe 600 units of housing at Vallco.

Impact PS-5: The project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would not require new or physically altered park facilities (the construction of which could cause significant environmental impacts) in order to maintain acceptable service ratios, response times, or other performance objectives. (Less than Significant Impact)

The DEIR should list the current parkland ratio per 1000 residents for the east side of Cupertino. Then, estimate the parkland ratio with the proposed project. Since open space, town square or green roof do not count as parkland, the parkland ratio should be estimated for real parkland. If you wish, you may also include a ratio with "alternative" open space.

But before you rush to conclude "less than significant impact", please provide data. What is the current service level? What will be considered "significant impact"? What will be considered "less than significant impact"? Simply giving vague description without any quantifiable data is not sufficient for the EIR determination.

ATTACHMENT  
Quimby Act  
Compliance Analysis  
Speaker: Chris Bencher  
Contact: 408-573-7122



# Summary

- ❑ North Blaney & Valco neighborhoods are at **16% of target allocation for parklands.**
- ❑ The proposed Housing Element and General Plan Amendment will result in **33% reduction of park-land ratio.**
- ❑ Result will be North Blaney & Valco end at **only 10% of target allocation for park lands.**

16%

10%



Page 1

## Cupertino City Targets for “Quality Growth Conditions”

### Cupertino Municipal Code: “Park land Dedication Requirement”

18.24.040 General Standard.

The public interest, convenience, **health, welfare and safety** require that **three acres of property for each one thousand persons** be devoted for neighborhood park and recreational purposes.

### California Assembly Bill 1359: “Revision to Quimby Act”

(A) The park area per 1,000 members of the population of the city, county, or local public agency shall be derived from the ratio that the amount of neighborhood and community park acreage bears to the total population of the city, county, or local public agency as shown in the **most recent available federal census**

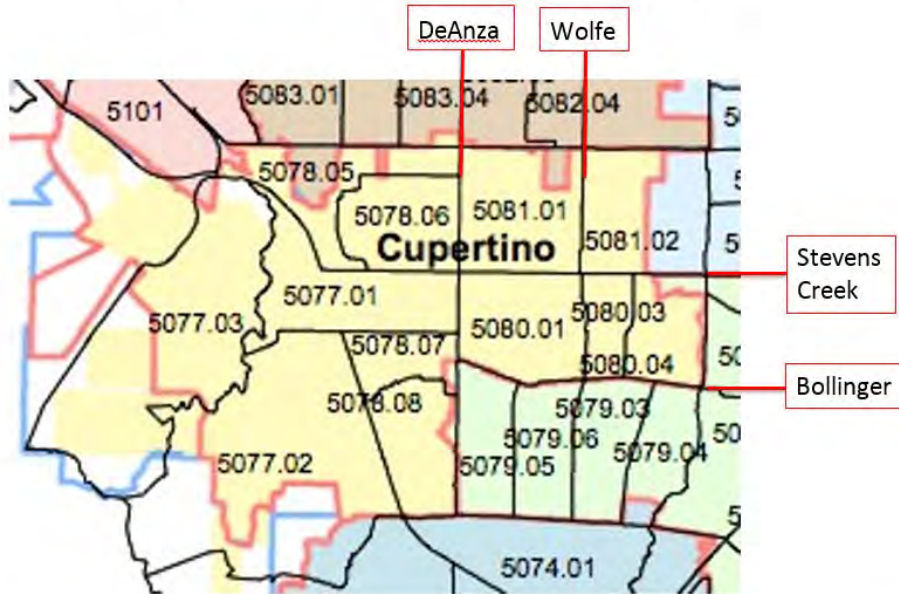
Source:

[http://www.amlegal.com/nxt/gateway.dll/California/cupertino/cityofcupertinocaliforniamunicipalcode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:cupertino\\_ca](http://www.amlegal.com/nxt/gateway.dll/California/cupertino/cityofcupertinocaliforniamunicipalcode?f=templates$fn=default.htm$3.0$vid=amlegal:cupertino_ca)  
[http://leginfo.ca.gov/faces/billNavClient.xhtml?bill\\_id=201320140AB1359](http://leginfo.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB1359)

Page 2

# United States Census Tracts for Cupertino

4 Major Census Tracts (5077, 5078, 5080, 5081)

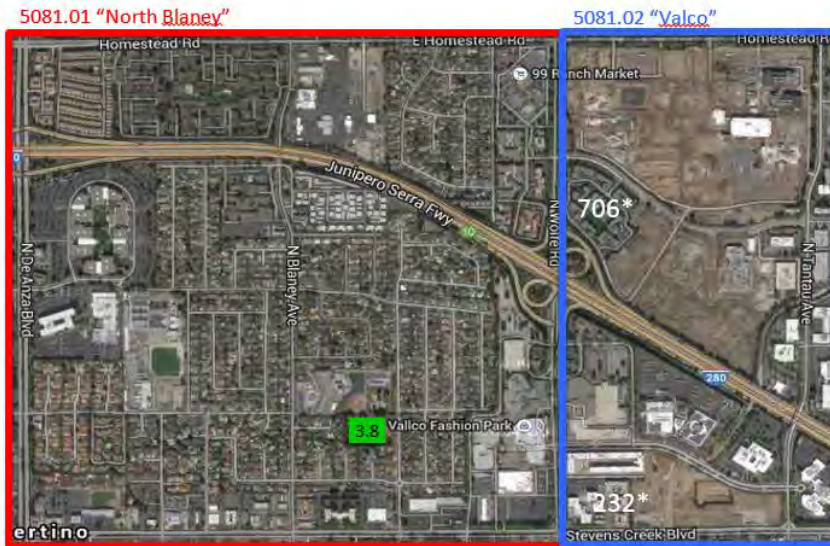


Source: [http://www.sccgov.org/sites/planning/GIS/Misc/Documents/Census\\_2010\\_Tracts.pdf](http://www.sccgov.org/sites/planning/GIS/Misc/Documents/Census_2010_Tracts.pdf)

Page 3

## Census Tract 5081

2010 Census Population	7,678
Required Acres per chapter 18.24.040	23.0
Actual Acres	3.8
% of Requirement	16%



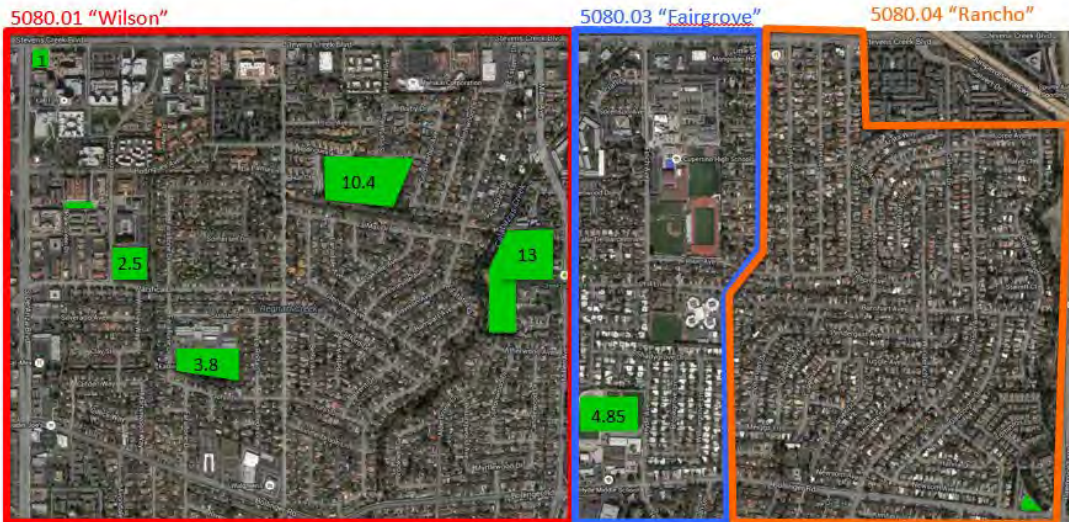
Source: <http://www.bayareacensus.ca.gov/small/small.htm>  
 Note: 5081.2 including only block 1085 and 1103

Page 4



## Census Tract 5080

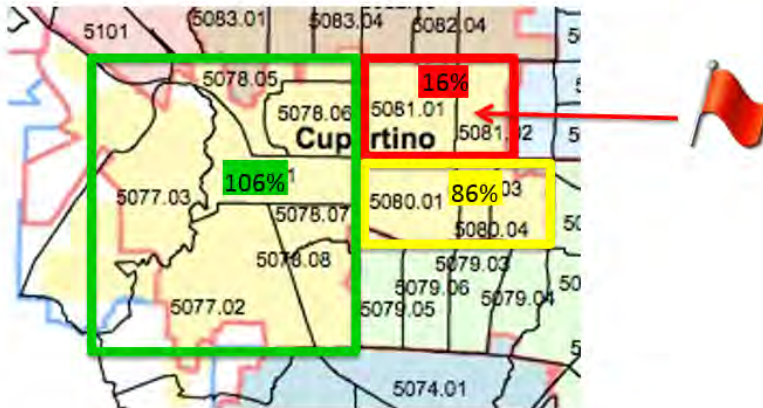
2010 Census Population	13,948
Required Acres per chapter 18.24.040	41.844
Actual Acres	36.1
% of Requirement	86%



Source: <http://www.bayareacensus.ca.gov/small/small.htm>  
 Note: 5080.4 excludes SJ blocks 1000 and 3001

### Park Land Dedication Rates by Census Tracts

Census Tract	5081	5080	5077 & 5078	All Cupertino
Existing Population	7,678	13,948	36,676	58,302
Required Acres per 18.24.040	23.0	41.8	110.0	174.9
Actual Acres	3.8	36.1	117.0	156.9
% of Requirement	16%	86%	106%	90%



- Track 5081 has a severe park-land dedication gap
- General Plan and Housing Plan should address before any re-zoning.

Source: <http://www.bayareacensus.ca.gov/small/small.htm>



## Impacts since 2010 Census & Effects of New Proposals

Census Track	5081	5080	5077 & 5078	All Cupertino
Existing Population	7,678	13,948	36,676	58,302
Required Acres per chapter 18.24.040	23.0	41.8	110.0	174.9
Actual Acres	3.8	36.1	117.0	156.9
% of Requirement	16%	86%	106%	90%

Projects coming on-line



Population growth from current projects (Rose Bowl, Main Street, 20030 Stevens Creek)	907	283
Required Acres after current construction	25.8	42.7
% of Requirement	15%	85%

Newly Proposed Projects



Population growth from proposed projects (Hamptons, Valco, United Furniture)	3,774	288
Required Acres after proposal	37.1	43.6
% of Requirement	10%	83%

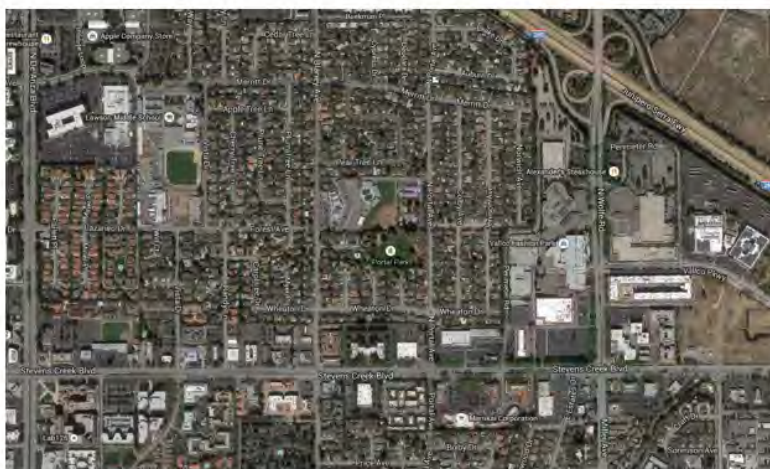
The suggested re-zoning will make it worse

**Proposed housing in Track 5081 will decrease park land ratio by 33%**

Source: <http://www.bayareacensus.ca.gov/small/small.htm>  
 Source: <http://quickfacts.census.gov/qfd/states/06/0617610.html>

## Park Lands Acreage Gap: Current, Future, Proposed

	Census Track	5081	5080	
Current Gap (Acres)	19	6		acres
New Gap (after current projects complete) (Acres)	22	7		acres
Potential Gap after proposed rezoning (Acres)	33	7		acres



10 acres to scale

Where does City propose these 20-40 acres will come from ?

What will be left when this is over ?

Current Gap: 20 Acres inside Track 5051.  
 Future Gap: 40 Acres inside Track 5050/5081

10 Acres = 435,600 sq.ft.(660x660ft)

# Conclusion

- Cupertino Park Land Dedication was written for the Health, Welfare & Safety
- Census track 5081 is at only 16% of target → 10% with the proposed plan.
- Delay the General Plan Amendment until the park-land equalization strategy is in-place.
- Delay all re-zoning in Track 5080/5081 until you have a PLAN.

We Need City Council to Fight for the People and Close our Park Land Gap

Page 9

## Back-Up Material

### 18.24.60 Formula for Fees in Lieu of Land Dedication.

A. General Formula. If there is no park or recreation facility designated in the open space and conservation element of the General Plan to be located in whole or in part within the proposed subdivision to serve the immediate and future needs of the residents of the subdivision, the subdivider shall, in lieu of dedicating land, pay a fee equal to the market value of the land prescribed for dedication in Section 18.24.080, Valuation of the land described above shall be determined, for in lieu fee purposes, under the procedures described in Section 18.24.080.

C. Use of Money. The money collected shall be paid to the treasurer of the City or his or her authorized agent. Such money shall be placed in a special revenue fund which is hereby created and which shall be known as the "park dedication in-lieu fee fund." Money within this fund shall be used and expended solely for the acquisition, improvement, expansion or implementation of parks and recreational facilities reasonably related to serving the public by way of the purchase of necessary land, or, if the City Council deems that there is sufficient land available for this use, then secondly this money shall be used for improving such land for park and recreational purposes.

#### Source:

[http://www.amlegal.com/nxt/gateway.dll/California/cupertino/cityofcupertinocaliforniamunicipalcode?f=templates\\$fn=default.htm\\$3.0\\$vid=amlegal:cupertino\\_ca](http://www.amlegal.com/nxt/gateway.dll/California/cupertino/cityofcupertinocaliforniamunicipalcode?f=templates$fn=default.htm$3.0$vid=amlegal:cupertino_ca)

# Cupertino Municipal Code: Park Land Dedication Requirement Chapter 18:24

**TABLE 18.24.050  
Park Land Dedication Formula Table**

Types of Dwellings	Density DU/acre	Average Household Size/DU	Average Acreage Requirement/DU, Based on 3-acre Standard
Single-Family	0-5	3.5	.0105
Duplex, medium low	5-10	2.0	.0060
Cluster, medium	10-20	2.0	.0060
Cluster, medium high	20 +	1.8	.0054
Apartments	10 +	1.8	.0054

Project	Dwellings	Formula Rate	acres
Rose Bowl	204	0.0054	1.10
Main Street	120	0.0054	0.65
20030 Stevens Creek	101	0.0054	0.55
Metropolitan	107	0.0054	0.58
			<b>2.87</b>

Project	Dwellings	Formula Rate	acres
Vallco	600	0.0054	3.24
United Furniture	103	0.0054	0.56
Hamptons	748	0.0054	4.04
			<b>7.84</b>

We should already have money in the "Park Dedication Fund" for 2.87 acres @ market rate

Three proposed projects will provide "in-lieu-of fund" for additional 7.84 acres @ market rate

**10.6 acres (2.8+7.8) of reserved park lands @ market rates should be achievable**

Source: <http://www.amlegal.com/nxt/gateway.dll/California/cupertino/>

## Census Tract 5081.2 Detail

Block 1085: 706  
(current Hamptons)

Note:  
For 5081.2 one must adjust census data to include only the Cupertino blocks, and ignore the Santa Clara blocks.

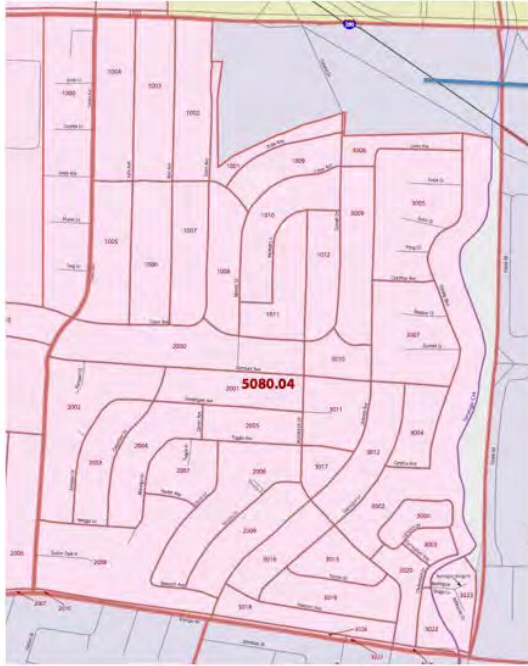
Block 1103: 232  
Current Metropolitan and neighboring apartment.



[http://www2.census.gov/geo/maps/dc10map/GUBlock/st06\\_ca/place/p0617610\\_cupertino/DC10BLK\\_P0617610\\_003.pdf](http://www2.census.gov/geo/maps/dc10map/GUBlock/st06_ca/place/p0617610_cupertino/DC10BLK_P0617610_003.pdf)



# Census Tract 5080.4 Detail



Block 1000: 1268

Block 3001: 473

Note:  
For 5080.4 one  
must adjust census  
data to remove San  
Jose blocks 1000  
and 3001.



[http://www2.census.gov/geo/maps/dc10map/GUBlock/st06\\_ca/place/p0617610\\_cupertino/DC10BLK\\_P0617610\\_003.pdf](http://www2.census.gov/geo/maps/dc10map/GUBlock/st06_ca/place/p0617610_cupertino/DC10BLK_P0617610_003.pdf)

**Response GG.1:** Refer to Section 5.2 Response II.AA.1

**HH. Liang Chao (dated July 9, 2018, 4:06PM-fire)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

But before you rush to conclude "less than significant impact", please provide data. What is the current service level? What will be considered "significant impact"? What will be considered "less than significant impact"? Simply giving vague description without any quantifiable data is not sufficient for the EIR determination.

**Comment HH.1:** On Mon, Jul 9, 2018 at 3:02 PM

The TOTAL building height will be 145 to 160 feet tall and there will be structure, even dining areas on the roof top. The fire department should give a written comment on their current ability to reach such height with their current equipment. The fire department should specify whether they need to acquire new equipments to service potential fire at the 160 feet tall.

"Personal communication" is NOT a valid source of information. Please obtain written communication for the record, especially for such a large scale project.

**Response HH.1:** Refer to Section 5.2 Response II.CC.1.

**Comment HH.2:** The distance from the fire department might be small, but there will be impact on the total number of households the fire department will serve. Will the response time for other households served by the Fire Department be impacted because the Fire Department will serve more people? Such impact is NOT studied.

"The target responses times and actual 2017 response times for SCCFD for emergency incidents east of Blaney Avenue within the City of Cupertino are summarized in Table 3.15- 1."  
=> The area that's east of Blaney in Cupertino is a small area. How about all other areas currently served by the SCCFD? What's their response time? Please also include their response times since adding 3-400 more housing units and 15,000 more workers to the traffic around Vallco will affect the response time to the entire area served by SCCFD, specifically the area served by the fire station at 20215 Stevens Creek Boulevard.

"SCCFD data show that response times have increased and SCCFD attributes the increase in travel time to increased pedestrian and vehicle traffic congestion in the area."  
=> How much the response time has increased? Especially in the past two years since traffic congestion has worsened. Please provide quantifiable data. How has the response time been compared with the prediction done for the Apple Park EIR in 2013?

"SCCFD has identified the need for an additional fire station on the east side of the City to continue meeting response time goals on the east side of the City. Currently, there are no available sites or potential sites identified by the SCCFD for a new fire station."  
=> This seems to imply that SCCFD does NOT think it can continue to meet the response time goals WITHOUT adding a fire station for the east side of Cupertino. Since there is no available site right

now, it does seem to suggest that SCCFD does expect they will NOT be able to meet the response time goals any more.

Please clarify this. And please provide documentation from SCCFD that concludes that the east of Cupertino needs a new fire station.

Impact PS-1: The project (and project alternatives) would not require new or physically altered fire protection facilities (the construction of which could cause significant environmental impacts) in order to maintain acceptable service ratios, response times, or other performance objectives. (Less than Significant Impact)"

"The project (and project alternatives) would increase the number of occupants and would likely result in an increase in fire protection service calls to the project site compared to existing conditions. Given the proximity of the Cupertino Fire Station to the project site, the SCCFD confirmed that the project (and project alternatives) would be adequately served by existing fire protection facilities and response time goals would be met."

=> This only confirms that the project area will be serviced with adequate response time. But it does not address the potential delay in response time to the other areas currently served by the SCCFD. All existing residential residents and office occupants will be impacted by adding a mega project at Vallco. But the EIR completely ignores any impact in response time to existing residents, office occupants and businesses.

"SCCFD data show that response times have increased and SCCFD attributes the increase in travel time to increased pedestrian and vehicle traffic congestion in the area. SCCFD has identified the need for an additional fire station on the east side of the City to continue meeting response time goals on the east side of the City. Currently, there are no available sites or potential sites identified by the SCCFD for a new fire station."

Specifically, SCCFD already stated that there is already delay due to "increased pedestrian and vehicle traffic congestion" and there is already a need for a new station for the east of Cupertino. How could adding 2400 to 4000 housing units plus 2 million square feet of office have no impact.

Lives are at stake. Please get a written response from the SCCFD to confirm.

**Response HH.2:** Refer to Section 5.2 Response II.CC.2.



## II. Liang Chao (dated July 9, 2018, 4:06PM-police)

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment II.1:** But before you rush to conclude "less than significant impact", please provide data. What is the current service level? What will be considered "significant impact"? What will be considered "less than significant impact"? Simply giving vague description without any quantifiable data is not sufficient for the EIR determination.

(Monday July 9, 3:19PM) The DEIR stated:

"The Sheriff's Office is currently meeting the above response time goals. Over the last several years, there has been an increase in calls for service and an increase in traffic congestion, which have increased response times."

How much is the increase in calls for service and increase in traffic in the last few years? Quantified data should be provided in order to estimate the impact of adding 2400 to 4000 more housing units plus 2 million sqft office space to an already very congested area. Please Apple Park is NOT fully occupied yet.

The EIR should provide qualified estimated increase in calls and increase in response time due to increase in traffic congestion from the surrounding area plus the increase in congestion due to the Vallco project.

Plus, the increase in response time to all areas of Cupertino and within 5 miles of Vallco should be evaluated.

The EIR should not ONLY estimate the impacts to the future residents of Vallco. The EIR is supposed to evaluate the impacts to existing residents and businesses and provide potential mitigation methods. That's missing.

"The project (and project alternatives) would increase the number of occupants and would likely result in an increase in police protection service calls to the project site compared to existing conditions. Given the trend with increased response times, the additional growth and traffic congestion from the project (or project alternatives) could add delays to existing response times."  
=> The DEIR recognize that there will be increase, but there is no quantifiable data to estimate the impact or how to mitigate the impact. Therefore, the conclusion that there is "less than significant impact" has no basis.

The estimated impact is based on "personal communication" with the Sheriff. For a project of such a magnitude, please obtain written communication from the Sheriff's office for transparency and accountability.

There needs to be specific data. At what level, the impact will become significant? How much delay would be considered significant? The DEIR recognizes that there will be increase in response time,

but there is no estimate on how much increase. Then, there is simply no way the DEIR can conclude that the impact is "less than significant".

**Response II.1:** Refer to Section 5.2 Response II.DD.1.

**JJ. Liang Chao (dated July 9, 2018, 4:32PM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment JJ.1:**

The DEIR identified that the sewage system is at capacity and needs to be replaced.

"Based on the modeling and analysis by the CuSD, development of the project (or General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative) would exceed the current capacity of the 12-, 15-, and 27-inch sewer mains serving the site. In addition, modeling results show that CuSD existing flows with flows from the project (or General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative), would exceed the peak flow of 13.8 mgd of the City of Santa Clara interceptor located downstream of the project site."

I'd like to request that the General Plan is amended to require mitigation for sewage system so that any new project cannot be streamlined unless the project includes the mitigation listed below:

MM UTIL-2.1: Future development under the proposed project (or General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative) shall replace the existing sewer mains in Wolfe Road with new mains of an adequate size as determined by CuSD, and shall install an 18- to 21-inch parallel pipe to the existing mains to accommodate existing and project flows.

MM UTIL-2.2: Future development under the proposed project (or General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative) shall replace the existing 27-inch sewer main in Wolfe Road and Homestead Road with new mains of an adequate size as determined by CuSD.

MM UTIL-2.3: Developer shall complete improvements as designated in the City of Santa Clara's Sanitary Sewer Management Plan to allow for adequate downstream sewer capacity through the City of Santa Clara sewer system. No occupancies can occur on the project site that would exceed the current contractual permitted sewer flows through the City of Santa Clara until the contractual agreement between CuSD and the City of Santa Clara is amended to recognize and authorize this increased flow.

**Response JJ.1:** The General Plan includes strategies requiring developers to expand or upgrade existing infrastructure to increase capacity, or pay their fair share, as appropriate, to ensure service levels are met (Strategy INF-1.4.1, INF-5.1.2). The mitigation identified above is identified in the Draft EIR (page 390) and EIR Amendment (page 255), as amended by the text revision in Section 5.0 and Section 6.0, respectively, for the previous project and project alternatives.



**KK. Liang Chao (dated July 9, 2018, 4:41PM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment KK.1:** For the added alternative of 3000 to 4000 housing units, the number of students generated will increase dramatically. A table is needed to clearly identify the number of students generated for each option.

And the mitigation measures to add almost 1000 students to elementary schools need to be identified for options with 2400, 3000 or 4000 housing units. Similarly for middle school and high schools.

**Response KK.1:** The Draft EIR includes a table detailing the elementary, middle, and high school students that would be generated by the project and project alternatives (Draft EIR page 247, Table 3.15-3). Refer to Section 5.2 Response II.EE.1 regarding the mitigation measure for project and project alternatives' impacts to school facilities.

**LL. Liang Chao (dated July 9, 2018, 5:26PM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment LL.1:** The Retail and Residential Alternative has 600,000 sqft retail space, 0 office, and 4000 housing units.

"The Retail and Residential alternative consists of developing the site without any office use. The retail commercial component is assumed to be 600,000 square feet (same as the proposed project), and the residential density is dependent on a preliminary economic feasibility analysis of constructing this alternative." (based on "Economic & Planning Systems, Inc. Economic Information in Support of Vallco Special Area Alternatives Memorandum. February 1, 2018.")

"As a result of the planning process and scoping for environmental review, the City identified three alternatives to the proposed project for review in the EIR: the General Plan Buildout with Maximum Residential, Retail and Residential, and Occupied/Re- Tenanted Mall alternatives."

"CEQA requires that an EIR identify alternatives to a project as it is proposed. The CEQA Guidelines specify that the EIR should identify alternatives which "would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project." The purpose of the alternatives discussion is to determine whether there are alternatives of design, scope, or location which would substantially lessen the significant impacts, even if those alternatives "impede to some degree the attainment of the project objectives" or are more expensive (CEQA Guidelines Section 15126.6)."

In order to comply with the purposes of CEQA, it is important to identify alternatives that reduce the significant impacts anticipated to occur if the project is implemented and try to meet as many of the project's objectives as possible. The Guidelines emphasize a common sense approach – the alternatives should be reasonable, "foster informed decision making and public participation," and focus on alternatives that avoid or substantially lessen the significant impacts. The range of alternatives selected for analysis is governed by the "rule of reason" which requires the EIR to discuss only those alternatives necessary to permit a reasoned choice. An EIR is not required to consider alternatives which are infeasible.

For the Retail and Residential Alternative with 0 office and 4000 housing units (way beyond the General Plan Buildout of 35 units/acre), what effects of the project, this alternative would be made "less than significant"?

For the General Plan Buildout alternative with 1 million sqft office and 2640 housing units, how is the 1640 units calculated? What effects of the project, this alternative would be made "less significant"?

From Table 7.2-1: Summary of Project and Project Alternative Impacts, the impact of the two alternatives "General Plan Buildout" or "Residential Max of 4000 units)" do not fit the CEQA guideline. CEQA does not consider economic impact, so any economic analysis that might justify the "Residential Max of 4000 units)" alternative should not be considered.

Please only consider alternatives that comply with the General Plan and comply with CEQA guidelines.

Please justify each alternative you consider under the General Plan and CEQA guideline. Thanks.

**Response LL.1:** The Draft EIR (pages 15-16) explains the reasons for including each of the project alternatives analyzed in Draft EIR. The EIR Amendment (pages 1-2) describe the methodology utilized to calculate the residential units for the project and project alternatives. Table 7.2-1 is a summary comparison of the project's impacts and each of the project alternatives' impacts. As shown in Table 7.2-1, the Retail and Residential Alternative results in lesser air quality (Impacts AQ-2 and AQ-6), energy (Impacts EN-1 and EN-3), greenhouse gas (Impact GHG-1), transportation (Impacts TRN-1, TRN-2, TRN-6, and TRN-7), and utilities and service systems (Impact UTL-6) impacts than the previous project. As shown in Table 7.2-1, the General Plan Buildout with Maximum Residential Alternative result in lesser energy (Impact EN-1 and EN-3), greenhouse gas (Impact GHG-1) and transportation (Impacts TRN-1, TRN-2, TRN-6, and TRN-7).

Draft EIR Section 7.0 describes all of the alternatives to the project that were considered, including alternatives that were rejected for further consideration such as a Substantially Reduced Development Alternative that would avoid the project's significant traffic impacts, and an Alternative Location. The EIR also analyzed the No Project Alternative, as required by CEQA Guidelines Section 15126.6(e). As also required by CEQA, the Draft EIR also identifies an Environmentally Superior Alternative, other than the No Project Alternative, that would achieve most of the basic objectives of the project. See CEQA Guidelines Section 15126.6(e)(2). The Retail and Residential Alternative was identified as the Environmentally Superior Alternative, because it would avoid or result in lesser significant impacts than the previous project with regards to construction air quality impacts, GHG emissions, and traffic.



**MM. Jon Willey (dated July 11, 2018, 8:56AM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment MM.1:** Thank you for the reply and the answers. And while a few of my questions seem to be answered, I still have a few questions. And so as to not keep you tied up with too many additional questions, I will take a couple days to better define my remaining questions.

**Response MM.1:** The comment does not raise any issues about the adequacy of the EIR. No further response is required.

**NN. Janet Laurain (dated July 11, 2018, 3:25PM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment NN.1:** Can you please tell me if there is a projected timeline for release of and hearing on the Vallco Special Area Specific Plan Project?

**Response NN.1:** The comment does not raise any issues about the adequacy of the EIR. The following response to the planning-related questions were provided from City staff via email on July 11, 2018 to the commenter:

These are expected in September and October. Please sign up on our city's website at [www.cupertino.org/vallco](http://www.cupertino.org/vallco) for updates.

**OO. Lozeau Drury (dated July 12, 2018)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment OO.1:** I am writing on behalf of the Laborers International Union of North America, Local Union 270 and its members living in Santa Clara County and/or the City of Cupertino (“LiUNA”), regarding the Draft Environmental Impact Report (“DEIR”) and the Recirculated Amendment to the EIR (“EIR Amendment”) prepared for the Project known as Vallco Special Area Specific Plan (SCH# 2018022021) located on both sides of North Wolfe Road between Vallco Parkway and Interstate 280 (I-280) on the east side and between Stevens Creek Boulevard and Vallco Parkway on the west side in the City of Cupertino, Santa Clara County, California (“Project”). APNs: 316-20-080, -081, -082, -088, -092, -094, -095, -099, -100, -101, -103, -104, -105, -106, and -107.

After reviewing the DEIR and the EIR Amendment, we conclude that the DEIR and EIR Amendment fail as an informational documents and fail to impose all feasible mitigation measures to reduce the Project’s impacts. Commenters request that the City of Cupertino Community Development Department, City Council, and your staffs address these shortcomings in a revised draft environmental impact report (“RDEIR”) and recirculate the RDEIR pursuant to the California Environmental Quality Act (“CEQA”), Public Resources Code section 21000, et seq., prior to considering approvals for the Project. We reserve the right to supplement these comments during review of the Final EIR for the Project and at public hearings concerning the Project. *Galante Vineyards v. Monterey Peninsula Water Management Dist.*, 60 Cal. App. 4th 1109, 1121 (1997). We hereby request that the City send by electronic mail, if possible or U.S. Mail to our firm at the address below notice of any and all actions or hearings related to activities undertaken, authorized, approved, permitted, licensed, or certified by the City and any of its subdivisions, and/or supported, in whole or in part, through contracts, grants, subsidies, loans or other forms of assistance from the City, including, but not limited to the following:

- Notice of any public hearing in connection with the Project as required by California Planning and Zoning Law pursuant to Government Code Section 65091.
- Any and all notices prepared for the Project pursuant to the California Environmental Quality Act (“CEQA”), including, but not limited to:
  - Notices of any public hearing held pursuant to CEQA.
  - Notices of determination that an Environmental Impact Report (“EIR”) is required for a project, prepared pursuant to Public Resources Code Section 21080.4.
  - Notices of any scoping meeting held pursuant to Public Resources Code Section 21083.9.
  - Notices of preparation of an EIR or a negative declaration for a project, prepared pursuant to Public Resources Code Section 21092.



- Notices of availability of an EIR or a negative declaration for a project, prepared pursuant to Public Resources Code Section 21152 and Section 15087 of Title 14 of the California Code of Regulations.
- Notices of approval and/or determination to carry out a project, prepared pursuant to Public Resources Code Section 21152 or any other provision of law.
- Notices of approval or certification of any EIR or negative declaration, prepared pursuant to Public Resources Code Section 21152 or any other provision of law.
- Notices of determination that a project is exempt from CEQA, prepared pursuant to Public Resources Code section 21152 or any other provision of law.
- Notice of any Final EIR prepared pursuant to CEQA.
- Notice of determination, prepared pursuant to Public Resources Code Section 21108 or Section 21152.

Please note that we are requesting notices of CEQA actions and notices of any public hearings to be held under any provision of Title 7 of the California Government Code governing California Planning and Zoning Law. This request is filed pursuant to Public Resources Code Sections 21092.2 and 21167(f), and Government Code Section 65092, which requires agencies to mail such notices to any person who has filed a written request for them with the clerk of the agency's governing body.

In addition, we request that the City send to us via email, if possible or U.S. Mail a copy of all Community Development Department and/or City Council meeting and/or hearing agendas related to the Project.

Please send notice by email, if possible or U.S. Mail

Please call if you have any questions. Thank you for your attention to this matter.

**Response OO.1:** The comment does not raise any specific issues about the adequacy of the EIR. The commenters request to receive future notices regarding the project is acknowledged, all persons requesting notification about the project have been added to the City's distribution list. No further response is required.

**PP. Jon Willey (dated July 18, 2018, 1:25PM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment PP.1:** Below are the questions that I am still needing clarification on. I have put your answers in red next to the initial questions and then my second questions in blue.

**Response PP.1:** The comments do not raise any issues about the adequacy of the EIR. The below responses (Responses E.2 through E.6) to the planning-related questions were provided from City staff via email to the commenter. Since this document is not printed in color, the City's first response is shown in *italics* and the second question is underlined.

**Comment PP.2:**

The rules for Vallco are specified in the General Plan – clarify/confirm

- The General Plan says Vallco requirements are per a developer Specific Plan that is to be reviewed and either approved or rejected by the City Council - clarify/confirm  
*A. Specific Plan development - the GP does not solely require that the specific plan be developed by a developer for the Council's consideration.*

A. Can the City Council reject the Sand Hill Specific Plan that is submitted for Vallco?

**Response PP.2:** There is no Specific Plan submitted by Vallco at this time. Sand Hill has submitted a project for approval. So long as they meet all objective planning standards and objective design review standards, the City has to approve the project without any public hearings or any actions that will in any way “inhibit, chill or preclude the ministerial approval” provided for under SB 35. More information online at: [http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201720180SB35](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180SB35).

**Comment PP.3:**

- The Specific Plan is to detail the building heights, building mass, building locations, public spaces, and uses, and so the City Council can accept or reject the Specific Plan - clarify/confirm  
*B. The City Council can adopt, either a developer prepared, or city prepared specific plan.*

B. If the City Council does not like the Sand Hill Specific Plan building heights, building mass, building locations, public spaces and uses, can the City Council reject the Specific Plan?

**Response PP.3:** There is no Sand Hill Specific Plan submitted with the City. See response to #A, above.

**Comment PP.4:**

- For there to be Residential and Office at Vallco, the site must be rezoned which is to be

approved by the City Council . . . but Vallco consists of about 7 parcels, so does the City have to rezone all the parcels or can the City Council rezone just specific parcels to add Residential and rezone just specific parcels for Office, and leave some parcels as Retail only?

*C. Rezoning for the site is subject to state law requirements and subject to direction and approval by the Council. Do note that the entire Vallco Shopping District is considered a Housing Priority Site.*

C. Does the City Council have to rezone all parcels at Vallco for Office buildings/uses, does the City Council have to rezone all parcels at Vallco for Residential buildings/uses?

**Response PP.4:** It is at the Council's discretion for the Vallco Specific Plan but if the SB 35 plan is approved by the City, no Council action is required for Sand Hill to approve the project or initiate construction.

**Comment PP.5:**

In the Cupertino Scene article and from what I have read for the SB35 law, it appears that the developers project must meet the General Plan requirements . . which would then indicate that the City Council does have the authority to reject building heights, site density, and amounts of Residential Units and Office space . . . is that correct?

*2. When the SB 35 project was submitted the only applicable GP standards were the allocations for non-residential development (note that a Density Bonus concession has been requested for a reduction in the retail allocation) and residential density (35 du/acre, in addition to which a 35% Density Bonus has been requested.)*

2. Per the SB35 Law, does the City Council have the authority to reject the building heights, site density, and which parcels the City Council wants Office Space on and which parcels the City Council wants Residential Units on?

**Response PP.5:** SB 35 FAQs are in development. Please refer to those. What Sand Hill has submitted is NOT to be confused with a Specific Plan. Sand Hill has submitted a project. Since there is no adopted specific plan, they can devise any rules they want to for development, so long as they do not run afoul of any objective planning standards in place when the project was submitted. (see answer above.) In general, there is NO discretion in the review of this project. At this time, the only review allowed is objective design review. Examples of objective design review might be: Roof tile must be red. All buildings must be painted purple and yellow.

**Comment PP.6:** For Marina, the site is ~8 acres and about ½ was designated for the hotel and about ½ was designated for the residential. Then for the residential half, the four acres at 35 units per acre and with the added bonus for low income, the allowed RU's was then 188 units. But for Vallco to come up with 2400 Residential Units, I think it would require the full 50 acres to be used in the calculation. This seems to indicate that the Vallco developer is being treated very differently than Marina . . . please clarify.

*In the case of the Marina development, the hotel parcel was a separate parcel and not considered a Housing Element site. For the Vallco development, the entire site 58 acres is considered a*



*Housing Element site; however currently ~56 acres is developable. The other +/-2 acres is under construction with the Hyatt Hotel.*

Who decided the Hotel Site was separate from the other site? When the City specified which sites were Housing Element sites, did they specifically say the second Marina parcel was not included or did the City say the “Marina site” was a Housing Element site and not specifically specify one piece from the other piece . . . and then the developer did not object when he did his calculations for just the one parcel?

**Response PP.6:** The Hotel site was clearly not a Housing Element site and not contemplated to be used for residential purposes in the General Plan EIR (as best as I can recall.) The City has identified the Assessor Parcel Numbers (APNs) that are Housing Element sites. Please check the General Plan at:  
[www.cupertino.org/gp](http://www.cupertino.org/gp).

**QQ. Kitty Moore (dated August 17, 2018, 9:27 PM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment QQ.1:** The DEIR Amendment, PDF 17 fails to indicate the existing issues at the JC Penney site left 'undone' during the 'case closure' which are not included in the DEIR Amendment or original DEIR. It is in the records at the SCCFD which the previous ESAs provided by the property owner AND the city's shoddy Environmental Impact Reports for the 2005 and 2014 General Plan Amendments placing housing at Vallco failed to review, and the current only Phase I ESA also missed. Please go look again to find it.

<https://www.cupertino.org/home/showdocument?id=21328>

When there are known Recognized Environmental Conditions such as the USTs and the numerous other items in the DEIR, there is a need to perform a Phase II ESA.

This DEIR Amendment and the previous DEIR appear to be worded in such a way as to put the sensitive receptors (people who live near the site) in harm's way and attempt to circumvent a Phase II ESA with soil vapor and metals testing. I must be mistaken, please correct my ignorance with the dates the Phase II ESA had been performed.

Please read the following, because you will find examples in the DEIR and DEIR Amendment which support my claim:

All Appropriate Inquiries Rule:

[https://www.epa.gov/sites/production/files/2015-05/documents/aai\\_reporting\\_factsheet.pdf](https://www.epa.gov/sites/production/files/2015-05/documents/aai_reporting_factsheet.pdf)

**Response QQ.1:** Refer to Master Response 5, Section 5.2 Response II.Q.3, and Section 5.3 Response AAA.12.

**RR. Kitty Moore (dated August 20, 2018, 7:40AM)**

The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.

**Comment RR.1:** The housing scenarios in the DEIR are not consistent with the General Plan requirement that affordable housing be provided at 15%. The requirement that the Density Bonus of 35% be met means that there would be a minimum 18.33% affordable housing which is inconsistent with the General Plan. Therefore the DEIR is not studying alternatives to project which are feasible.

**Response RR.1:** Refer to Section 5.2 Response II.D.3.

**Comment RR.2:** The DEIR fails to consider alternative locations to Proposed Project which would include the Scenario B sites. The DEIR does not give an explanation for why these locations are not considered:

Site	Special Area/ Neighborhood	General Plan/Zoning	Max Density (DUA)	Acres	Realistic Capacity (units)	Affordability Level
Site B1 (Hamptons)	North Valico Park	High Density P(Res)	99(a)	12.44	750	Very Low/Low
Site B2 (The Oaks Shopping Center)	Heart of the City	C/R P(CG, Res)	35 (b)	7.9	235	Very Low/Low
Site B3 (Marina Plaza)	Heart of the City	C/O/R P(CG, Res)	35	6.86	200	Very Low/Low
Site B4 (Barry Swenson)	Heart of the City	C/O/R P(CG, Res)	25	0.55	11	Very Low/Low
Site B5 (Glenbrook Apartments)	Heart of the City	Medium Density R3(10-20)	20	31.3	58	Very Low/Low
Site B6 (Homestead Lanes and Adjacency)	Homestead	C/R (c) P(CG, Res) (c)	35 (c)	5.1	132	Very Low/Low
Total				64.24	1,386	
Site B6 (Carl Berg property)	North De Anza	O/I/C/R P(CG, ML, Res)	25	7.98	169	Very Low/Low
Total				87.31	1318	

**Response RR.2:** An alternative location to the project was considered and discussed on page 411 under Section 7.2.1.3 of the Draft EIR. As discussed on page 411 of the Draft EIR, no alternative location was considered because it would not achieve the basic project objectives.

**Comment RR.3:** The city proposes covering 30 acres of the site with a roof and does not study the impacts of trapping the air pollution under the roof adjacent to I-280.

**Response RR.3:** Refer to Section 5.2 Response II.E.54 and II.E.56.



**Comment RR.4:** The city is considering support of the I-280/Wolfe freeway cap which will further trap pollutants and further limit sunlight. Is the city really considering covering and irrigating over 33 acres of land with no study if the environment below it is safe for people to breathe?



**Response RR.4:** The project does not include capping or covering and irrigating the Interstate 280 (I-280)/Wolfe Road interchange. Refer to Master Response 2.

**SS. Kitty Moore (dated August 20, 2018, 12:11PM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment SS.1:** I believe a Costco representative already spoke to many of you. I also spoke with a Costco real estate representative today, and am interested in their ideas.

I support Costco at Vallco. I also support them having constructive meetings with the developer to create a rational project.

Costco has a project going in Mexico City which has a (artificially) turfed soccer field and basketball courts on the roof. They can also do residential over retail. They are willing to be flexible.

They are interested in the east side location and need about 150,000 Square Feet.

I drive to the Santa Clara or Regnart Costcos regularly, and would prefer a closer location.

Please consider the opportunity to have Costco come to the table and help work out a plan that is reasonable.

With a rebuilt gym or pool, this could be interesting.

Alternatively, a referendum will burn up a lot of time.

Thank you for your consideration.

**Response SS.1:** No specific commercial uses or tenants (such as Costco) are proposed at this time. Refer to Master Response 1.

The following response was provided from the City via email on August 22, 2018 to the commenter:

Thanks for your suggestion about having a Costco in the Vallco project. I have also heard the same suggestion from several people and have already related that suggestion to Sandhill and also strongly suggested to them to consider reaching out to Costco and to look for opportunity to have an innovative Costco designed model in Cupertino.

At this time, when the Specific Plan goes to the Planning Commission on 9/4 or to the Council on 9/18 for consideration of the Specific Plan adoption, the Specific Plan will not have the types of retailers the developer needs to identify. The SP will only identify retail areas that can fit large retailers on the site. At this juncture, the SP would only specify design requirements to create an attractive and community oriented environment.

It will be up to the developer at the next phase of the project, if SP and DA are approved by the Council, to decide on the tenant mix. Again, thanks for your continued engagement in this important project.



**TT. Venkat Ranganathan (dated August 20, 2018, 4:02PM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment TT.1:** I am a resident of the City of Cupertino, living at the junction of Dennison & Amherst Drive, just a short distance from the Vallco mall. I am very concerned about the impact of the specific plan and its impact on the current residents.

This impact description from this link captures the concerns succinctly. I urge the city to look at this with a fresh pair of eyes

7 Towers up to 228'

- An untested 26-acre green roof despite the objective standard Municipal Code and Quimby Act requirement for 12.96 acres of actual park land acreage (not roof space). Does it fail the Objective Standards test?

**Response TT.1:** As described in the Draft EIR (page 11), the project proposes a 30-acre green roof. Refer to Section 5.2 Responses II.E.25 and II.E.26. regarding park land. The City's objectives for the project are identified in Section 2.5 of the Draft EIR (page 33). The project meets all of the City's objectives identified in Section 2.5.

**Comment TT.2:**

- Residents within 1,000' of the I-280 freeway breathing air pollution

**Response TT.2:** The exposure of future residents to air pollutants is discussed in Section 3.3 of the Draft EIR (specifically pages 72-80). As identified on page 31-32 and 74-75 of the Draft EIR, the Specific Plan includes design policies to reduce air pollutant exposure to sensitive receptors on-site.

**Comment TT.3:**

- Only 400,000 sq. ft. of retail which will mostly be eaten up by the theatre, bowling alley, ice rink, and restaurants for 12,600 workers. Actual shop space only 133,000 SF, that is about half the size of the Sears building (257,548 SF).

**Response TT.3:** As described in the Draft EIR, the project includes a minimum of 600,000 square feet of commercial uses. No specific types of commercial uses are proposed at this time. Refer to Master Response 1.

**Comment TT.4:**

- 960+ more kids in crowded schools.

**Response TT.4:** Impacts to school facilities are discussed in Section 3.15 of the Draft EIR. As shown in Table 3.15-3 on page 247 of the Draft EIR, the estimated number of students generated from the project analyzed in the Draft EIR is 168. The estimated number of students from the project alternatives is also identified in Table 3.15-3. The General Plan Buildout with Maximum Residential Alternative is estimated to generate the greatest number of students with 844 students.

**Comment TT.5:**

- 623 BMR units will be clustered (housing project?), and all of the 1,201 BMR apartments are below the green roof, like a class divide.

**Response TT.5:** The project analyzed in the Draft EIR includes 800 residential units. As stated in the Draft EIR (page 10): “The locations of the proposed land uses have not been finalized; therefore, for the purposes of this EIR it is assumed the uses could be placed anywhere within the site.” Refer to Master Responses 1 and 2.

**Comment TT.6:**

- Crams nearly twice the square footage of all Apple Campus 2 on less than 1/3 the acreage.
- Entombs nearly the entire site in subterranean garage concrete so that all that is left for over 6,000 residents is a roof "park" on no actual land. Kids will grow up playing on a roof, 90' in the air, adjacent to the freeway.

**Response TT.6:** The above comment expresses the opinion of the commenter. The previous project analyzed in the Draft EIR would generate approximately 1,600 new residents (see Table 4.0-1 on page 402 of the Draft EIR). Refer to Section 5.4 Response II.TT.5 above.

**Comment TT.7:**

- Uses \$750,000 (approx.) worth of water per year--that's three times what Apple Park HQ uses!
- Wastes our last chance for a true downtown in Cupertino while San Jose builds Urban Villages on our borders to soak up our tax dollars.
- Uninviting grid layout squashes limited retail to the Wolfe and Stevens Creek frontage areas and retail is only on the west side.

**Response TT.7:** The estimated water use for the project is discussed in Section 3.18 of the Draft EIR. The EIR does not evaluate the economic impacts of the project, refer to Section 5.2 Response II.E.121. The remainder of the comment expresses the opinion of the commenter. The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**UU. SV@Home (dated August 20, 2018, 4:14PM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment UU.1:**In July 2018, the City of Cupertino received the Draft Environmental Impact Report which evaluates the proposed Vallco Special Area Specific Plan, as required by California Air Quality Act. The DEIR explored four alternative projects for the 70 acre Vallco Special Area. During this period an Amendment to the Draft EIR was completed which added a “Housing Rich Alternative,” with 3,250 residential units at least 15% of which will be affordable, as a fifth option for environmental review. This letter is a formal comment on the Recirculated Amendment to the Draft Environmental Impact Report.

Silicon Valley at Home has been following the progression of the Vallco area development process for a number of years. We believe that there is finally consensus that the area provides a unique and essential opportunity to invest in the housing resources available in the City of Cupertino, and to simultaneously optimize the number of affordable homes.

As the Amendment documents, the Housing Rich alternative does not substantially change the analysis, and has only minor effects on the impacts already identified in the original Draft EIR. We would point out that the area with the clearest differential impact relates to transit services for the surrounding area. We believe these transit challenges are manageable in the long term, and further highlight the need for the City to step up its engagement with the VTA as local demand for services increases appreciably.

We believe the current Housing Rich Alternative, of 3,250 units with a set aside of 15% for low- and very-low income households, augmented with a set aside of 15% for moderate-income households, will best serve the varied interests of Cupertino. This approach will do a better job of addressing the jobs-to-housing imbalance that exacerbates the region’s housing crisis. Our version of the Housing Rich Alternative provides opportunity for significant community benefits that will help in developing consensus around the proposal. And, most importantly, this approach will produce 975 desperately needed affordable homes for Cupertino – homes to house lowerwage workers and technology workers alike.

**Response UU.1:** As stated in the EIR Amendment (pages 6 and 18), future development implementing the Specific Plan would meet state Density Bonus Law criteria to be granted a residential density bonus of 35 percent. The 35 percent density bonus can be granted by providing percentages of affordable units at different income levels. No specific development is proposed at this time; therefore, it is not known what percentage of low- and very-low income and moderate-income units would be provided. Refer to Master Response 1. The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.



**VV. Daniel Chow (dated August 21, 2018, 3:46AM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment VV.1:**I believe the following e-mail is a fake e-mail sent to some residents of Cupertino to solicit support of the current Vallco re-development plan. Please confirm with Costco the following e-mail is not from Costco. Thanks.

-----Original Message-----

From: Business Process Management team (BPMS) [bpms@costco.com](mailto:bpms@costco.com)

To:

Sent: Mon, Aug 20, 2018 10:00 am

Subject: Costco Research Survey - We want your opinion

Dear Costco Member,

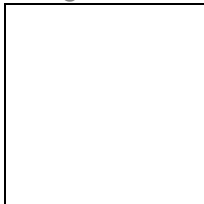
At Costco, we are constantly trying to improve service to our members. With this in mind, we are hoping to be included in the redevelopment plans for the Vallco Fashion Mall at the corner of Vallco Parkway and North Wolfe Road. Our new building would help revitalize the space where the mall currently exists, and would be the first Costco location to open in Cupertino.

The City of Cupertino is currently developing a plan for the Vallco site. This is where we need your help. It is a fact that individuals who oppose projects tend to make their objections known, while those in favor do not express their views. As we aim to be included in the Vallco redevelopment plan, we need your input.

Please demonstrate your support by completing our short online [survey](#) (less than three minutes). Your answers will help us gauge interest of having Costco in Cupertino, as well as a Costco Gas Station. They will also give us a tangible show of support that we will be able to provide to the city.

If you would like more information about our proposed warehouse and gas station, please contact your Costco representative, Mike Dobrota, at (714) 978-5030 with your questions and concerns.

Many thanks in advance for your assistance, and most importantly, thank you for being a Costco member. Sincerely,



Jack S. Frank  
Vice President Real Estate  
Costco Wholesale

**Response VV.1:** The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**WW. Kitty Moore (dated August 23, 2018, 2:42AM)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment WW.1:** Several problems with Sand Hills' and the city's continued pushback on helping the retail portion at Vallco include:

1. The Vallco Shopping District is intended to be a shopping, dining, and entertainment destination for Santa Clara County according to the General Plan and we have a reasonable expectation that will occur.
2. In order for retail to succeed, it needs to be planned for success and not as a cast off, buried in pack and stack, to be relegated to feeding the masses who live and work at the location as a cafeteria and odds and ends supply with claustrophobic cave-like parking.
3. Santana Row, for example, has had 33 store front changes and found that the luxury market was not their identity. The restaurants take in )\$1,000-\$2,000 per SF and retail underperforms Valley Fair by hundreds of dollars per SF.
4. Retail under residential with underground parking is not a successful arrangement for retail. Shoppers prefer horizontal layout for retail. (Source: CAREA Real Estate Amazon Effect Seminar which Cupertino's Economic Development Manager attended)
5. Costco has requested to be in on the design because they want to be in a successful location and have identified the east side property off Vallco Parkway.



Dear Costco Member,

At Costco, we are constantly trying to improve service to our members. With this in mind, we are hoping to be included in the redevelopment plans for the Vallco Fashion Mall at the corner of Vallco Parkway and North Wolfe Road. Our new building would help revitalize the space where the mall currently exists, and would be the first Costco location to open in Cupertino.

The City of Cupertino is currently developing a plan for the Vallco site. This is where we need your help. It is a fact that individuals who oppose projects tend to make their objections known, while those in favor do not express their views. As we aim to be included in the Vallco redevelopment plan, we need your input.

Please demonstrate your support by completing our short online [survey](#) (less than three minutes). Your answers will help us gauge interest of having Costco in Cupertino, as well as a Costco Gas Station. They will also give us a tangible show of support that we will be able to provide to the city.

If you would like more information about our proposed warehouse and gas station, please contact your Costco representative, Mike Dobrota, at [\(714\) 978-5030](tel:7149785030) with your questions and concerns.

Many thanks in advance for your assistance, and most importantly, thank you for being a Costco member. Sincerely,

A handwritten signature in black ink, appearing to read "Jack S. Frank", is positioned above the typed name.

Jack S. Frank  
Vice President Real Estate  
Costco Wholesale

To contact us please [click here](#).  
Costco Wholesale, Customer Service | P.O. Box 34535 – Seattle, WA 98124-1535  
© 1998-2018 Costco Wholesale Corporation. All rights reserved. [Privacy Statement](#) [Terms and Conditions](#)



6. Sears had analyzed Sand Hills' previous plans and found that the excessive traffic would actually hurt their operations and reduce visitor traffic to their store. Link attached.

**Response WW.1:** The above comment expresses the opinion of the commenter. The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**Comment WW.2:** 7. Because the city refuses to remedy the DEIR traffic study to account for the inevitable plethora of restaurants the developer will rely on, the excessive traffic from being a cafeteria has not been addressed. Restaurants generate 4-10 times the traffic as retail. The city is accepting ITE code 810 for a regular shopping center rather than requiring a realistic number. Therefore, we can expect no difference should the developer actually provide what the residents would like: a Costco with a Costco gas station.

**Response WW.2:** No specific commercial uses or tenants are proposed at this time. The transportation analysis in the EIR used standard, applicable trip generation rates for the proposed land uses when analyzing the traffic impacts of the project. Refer to Master Response 1 and Section 5.2 Response II.E.38.

**Comment WW.3:** 8. Cupertino has been unwilling to challenge San Jose regarding the Marriott at Stevens Creek Blvd. and Stern Ave. This project removes one of the only remaining gas stations in the area.

<http://bettercupertino.blogspot.com/2018/08/95-high-stern-avenue-7-story-hotel.html?m=1>

Costco would provide a gas station in a prime location near the freeway.

**Response WW.3:** Refer to Section 5.2 Response II.WW.1 above.

**Comment WW.4:** 9. The Specific Plan process yielded no defined result because the city required a 35% Density Bonus. We have learned a hard lesson on what the "concessions" mean from VTC SB35:

<http://bettercupertino.blogspot.com/2018/08/have-we-been-tricked-by-city-in-vallco.html?m=1>

**Response WW.4:** Refer to Master Response 2.

**Comment WW.5:** 10. It is apparent the city/Sand Hill has no interest in listening to experienced local real estate experts or working with a valuable retailer, Costco, who is clearly interested in participating in the process to be a success.

11. The city, and developer, together, are working to provide what will likely be a failing retail scheme from the outset, and show no interest in resident requests and solid commercial interest about retail.

Sears letter: <https://files.acrobat.com/a/preview/ca6e1eeb-4a4b-4d7d-960f-8893d0eaa1fc>

**Response WW.5:** The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

### 5.3 VERBAL COMMENTS RECEIVED

#### A. Jennifer Griffin (June 4, 2018 public meeting)

The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.

##### Comment A.1:

- Cupertino Resident
- Says Cupertino is a home town and should not be treated like commodity
- “City cannot be sold”
- Concern about how no one cares where her shopping dollars are going
- Shops mostly outside of Cupertino because more convenient and more variety (Oakridge, Capitola Mall)
- Wants more retail in Cupertino

**Response A.1:** No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

#### B. Deborah Jamison (June 4, 2018 public meeting)

The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.

##### Comment B.1:

- Cupertino Resident and Member of Audubon Society, and environmental action committee
- Interested in bird safety
- Says greenspace of Vallco will determine if environment is haven or deathtrap for birds
- Concern about wanting bird safe glass
- Says need bird safe design and policies
- Says Mountain View North Bay Shore plan is a good example of bird safe design to draw from

**Response B.1:** The Draft EIR (page 32) describes how the Specific Plan will include design policies requiring bird safe building design measures. The evaluation of biological impacts from implementation of the Specific Plan is based upon the inclusion of bird safe design measures (Draft EIR, page 90)

**C. Ed Hirshfield (June 4, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment C.1:**

- Cupertino resident
- Proponent of original Sandhill plan as modified by SB35.
- Does not want Vallco to be organized by public members with little professional knowledge about design
- Thinks City should work with state to improve 280 to make it double decker through town and have direct access to freeway and city

**Response C.1:** Refer to Master Response 1 regarding the relationship between the Specific Plan, a development application, and the SB 35 application. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**D. Phyllis Dickstein (June 4, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment D.1:**

- All Sandhill and Opticos proposals are too high in density
- Thinks community process and input undervalued
- Community doesn't want office park and not thousands of housing
- Does not believe Vallco will only be profitable if scaled up
- Cites the Oaks as example of better density/profitable project
- Concern about Environment Impact of high density alternatives
- Thinks a Cupertino residents only poll should be conducted for amenity alternative option vs retail based option

**Response D.1:** The EIR evaluates the environmental impacts of the densities included in the previous project and project alternatives. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.



**E. Michael Newman (June 4, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment E.1:**

- Sunnyvale resident
- Thinks project should have more low income housing, especially because so many schools exists in the City
- Thinks existing senior center should be enlarged
- City doesn't need more hotel or retail or theater or parking space

**Response E.1:** No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**F. Janet Van Zoeren (June 4, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment F.1:**

- Cupertino resident
- Parent of adult with disability
- Believes Vallco site should have more extremely low income housing for people like adults with disability
- Applauds draft specific plan of housing, but should be more specific about housing needs for adults with disability with supported services from San Andreas service center.

**Response F.1:** No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**G. Jan Stokley (June 4, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment G.1:**

- Executive Director of Housing Choices Cupertino Task Force
- Vallco should provide 40 units for extremely low income housing specifically for adults with disabilities
- Housing units between low income and extremely low income too big, difference should be made up
- Look at example like Estancia Apartments in Santa Clara for market rate housing

**Response G.1:** No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**H. Geoff Paulsen (June 4, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment H.1:**

- Cupertino resident
- Excited for Vallco revitalization
- Appreciates CC and staff and consultants and developer and members of public
- Thinks Vallco should be bold, beautiful (maybe more trees), and consider needs of young people
- Thinks young people have many needs that Vallco could address (housing and good socialization space)

**Response H.1:** No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**I. Jason Uhlenkott (June 4, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment I.1:**

- Sunnyvale resident
- Thanks everyone for collaboration
- Excited about 3200 housing units on table
- BMR % is just one level of affordability problem
- Market rate units matter too, for people who don't qualify for BMR
- Supports projects

**Response I.1:** No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**J. John Stubblebine (June 4, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment J.1:**

- Cupertino resident
- Vallco should have drawing power
- Vallco should have impact like Santana row, economically and with foot traffic

**Response J.1:** No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**K. Randy Shingai (June 4, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment K.1:**

- San Jose resident
- If you go specific plan route City has more responsibility than if using SB35
- Talk to people with the “cattle”

**Response K.1:** Refer to Master Response 1 regarding the relationship between the Specific Plan, a development application, and the SB 35 application. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**L. Liang Chao (June 4, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment L.1:**

- Cupertino resident
- Thinks every concession city makes with developer should be converted into dollar amount
- Cites parkland as example because it comes out of resident benefit
- Vallco is much bigger than Oaks and should be scaled proportionately
- Should have less office in pipeline, should be justified
- Public did not get chance to talk about things outside of notice parameters (800 housing)
- Thinks EIR should be done over, because lack of good faith

**Response L.1:** The EIR provides an objective evaluation of the environmental impacts of the project and project alternatives, identifies mitigation as necessary, and alternatives to the project to reduce impacts. The other comments do not raise specific questions on the environmental review for the project. For this reason, no further response is required.



**M. Lisa Warren (June 4, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment M.1:**

- Cupertino resident
- No interest of city hall being involved in plans
- Land is too precious, thinks office type A space is not needed
- Suspects Apple will occupy most of the office space, and thinks city should encourage more economic diversity

**Response M.1:** No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**N. Kitty Moore (June 4, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment N.1:**

- Cupertino resident
- Says project alternatives don't match draft EIR. Thinks EIR should be recirculated
- Wants office concessions need to be met, wonders if Apple met any for shuttle bus system?
- Concern about Vallco Mall comparison of square footage, too much parking
- Concern about noise contour and land use compatibility

**Response N.1:** Refer to Section 5.2 Response II.E.11. The EIR evaluates the noise impacts of the project and the compatibility of the proposed land uses with the ambient noise environment (Draft EIR pages 206-232). The other comments do not raise specific questions on the environmental review for the project. For this reason, no further response is required.

**O. Nathan Ho (June 4, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment O.1:**

- San Jose resident
- Senior Director of Housing policy for silicon valley leadership group
- Wants project to provide bold housing with open streets and hospitality space
- All income levels should be considered

**Response O.1:** No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**P. Pilar Lorenzana (June 4, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment P.1:**

- SV@ Home
- Supports SB35 but open to ideas
- Should have more housing and at least 20% should be affordable
- Should satisfy all parties involved, and feasible
- Concern about litigation and delay of plans

**Response P.1:** Refer to Master Response 1 regarding the relationship between the Specific Plan, a development application, and the SB 35 application. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**Q. Tracey Edwards (June 4, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment Q.1:**

- Cupertino resident
- League of Women Voters
- No stance on plans just wants more housing for people of all incomes and abilities

**Response Q.1:** No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**R. Max Kapczynski (June 4, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment R.1:**

- Palo Alto resident
- Believes Cities must become dense
- Vallco must build up because resisting change will prevent sustainability

**Response R.1:** No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**S. Reed Moulds (June 4, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment S.1:**

- Sand Hill Property representative
- Says SB35 project had to be economically viable, doesn't result in delay
- Information from charrettes and staff reports are new to them (design team)
- Asks for flexibility in specific plan to adjust for concerns

**Response S.1:** Refer to Master Response 1 regarding the relationship between the Specific Plan, a development application, and the SB 35 application. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**T. Jennifer Griffin (June 4, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment T.1:**

- Cupertino resident
- Says senior housing should be represented in Cupertino

**Response T.1:** No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**U. Ignatius Ding (June 5, 2018 City Council meeting, Oral Communications)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment U.1:**

- Vallco project is not transparent
- Not clear of Cupertino resident participation in process vs outsiders
- Not happy with meeting times
- Should not have office space
- Concern about CC and PC talking to YIMBYS

**Response U.1:** No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.



**V. Liang Chao (June 5, 2018 City Council meeting, Oral Communications)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment V.1:**

- Concern about housing bills
- Says CC should try and fight back because it cannot meet many of the Housing Bill Goals
- Should reconsider housing mitigation fees – says Cupertino doesn't have funding or approval
- Says developer doesn't need to pay much for their office space, Cupertino residents have to subsidize, not fair
- Says parkland dedication should be ground level only
- With future SB35, how can developer guarantee BMR units and not sell land, and follow construction timeline

**Response V.1:** Refer to Master Response 1 regarding the relationship between the Specific Plan, a development application, and the SB 35 application. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**W. Alan Takahashi (June 5, 2018 City Council meeting, Oral Communications)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment W.1:**

- Mentions 2,000,000 SF of office space is too much for Vallco

**Response W.1:** The EIR evaluates the environmental impacts of the project and project alternatives. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**X. Lisa Warren (June 5, 2018 City Council meeting, Oral Communications)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment X.1:**

- Cupertino resident
- Public doesn't know if SB35 compliant or not

**Response X.1:** Refer to Master Response 1 regarding the relationship between the Specific Plan, a development application, and the SB 35 application. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**Y. Randy Shingai (June 19, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment Y.1:**

- NOP states residential development would be 800 dwelling units, which does not match the alternatives analyzed in the EIR
- Draft EIR covered 2,640 and 4,000 dwelling units
- Purpose of NOP does not meet government code 15082
- How can the public/governmental agencies comment/investigate if you don't tell them in the NOP what it is that you are going to do
- NOP comment letters from DOT, San José, and Sunnyvale all mention 800 dwelling units
- NOP is not sufficient because it is different than what the draft EIR is stating
- Recirculating a new NOP is necessary
- San José project increased the square footages and recirculated NOP, Vallco should do the same

**Response Y.1:** Refer to Master Response 3.

**Z. Rick Haffner (June 19, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment Z.1:**

- Lives next to Vallco and has been impacted by the construction going on in the area for many years
- The Vallco Bridge is an empty eye-sore, and a reminder of failure yet Sandhill refuses to do anything about it, should be redone to be a signature building
- It is key in any kind of development/future to get more public input, interest and enthusiasm about what is going to happen

**Response Z.1:** The comments are noted. The Draft EIR evaluates the construction impacts of the project and includes mitigation to reduce the impacts, to the extent feasible. The remaining comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**Comment Z.2:**

- The roof is great, but there is feedback that it is too sloped/steep to be useable
- It should be useable, or else there is no point to it
- Biggest concern: originally was going to be a suburbia/shopping mall but instead it is proposed to be 6 apartment complexes that look like cubes
- Loves the rooftop park and thinks it looks beautiful, but why the cubes?
- Cubes are not world class
- Vallco, as Cupertino's center, should be developed into a world-class project, similar to how Apple Park is viewed
- Existing renderings of buildings are plain and lackluster and the proposed five to six 10-20 story apartment buildings will be visible for miles around
- Cupertino would be better served to have a 40 story beautiful building like something to be proud of, which is more interesting than a couple of average buildings
- Buildings should be located next to freeway for greater height and should be capturing sight off the freeway
- Perimeter Drive and redwood trees should be preserved
- Redwoods would buffer the building for the nearby neighbors if it were to be a tall building
- Mountain views from Vallco should be preserved and are rare to find in the City

**Response Z.2:** The Draft EIR does not include renderings of the Specific Development buildings; rather, it evaluates the impacts of the overall development parameters allowed by the previous Specific Plan and project alternatives. The Draft EIR (page 251 and as revised in Section 5.0) states if the topography of (rooftop) park land is not acceptable, the project (and project alternatives) shall dedicate land through compliance with Municipal Code Chapter 13.08 and Title 18. As described in the Draft EIR (page 47), as a mixed-use project on an infill site within a transit priority area, pursuant to SB 743, aesthetic impacts of the project and project alternatives shall not be considered significant impacts.

**AA. Liang Chao (June 19, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment AA.1:**

- NOP from 2014 GPA says it is going to consider a focus on the general plan amendment and there is a map of the sites they are considering, although it turns out it is not the focus the GP, it is a rewrite of the GPA

**Response AA.1:** Refer to Master Response 5. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**Comment AA.2:**

- The NOP for Vallco EIR said it is only for Vallco Specific Plan consistent with the adopted general plan
- NOP did not mention 30-acre green roof, concerned about cost, earthquake safety, and feasibility

**Response AA.2:** The NOP states: “Consistent with the adopted General Plan, the Specific Plan would facilitate the development of 600,000 square feet of commercial uses, 2.0 million square feet of office uses, 339 hotel rooms, and 800 residential dwelling units onsite.” Refer to Section 5.2 Response II.E.3 and Master Response 3. The seismic and seismic-related impacts of the project are discussed in Section 3.7 of the Draft EIR.

**Comment AA.3:**

- Vallco should meet minimum parkland requirements per new resident

**Response AA.3:** Refer to Section 5.2 Response II.E.25 and II.E.26.

**Comment AA.4:**

- Consultants do not have a right to change the General Plan without City Council approval
- Need to restart the process and send out another NOP
- EIR is illegal because City Council did not pass GPA for Vallco Specific Plan and alternatives were not discussed by City Council
- City Council did not approve adding additional housing to Vallco
- Objection is not necessarily to the housing, it is to the process
- If an EIR is considering any number of housing units above what is written in the General Plan amendment, then City Council must agree, which they have not
- City Council should give staff direction about additional housing before the EIR process starts
- The people who wrote the comments for the NOP didn’t know that 2,640 housing units are being considered, that is not consistent with the General Plan, which has a maximum unit allocation



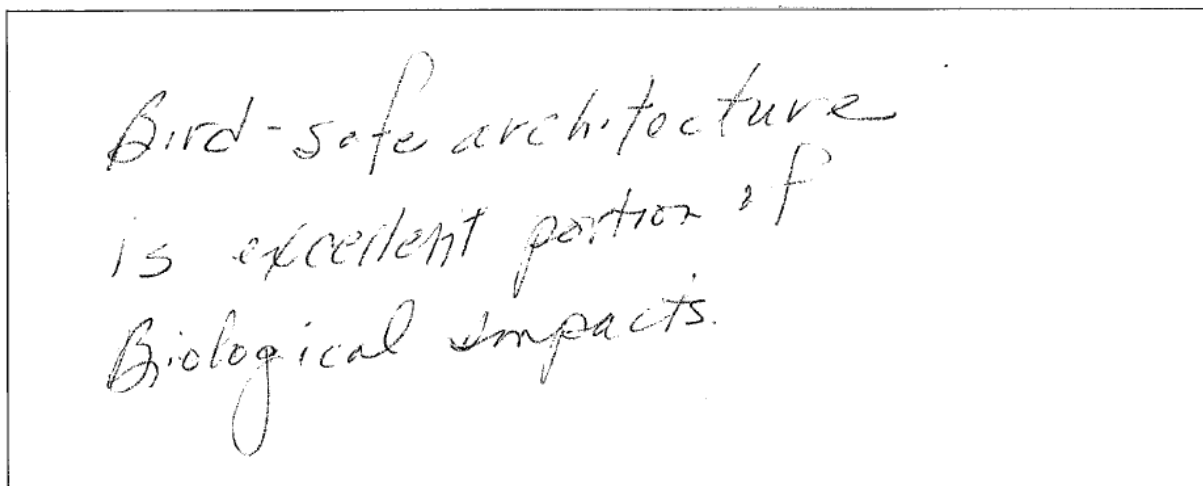
- The NOP sent to public agencies does not have the alternatives or green roof in it

**Response AA.4:** Refer to Section 5.2 Response II.E.3, and Master Responses 3 and 4. The rationale for the project alternatives analyzed in the EIR is described on pages 15-16 of the Draft EIR.

**BB. Connie Cunningham (June 19, 2018 public meeting)**

The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.

**Comment BB.1:**



- The development table with the proposed project and alternatives was helpful
- Understands that the GPA will be approved by City Council at the same time as the Vallco Specific Plan
- Appreciates the biological resources section and the mitigation measures included regarding birds within the site, emphasizes how important it is to uphold this
- Supports affordable housing at the Vallco site
- Recalls 30% below market rate housing and up to 2,600+ units from previous proposals
- Affordable housing at Vallco can be why it is a signature project
- The region needs housing for above and below market rate
- City Council had a study on Vallco Plan on June 4th
- Pleased to see the city councils commitment to 30 percent to be below market rate housing and up to 2,650 or 3,200 homes, depending on what other types of things are being built
- Understands people are looking for a wow factor, the wow factor is that in such a wealthy city, they take the opportunity to house people of all incomes and all abilities

**Response BB.1:** The above comment expresses the opinion of the commenter. The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**CC. David Fung (June 19, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment CC.1:**

- This EIR is a component of the totality of planning that is considered the general plan, a tiered EIR
- Hopes the staff report comes forward that it talks about that process and what it means
- It is important for people to understand that this is not completely out of the blue, that many of the issues that are raised and the mitigation in the General Plan are the same in the EIR, such as for traffic
- The EIR will tier from the General Plan and a future staff report will explain it further, both will have similar impacts.
- The large development numbers in the Vallco Specific Plan are small compared to the entire buildout (high impact scenario) of the General Plan

**Response CC.1:** Text to the Draft EIR has been added to clarify that this EIR tiers from the certified *General Plan Amendment, Housing Element Update, and Associated Rezoning Draft EIR* (General Plan EIR). Refer to Section 5.0. This comment also expresses the opinion of the commenter. The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.

**DD. Kitty Moore (June 19, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment DD.1:**

See attached

Gas Station not mentioned

depth of cut not 20-30' but 38'-58'

EIR - on a hazardous materials list pursuant to 65962.5 renders it non-compliant with SB 35

Height limits 30' & 35' <sup>Council actions</sup> 31-U-86 9-U-90 ord. 1540 FILE 1-DA-90  
P. 162

- Former gas station on the site not talked about in EIR
- LUST cases not identified
- Depth of cut stated in EIR was incorrect, it stated 20-30, when it is actually 38-58
- There are height limits mentioned in the EIR
- Project site is listed on hazmat database and is therefore not compliant with SB 35

**Response DD.1:** The former gasoline station on-site is disclosed on page 135 in Section 3.9 of the Draft EIR. The underground storage tanks and residual contamination are discussed on pages 136-137 of the Draft EIR. Refer to Section 5.2 Response II.L.1 and Master Response 1 regarding the relationship between the Specific Plan, a development application, and the SB 35 application. The text on page 162 of the Draft EIR has been revised to clarify the existing, maximum height allowed at the site, refer to Section 5.0

**Comment DD.2:** Complaints against the City of Cupertino planning process and Draft Environmental Impact Report for Vallco Special Area Specific Plan:

1. Studying EIR Alternatives which are Inconsistent with the General Plan and do not lessen the impacts of Proposed Project.

**Response DD.2:** Refer to Master Response 4.

**Comment DD.3:**

2. Moving Target Project: Project Not adequately described in NOP period.
3. Insufficient and Conflicting Information presented in NOP EIR Scoping Meeting, with Infeasible “Proposed Project” due to Inconsistency with General Plan & Initiative Vote Results.
4. Announcing in a Study Session 6/4/2018 for the Vallco Specific Plan that the project alternatives would require a General Plan Amendment, months after the EIR NOP.

**Response DD.3:** Refer to Master Response 3.

**Comment DD.4:**

5. Studying further inconsistent alternatives in the ongoing Specific Plan Process which are not in the DEIR requires the recirculation of the DEIR. The Specific Plan Process is considering **only** plans which were not studied in the DEIR. No DEIR alternatives showed 3,200 residential units and 750,000-1,500,000 Square Feet of office space. The General Plan does not allow retail to be reduced below 600,000 SF which the Specific Plan process is considering.
6. Alternatives to Project (General Plan with Maximum Residential Buildout Alternative and Retail and Residential Alternative) ignore the Consistency Requirement with the General Plan and The California Environmental Quality Act (CEQA), Section 15126.6, feasible alternatives:

**The Specific Plan must be consistent with the General Plan by law.**

Ca GC 65450-64557:

*(b) The specific plan shall include a statement of the relationship of the specific plan to the general plan.*

[http://www.opr.ca.gov/docs/specific\\_plans.pdf](http://www.opr.ca.gov/docs/specific_plans.pdf)

[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=65451.&lawCode=GOV](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65451.&lawCode=GOV)

*A project that is inconsistent with an applicable General Plan or subsidiary land use plan may not be approved without an amendment to the Plan or a variance. See Gov't Code § 65860. Where a project conflicts with even a single general plan policy, its approval may be reversed. San Bernardino County Audubon Society, Inc. v. County of San Bernardino (1984) 155 Cal.App.3d 738, 753; Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors of El Dorado County (1998) 62 Cal.App.4th 1334, 1341. Consistency demands that a project both “further the objectives and policies of the general plan and not obstruct their attainment.” Families, 62 Cal.App.4th at 1336; see Napa Citizens for Honest Government v. Napa County Board of Supervisors (2001) 91 Cal.App.4th 342, 378. Accordingly, where a project opponent alleges that a project conflicts with plan policies, a court need not find an “outright conflict.” Napa Citizens at 379. “The proper question is whether development of the [project] is compatib]e with and will not frustrate the General Plan’s goals and policies ... without definite affirmative commitments to mitigate the adverse effect or effects.” Id.*

**Response DD.4:** Refer to Master Response 2 and Section 5.2 Response II.E.3.



**Comment DD.5:** Government Code 15082. Notice of Preparation and Determination of Scope of EIR

- (a) *Notice of Preparation. Immediately after deciding that an environmental impact report is required for a project, the lead agency shall send to the Office of Planning and Research and each responsible and trustee agency a notice of preparation stating that an environmental impact report will be prepared. This notice shall also be sent to every federal agency involved in approving or funding the project.*
- (1) *The notice of preparation shall provide the responsible and trustee agencies and the Office of Planning and Research with sufficient information describing the project and the potential environmental effects to enable the responsible agencies to make a meaningful response. At a minimum, the information shall include:*
- (A) *Description of the project,*
- (B) *Location of the project (either by street address and cross street, for a project in an urbanized area, or by attaching a specific map, preferably a copy of a U.S.G.S. 15' or 7- 1/2' topographical map identified by quadrangle name), and*
- (C) *Probable environmental effects of the project.*

**Response DD.5:** The comment cites the CEQA Guidelines section regarding an EIR Notice of Preparation. A NOP was prepared and circulated for the project, consistent with CEQA Section 15082. No specific questions are raised in the above comment regarding the NOP.

**Comment DD.6:** Potential to Cease EIR Mid-Stream:

The EIR scoping meeting provided inadequate and conflicting information with an infeasible “Proposed Project” and infeasible alternatives.

According to “CEQA Does Not Apply to Project Disapproval, Even if the EIR is Underway,” by Abbott & Kindermann Leslie Z. Walker, on September 22, 2009, the EIR process may be stopped mid-stream:

*According to Las Lomas Land Co., LLC v. City of Los Angeles (Sept. 17, 2009, B213637) Cal.App.4th\_\_\_\_\_, the long standing rule that CEQA does not apply to projects rejected or disapproved by a public agency, allows a public agency to reject a project before completing or considering the EIR. In Las Lomas, the Court of Appeals for the Second Appellate District made clear that a city may stop environmental review mid-stream and reject a project without awaiting the completion of a final EIR. While this holding may avoid wasting time and money on an EIR for a dead-on-arrival project, it will also make it harder for projects to stay in play until the entire environmental document is complete.*

The article continues:

*One of the City’s council members opposed the project and asked the City to cease its work on it. The City attorney advised the council members that the City was required to continue processing and completing the EIR. Nonetheless, the objecting council member introduced a motion to suspend the environmental review process until the city council made “a policy decision” to*

*resume the process. The city council ultimately approved a modified motion which also called for the City to cease work on the proposed project.*

Should the City Council find reason to cease the EIR, such as project alternatives being inconsistent with the General Plan, plan NOP period did not show legal project alternatives, and the Specific Plan process failed to inform the public of the process failings immediately when known and is studying projects which were not studied in the DEIR (explained on the following pages), or that in light of its' similarity to failed Cupertino ballot Measure D: The Vallco Initiative November 8, 2016, there is precedent as demonstrated above, to do so.

**Response DD.6:** Refer to Section 5.2 Response II.H.7.

**Comment DD.7:** Alternatives to Project:

*“The California Environmental Quality Act (CEQA), Section 15126.6, requires an Environmental Impact Report (EIR) to describe a reasonable range of alternatives to a Project or to the location of a Project which could feasibly attain its basic objectives but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.”*

**Response DD.7:** No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**Comment DD.8:** Similarity of “Proposed Project” to Failed Ballot Initiative Measure D, Nov. 8, 2016 Should Disqualify It:

The Vallco Measure D Initiative is described in the following: CITY ATTORNEY'S BALLOT TITLE AND SUMMARY FOR PROPOSED INITIATIVE SUBMITTED ON MARCH 3, 2016 and would consist of:

- 2,000,000 SF office
- 640,000 SF retail
- 191 additional hotel rooms, bringing the site total to 339 hotel rooms
- 389 residential units with a Conditional Use Permit bringing the total to 800 residential units

The November 8, 2016 Election results for Measure D were 55% No. Advertising for the initiative obscured the office and focused on the retail portions. The actual square footage percentages for the Measure D Initiative were:

- 56% office
- 22% residential
- 16% retail
- 6% hotel

Notice these above percentages result in 84% non-retail uses and would be a majority office park. The “Proposed Project” for the EIR has less retail (600,000 SF) and other uses the same as Measure D.

The EIR process is not intended to be a disregard of the city’s General Plan to “try out” alternative concepts which have no consistency with the General Plan. This creates a great deal of confusion and distrust.

**Response DD.8:** Refer to Master Responses 4 and 5.

**Comment DD.9:** General Plan Directive to Create a Vallco Shopping District Specific Plan:

This section amasses the multiple sections of the General Plan which reference the Vallco Shopping District and describe what it is planned to become.

Refer to: Cupertino General Plan Vision 2040:

In Chapter 2 of the Cupertino General Plan Vision 2040: Planning Areas: Vallco Shopping District is described as: “...*Cupertino’s most significant commercial center...*” and that “...*Reinvestment is needed...so that this commercial center is more competitive and better serves the community.*” It is referred to as a “shopping district”, not an office park, or a residential community.

***“This new Vallco Shopping District will become a destination for shopping, dining and entertainment in the Santa Clara Valley.”***

*- Cupertino General Plan Community Vision 2015-2040*

**Response DD.9:** This comment cites different sections from the General Plan. No comments have been made regarding the adequacy of the EIR, therefore no further response is necessary.

**Comment DD.10:** COMMENTS ON DEIR SUMMARY P XII: PROPOSED PROJECT IS A MOVING TARGET

The DEIR Summary, p xii, states: “*The proposed project is the adoption of the community-developed Vallco Special Area Specific Plan and associated General Plan and Zoning Code amendments.*” and continues:

*“Consistent with the adopted General Plan, the proposed Specific Plan would facilitate development of a minimum of 600,000 square feet of commercial uses, up to 2.0 million square feet of office uses, up to 339 hotel rooms, and up to 800 residential dwelling units on-site. The proposed Specific Plan development reflects the buildout assumptions (including the adopted residential allocation available) for the site in the City’s adopted General Plan. In addition, the project includes up to 65,000 square feet of civic spaces in the form of governmental office space, meeting rooms and community rooms and a Science Technology Engineering and Mathematics (STEM) lab, as well as a 30-acre green roof.”*

Source: Vallco Specific Plan DEIR, p. xii, <http://www.cupertino.org/home/showdocument?id=20887>

The DEIR studied the following projects and alternatives:

Figure 1: DEIR Proposed Project and Alternatives Summary

Summary of Project and Project Alternative Development						
	Land Uses					
	Commercial (square footage)	Office (square footage)	Hotel (rooms)	Residential (dwelling units)	Civic Space (square feet)	Green Roof (acres)
<b>Proposed Specific Plan</b>	600,000	2,000,000	339	800	65,000	30
<b>Project Alternatives</b>						
General Plan Buildout with Maximum Residential Alternative	600,000	1,000,000	339	2,640	65,000	30
Retail and Residential Alternative	600,000	0	339	4,000	0	0
Occupied/Re-Tenanted Mall Alternative	1,207,774	0	148	0	0	0

1. Proposed Project has incorrect number of residential units. Residential units would be 389. Referring to the General Plan, Vallco "...specific plan would permit 389 units..." not 800 residential units. The Specific Plan process to date shows a 3,200, 2,640 and 3,250 residential unit options. While the housing units may be moved between housing element sites, the General Plan Technical Report for Scenarios A and B do not come close to having this many housing units. None of the options are consistent with the General Plan. When the number of units is over 2,640 in the DEIR, there is no office shown. The Charrette 2 housing units are shown to be 3,200 at the Charrette #2 closing presentation for any options. This was not studied in the DEIR. Low Housing/Low Retail option shared is inconsistent with the General Plan minimum retail of 600,000 SF.

DEIR, p. 15 PDF p 51, states in 2.4.2:

*"The General Plan, however, controls residential development through an allocation system. This alternative [General Plan Buildout with Maximum Residential Alternative] assumes that there are no residential allocation controls in place and development can occur at the maximum density allowed by the General Plan".*

Source: Vallco Specific Plan DEIR, p 51, <http://www.cupertino.org/home/showdocument?id=20887>

General Plan Housing Element p H-21:

*"Priority Housing Sites: As part of the Housing Element update, the City has identified five priority sites under Scenario A (see Table HE-5) for residential development over the next eight years. The General Plan and zoning designations allow the densities shown in Table HE-5 for all sites except the Vallco Shopping District site (Site A2). The redevelopment of Vallco Shopping District will involve significant planning and community input. A specific plan will be required to implement a comprehensive strategy for a retail/office/residential mixed use development. The project applicant would be required to work closely with the community and the City to bring forth a specific plan that meets the community's needs, with the anticipated adoption and rezoning to occur within three years of the adoption of the 2014-2022 Housing*



*Element (by May 31, 2018). The specific plan would permit 389 units by right at a minimum density of 20 units per acre. If the specific plan and rezoning are not adopted within three years of Housing Element adoption (by May 31, 2018), the City will schedule hearings consistent with Government Code Section 65863 to consider removing Vallco as a priority housing site under Scenario A, to be replaced by sites identified in Scenario B (see detailed discussion and sites listing of “Scenario B” in Appendix B - Housing Element Technical Appendix). As part of the adoption of Scenario B, the City intends to add two additional sites to the inventory: Glenbrook Apartments and Homestead Lanes, along with increased number of permitted units on The Hamptons and The Oaks sites. Applicable zoning is in place for Glenbrook Apartments; however the Homestead Lanes site would need to be rezoned at that time to permit residential uses. Any rezoning required will allow residential uses by right at a minimum density of 20 units per acre.”*

**Response DD.10:** Refer to Section 5.2 Response II.E.10.

**Comment DD.11:** 2. **Clarifications needed for p xii Summary, what is the proposed project?** As of the release date of the DEIR, May 24, 2018, there is no approved Specific Plan for Vallco. Two options shared the week of Charrette #2 have no relationship to the General Plan, or the DEIR, and included:

Low Office/High Retail

*Residential: 3,250 units*

*Office: 750,000 SF*

*Retail/Entertainment: 600,000 SF*

*Hotel: 139,000 SF*

*Civic Space: 65,000 SF*

*5 acres public park(s)*

Low Housing/Low Retail

*Residential: 2,640 units*

*Office: 1,500,000 SF*

*Retail/Entertainment: 400,000 SF*

*Hotel: 139,000 SF*

*Civic Space: 65,000 SF*

*5 acres public park(s)*

Here is the Opticos slide presented the week of Charrette #2, May 23, 2018, informing us of what the project could be:

Figure 2: Opticos Specific Plan Process Options

## LAND USE PROGRAM

Land Use	Low Office/ High Retail	Low Housing/ Low Retail
<b>RESIDENTIAL</b>		
Units	3,250	2,640
Sq.Ft.	4.06 M	3.30 M
<b>COMMERCIAL</b>		
Office	750 K	1.50 M
Retail/ Entertainment	600 K	400 K
Hotel	139 K	139 K
<b>TOTAL (SQ. FT.)</b>	<b>5.62 M</b>	<b>5.41 M</b>

Each program also includes:

- 5 acres of public park(s)
- 65,000 square feet of civic space
- ~85% subterranean parking

**Notice the number of residential units are not consistent with the General Plan or DEIR in any way. The park space is inconsistent with the DEIR.**

And supporting slide from Opticos Charrette #2 closing presentation has further alterations to proposed project:

Figure 3: Opticos Specific Plan Options

**Generally program ranges studied AFTER charrette 1**

Use	Program Range Studies
Retail/Ent.	400-600,000 sf
Office	750,000-1.5 million sf
Housing Units	3,200
Civic	45-65,000 sf

**These have not changed since the beginning of charrette 2**

5

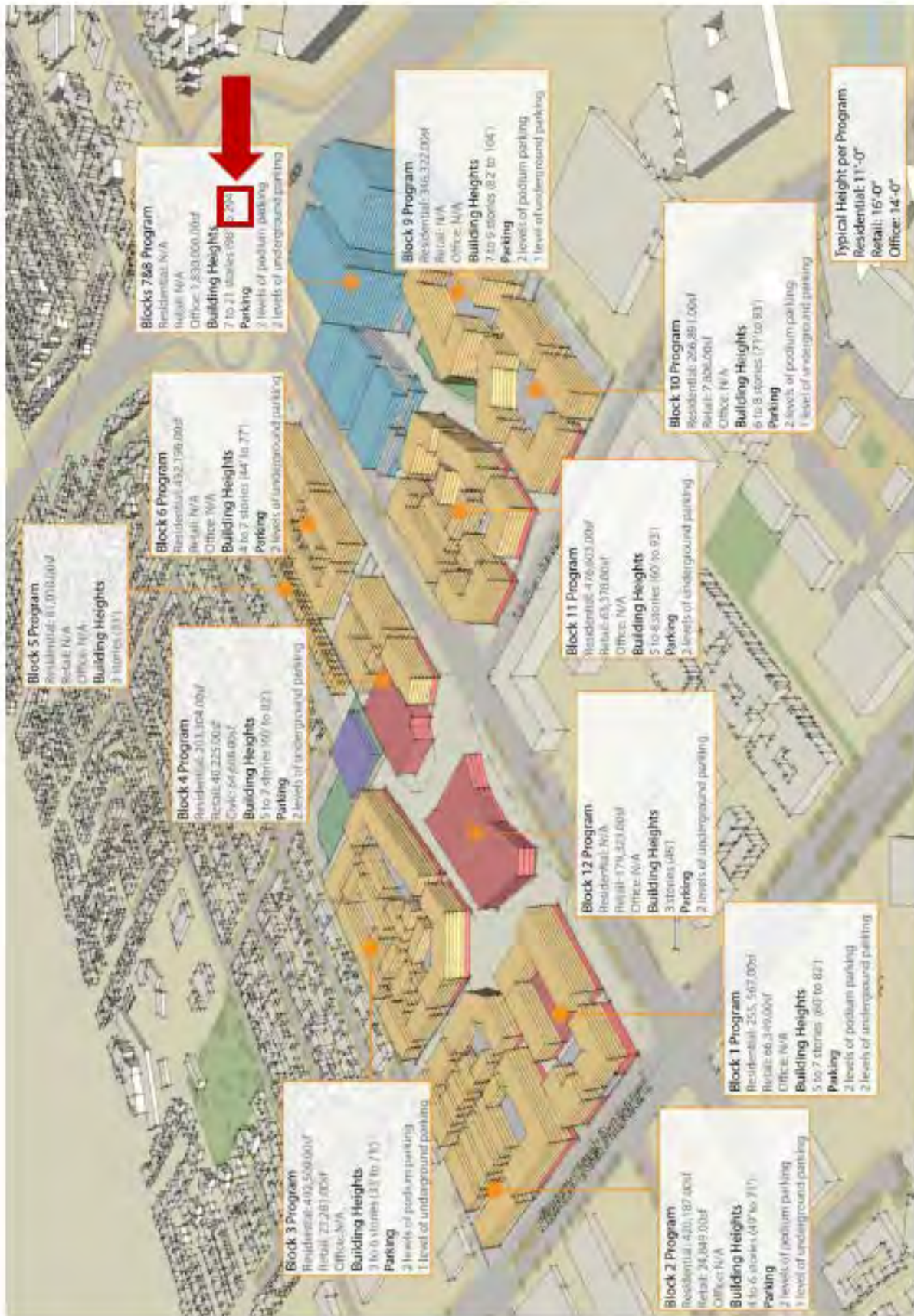
**Response DD.11:** Refer to Section 5.2 Response II.E.11.

**Comment DD.12:** 3. 65,000 SF of civic space, STEM lab, and 30 acre green roof were not discussed in the NOP period for Vallco. In the DEIR civic space and STEM lab are combined into the 65,000 SF. Additionally, the civic/STEM spaces are considered public benefits which would result in higher building heights if the developer includes them. This was mentioned at the Opticos Charrette #2 closing presentation, May 24, 2018:





The following graphic was presented by Opticos for Vallco Specific Plan:



**Response DD.13:** Refer to Section 5.2 Response II.E.13.

**Comment DD.14:** 5. Has the height at Vallco reverted to 85' and 3 stories due to the passing of May 31, 2018 with no Specific Plan adopted for Vallco? P. 162 of DEIR:

*Cupertino Municipal Code*

*The Vallco Special Area is zoned P(Regional Shopping) – Planned Development Regional Shopping north of Vallco Parkway, and P(CG) – Planned Development General Commercial south of Vallco Parkway (west of North Wolfe Road). The Planned Development Zoning District is specifically intended to encourage variety in the development pattern of the community. The Planned Development Regional Shopping zoning designation allows all permitted uses in the Regional Shopping District, which include up to 1,645,700 square feet of commercial uses, a 2,500 seat theater complex, and buildings of up to three stories and 85 feet tall.81*

*The Planned Development General Commercial designation allows retail businesses, full service restaurants (without separate bar facilities), specialty food stores, eating establishments, offices, laundry facilities, private clubs, lodges, personal service establishments.*

*81 Council Actions 31-U-86 and 9-U-90. The maximum building height identified was in conformance with the 1993 General Plan and were identified in the Development Agreement (Ordinance 1540 File no. 1-DA-90) at that time*

**Response DD.14:** Refer to Section 5.2 Responses II.E.14.

**Comment DD.15:** 6. The performing arts theater public benefit was mentioned in the Opticos Charrette #2 closing presentation May 24, 2018, but not included in the DEIR calculations:

Figure 5: Opticos Specific Plan Process: Performing Arts Theater

**Performing Arts Theater: Public Benefit**

**Mountain View CPA:**

- 41,000 square feet excluding circulation.
- 5,300 square foot lobby
- 600 seat main stage
- 250 seat second stage
- Rehearsal room
- Good synergy with City Hall



Vallco Special Area Specific Plan | Charrette Two Closing Presentation | May 24<sup>th</sup>, 2018

13

**Response DD.15:** Refer to Section 5.2 Response II.E.15.

**Comment DD.16:** 7. The lack of a stable project makes writing comments nearly impossible. In *Washoe Meadows Community v. Department of Parks and Recreation* (2017) 17 Cal.App.5th 277 <https://www.thomaslaw.com/blog/washoe-meadows-community-v-department-parks-recreation-2017-17-cal-app-5th-277/>

*“...the court held that the DEIR’s failure to provide the public with an “accurate, stable and finite” project description prejudicially impaired the public’s right to participate in the CEQA process, citing COUNTY OF INYO V. CITY OF LOS ANGELES (1977) 71 Cal.App.3d 185. Noting that a broad range of possible projects presents the public with a moving target and requires a commenter to offer input on a wide range of alternatives, the court found that the presentation of five very different alternative projects in the DEIR without a stable project was an obstacle to informed public participation”*

**Response DD.16:** Refer to Section 5.2 Response II.E.16.

**Comment DD.17:** 8. Proposed project is inconsistent with the General Plan: housing is exceeded, park land fails to meet requirements for the park starved east side of Cupertino (Municipal Code requires park land acreage rather than a substitute roof park at a rate of 3 acres per 1,000 residents), height bonus tied to community benefits is not in the General Plan, the housing allocation assumes the General Plan allocation system has been removed, and community benefits in the General Plan for Vallco came at no ‘cost’ to the project such as increased heights.

**Response DD.17:** Refer to Section 5.2 Response II.E.17.

**Comment DD.18:** Project alternatives are too varied from the Proposed Specific Plan project, and there is no “Proposed Specific Plan” as of May 24, 2018.



Figure 6: DEIR Summary of Project and Alternatives

Summary of Project and Project Alternative Development						
	Land Uses					
	Commercial (square footage)	Office (square footage)	Hotel (rooms)	Residential (dwelling units)	Civic Space (square feet)	Green Roof (acres)
<b>Proposed Specific Plan</b>	600,000	2,000,000	339	800	65,000	30
<b>Project Alternatives</b>						
General Plan Buildout with Maximum Residential Alternative	600,000	1,000,000	339	2,640	65,000	30
Retail and Residential Alternative	600,000	0	339	4,000	0	0
Occupied/Re-Tenanted Mall Alternative	1,207,774	0	148	0	0	0

**Response DD.18:** Refer to Section 5.2 Response II.E.18.

**Comment DD.19:** 9. The Specific Plan must be consistent with the General Plan by law. We have no identified Specific Plan and the last alternatives presented at the final Charrette #2 do not match any alternatives studied in the DEIR (3,200 residential units along with 750,000-1,000,000 SF office space plus 65,000 SF civic space) and are not consistent with the General Plan.

Ca GC 65450-65457:

*(b) The specific plan shall include a statement of the relationship of the specific plan to the general plan.*

[http://www.opr.ca.gov/docs/specific\\_plans.pdf](http://www.opr.ca.gov/docs/specific_plans.pdf)

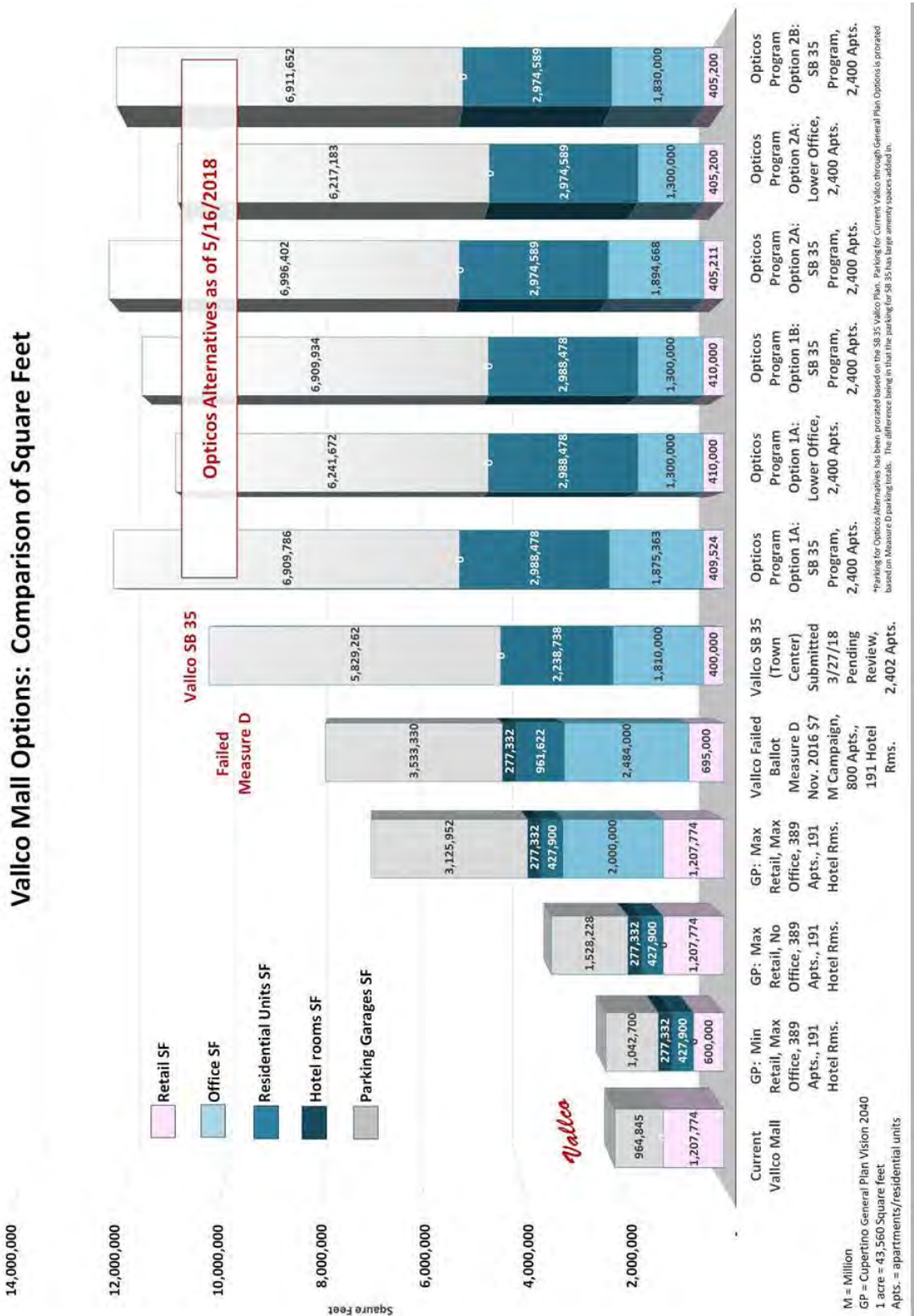
[https://leginfo.legislature.ca.gov/faces/codes\\_displaySection.xhtml?sectionNum=65451.&lawCode=GOV](https://leginfo.legislature.ca.gov/faces/codes_displaySection.xhtml?sectionNum=65451.&lawCode=GOV)

*A project that is inconsistent with an applicable General Plan or subsidiary land use plan may not be approved without an amendment to the Plan or a variance. See Gov't Code § 65860. Where a project conflicts with even a single general plan policy, its approval may be reversed. San Bernardino County Audubon Society, Inc. v. County of San Bernardino (1984) 155 Cal.App.3d 738, 753; Families Unafraid to Uphold Rural El Dorado County v. Board of Supervisors of El Dorado County (1998) 62 Cal.App.4th 1334, 1341. Consistency demands that a project both “further the objectives and policies of the general plan and not obstruct their attainment.” Families, 62 Cal.App.4th at 1336; see Napa Citizens for Honest Government v. Napa County Board of Supervisors (2001) 91 Cal.App.4th 342, 378. Accordingly, where a project opponent alleges that a project conflicts with plan policies, a court need not find an “outright conflict.” Napa Citizens at 379. “The proper question is whether development of the [project] is compatible with and will not*



frustrate the General Plan's goals and policies ... without definite affirmative commitments to mitigate the adverse effect or effects." *Id.*

Figure 7: Vallco Project Alternatives after Charrette #1 (self)





**Response DD.19:** Refer to Section 5.2 Response II.E.19.

**Comment DD.20:** CULTURAL RESOURCES

The findings and mitigations are adequate.

**Response DD.20:** Refer to Section 5.2 Response II.E.20.

**Comment DD.21:** 2.2 EXISTING GENERAL PLAN AND ZONING DESIGNATIONS

This section fails to state the current zoning designations per the General Plan, no Specific Plan has been adopted:

Figure 9: Cupertino General Plan



**Response DD.21:** Refer to Section 5.2 Response II.E.21.

**Comment DD.22:** NO EXPLANATION FROM WHERE IN THE GENERAL PLAN THE EXCESS RESIDENTIAL UNITS CAME FROM

*“As shown in General Plan Table LU-1, the General Plan development allocation for the Vallco Special Area is as follows: up to a maximum of 1,207,774 square feet of commercial uses (i.e., retention of the existing mall) or redevelopment of the site with a minimum of 600,000 square feet of retail uses of which a maximum of 30 percent may be entertainment uses (pursuant to General Plan Strategy LU-19.1.4); up to 2.0 million square feet of office uses; up to 339 hotel rooms; and up to 389 residential dwelling units.<sup>5</sup> Pursuant to General Plan Strategy LU-1.2.1, development allocations may be transferred among Planning Areas, provided no significant environmental impacts are identified beyond those already studied in the Cupertino General Plan Community Vision 2015-2040 Final EIR (SCH#2014032007) (General Plan EIR).<sup>6</sup> Therefore, additional available, residential or other, development allocations may be transferred to the project site.”*

CUPERTINO GENERAL PLAN 2040 STUDIED A PIECEMEAL PLAN OF VALLCO?

*“<sup>6</sup> The General Plan EIR analyzed the demolition of the existing 1,207,774 square foot mall and redevelopment of the site with up to 600,000 square feet of commercial uses, 2.0 million square feet of office uses, 339 hotel rooms, and 800 residential dwelling units within the Vallco Special*

*Area. Because the Vallco Shopping Mall existed on the site when Community Vision 2015-2040 was adopted, and it was unclear when a project would be developed on the site, General Plan Table LU-2 indicates the square footage of the existing mall in the commercial development allocation to ensure that the mall did not become a non-conforming use at the site. Residential allocations that are available in other Planning Areas may be transferred to the Vallco Shopping District without the need to amend the General Plan.”*

Page 223 of this DEIR conflicts with the above assertion:

*“However, the General Plan update process in 2014 **analyzed** and allocated 600,000 square feet of commercial uses, 2.0 million square feet of office uses, 339 hotel rooms, and 389 residential units for a redeveloped project on the site.”*

What was studied in the General Plan EIR for Vallco?

**Response DD.22:** Refer to Section 5.2 Response II.E.22.

**Comment DD.23:** 2.3 BACKGROUND INFORMATION

This section attempts to obscure Vallco Shopping District’s “shopping, dining, and entertainment” objectives stated in the General Plan.

The General Plan refers to Vallco Shopping District as: “... a vibrant mixed-use “town center” that is a focal point for regional visitors and the community. This new Vallco Shopping District will become a destination for shopping, dining and entertainment in the Santa Clara Valley.”

**Response DD.23:** Refer to Section 5.2 Response II.E.23.

**Comment DD.24:** 2.4.1 PROPOSED PROJECT

See Comments on DEIR Summary p 3 of this document.

**Response DD.24:** Refer to Section 5.2 Responses II.E.24.

**Comment DD.25:** Park land acreage per Cupertino Municipal Code 13.08.050 states the park land acreage requirement to be 3 acres per 1,000 residents. In areas which are park deficient, such as the east side of Cupertino, the city average residents per dwelling units is 2.83. For Proposed Project, 800 residential units, 2,264 residents: 6.8 acres of park land acreage would be required. For 2,640 residential units, 7,471 residents: 22.4 acres of park land would be required. For 4,000 residential units, 11,320 residents: 34.0 acres of park land would be required.

**Response DD.25:** Refer to Section 5.2 Response II.E.25.

**Comment DD.26:** The 30 acre green roof is not park land acreage per the Municipal Code. While it may be considered a recreational area, the uses of such space are limited. Here is a cross section of the SB 35 plan roof:



Figure 10: Section from SB 35 Vallco Application



**Response DD.26:** Refer to Section 5.2 Response II.E.26.

**Comment DD.27:** Cupertino adopted the Community Vision 2040, Ch. 9 outlines the “Recreation, Parks, and Services Element.” Their Policy RPC-7.1 Sustainable design, is to minimize impacts, RPC-7.2 Flexibility Design, is to design for changing community needs, and RPC-7.3 Maintenance design, is to reduce maintenance.

The Vallco green roof violates the three City of Cupertino Parks policies listed: it is not sustainable, it is not flexible (a baseball field cannot be created), and it is extremely high maintenance. Parkland acquisition is supposed to be based on “Retaining and restoring creeks and other natural open space areas” and to “design parks to utilize natural features and the topography of the site in order to...keep maintenance costs low.” And unfortunately for us, the city states: “If public parkland is not dedicated, require park fees based on a formula that considers the extent to which the publicly-accessible facilities meet community need.”

**Response DD.27:** Refer to Section 5.2 Response II.E.27.

**Comment DD.28:** 2.4.4.2 SITE ACCESS, CIRCULATION, AND PARKING

*“Based on a conservative estimate of parking demand, it is estimated that two to three levels of below- ground parking across most of the site (51 acres) would be required.”*

Should a third level of subterranean parking be required, that will increase excavation haul, and GHG calculations. This would result in about 500,000 CY of additional soil removal and should be calculated.

**Response DD.28:** Refer to Section 5.2 Response II.E.28.

**Comment DD.29:** Parking will be inadequate due to park and ride demand from the Transit Center and TDM.

2.4.4.3 TRANSIT CENTER AND TRANSPORTATION DEMAND MANAGEMENT PROGRAM

The extent of the transit system with Google, Genentech, and Facebook continuing to use the site along with what will likely be Apple, and VTA will result in much higher bus trips than expected. Even at the 808 average daily trips in the GHG and Fehr + Peers studies, that is 404 vehicles in and out of the site daily. This sounds much larger than Apple Park’s transit system. There would need to

be a tremendous amount of park and ride spaces available for the tech company buses which is not in the project.

**Response DD.29:** Refer to Section 5.2 Response II.E.29.

**Comment DD.30:** 2.4.4.4 UTILITY CONNECTIONS AND RECYCLED WATER INFRASTRUCTURE EXTENSION

The SB 35 application discussed the \$9.1 million cost to extend the recycled water line across I-280. There is an insufficient amount of recycled water produced at the Donald M. Somers plant and there is anticipated upstream demand. When there is not enough recycled water, potable water is added to the recycled water to make up the difference. It may be decades before there is adequate output of recycled water for the green roof.

Apple Park pays the potable water cost. The previous water study for Measure D showed the following water use:

Figure 11: WSA from Hills at Vallco Measure D

Table 3: LAS District Plus Four Development Projects								
Actual and Projected Water Demand (AF)								
	2005	2010	2015	2020	2025	2030	2035	2040
Cal Water Projection	14,758	11,648	14,440	14,706	14,983	15,273	15,577	15,894
Hamptons Project	0	0	0	28.1	28.1	28.1	28.1	28.1
Vallco SP&P	0	0	0	370.9	370.9	370.9	370.9	370.9
Apple Campus 2	0	0	0	121.6	121.6	121.6	121.6	121.6
Main Street Project	0	0	0	30.1	30.1	30.1	30.1	30.1
<b>Total</b>	14,758	11,648	14,440	15,257	15,534	15,824	16,128	16,445

Tertiary treated water from the Donald Somers plant is currently insufficient. Impacts related to the need to expand the plant will include air quality impacts as well. There is not enough capacity at the Donald Somers plant to supply the Vallco “Hills” project. Should the same green roof be added to the project, there would need to be a dual water system on the roof. This is due to the need to flush the recycled water out to keep certain plants healthy. The water use from the dual roof system needs to be addressed in coordination with the arborist report for the green roof irrigation system. The roof irrigation system may need an auxiliary pump system to irrigate gardens 95’+ in the air.

**Response DD.30:** Refer to Section 5.2 Response II.E.30.

**Comment DD.31:** 2.4.4.5 CONSTRUCTION

Vallco spokesperson Reed Moulds stated construction would take 6-8 years. Depending on the order of construction, for instance if office is built first, the project will worsen the deficit in housing. The length of time of construction is important because it is used in calculating the lbs/day of GHG

produced. If one side is to be torn down and rebuilt (eg. the east property) first, then the GHG calculations may significantly alter to really be two separate job sites on separate schedules.

**Response DD.31:** Refer to Section 5.2 Response II.E.31.

**Comment DD.32:** 2.4.4.6 SPECIFIC PLAN ASSUMPTIONS

Items listed as “shall” do not state that all would be according to the requirements stated. For instance: “*Future buildings shall install solar photovoltaic power, where feasible.*” Requires none actually be installed. For the requirements to have any definite effect, they need to be rewritten for that outcome.

**Response DD.32:** Refer to Section 5.2 Response II.E.32.

**Comment DD.33:** Residences and sensitive receptors need to be 200’ from truck loading areas.

**Response DD.33:** Refer to Section 5.2 Response II.E.33.

**Comment DD.34:** 3.1.1.2 SCENIC VIEWS AND VISTAS

DEIR ignores many pleasant views in the Wolfe Road corridor and took photos in harsh lighting when many of the residents enjoy the space on commutes and going to the gym onsite:

Southbound on Wolfe Road with the many mature ash trees:

Figure 12: SB Wolfe Rd.





Southbound on Wolfe Rd. looking west, notice the wide expanse and no buildings:  
Figure 13: SB Wolfe Rd. Looking West at Vallco Open Space



Southbound on Wolfe Road, views of Santa Cruz Mountains. There are few areas in the east part of  
Cupertino where the Santa Cruz mountains are visible due to structures.

Figure 14: SB Wolfe Rd. Santa Cruz Mountains, Vallco Open Space, Trees





East bound on Stevens Creek Blvd. Views of east hills and multiple Apple transit buses.  
Figure 15: EB Stevens Creek Blvd. Apple Shuttles



View of Bay Club (large seating area and tv room next to Starbucks) at Vallco.  
Figure 16: The Bay Club and Starbucks at Vallco



### 3.1.2 AESTHETIC IMPACTS

*“Aesthetic components of a scenic vista include scenic quality, sensitivity level, and view access. Scenic vistas are generally interpreted as long-range views of a specific scenic features (e.g., open space lands, mountain ridges, bay, or ocean views).”*

Findings of AES-1 and AES-2 are incorrect.

The length of a scenic vista is relative to the location. In the east part of Cupertino, there are few long (10 mile) vistas, such that 400' is a relatively long vista. Glimpses of the Santa Cruz mountains and east bay hills are few and thus more precious. Homes are clustered with 5' side yards and 25' setbacks such that neighborhoods have little in the way of long vistas. Creekside Park, Cupertino High School, and Vallco Mall have the largest locally long vistas.

Proposed project will have a huge negative aesthetic impact, it will block all views of the Santa Cruz mountains and eliminate the wide vista across the Bay Club parking lot. Most of the homes in the east part of Cupertino have no long site view and no view of the Santa Cruz mountains. The Bay Club and Starbucks (in the Sears Building) has a huge setback and the parking lot has many fairly young trees. This open vista has been there historically. Visitors to the rebuilt site will be relegated to underground parking caves in a crowded environment with thousands of employees and residents. While Apple Park architects did their best to berm and plant a massive 176 acre area, while keeping the maximum elevation to 75', the Vallco project is the aesthetic antithesis.

Ideally, Main Street would have been purchased for park land but that did not happen. While the proposed project suggests to hide park land within the project, there should be a large corner park to maintain the historic open corner space at the northeast corner of Wolfe Rd. and Stevens Creek Blvd. The following historical photographs indicate how the corner has never had the view blocked by any solid structure:



Figure 17: Vallco 1939





Figure 18: Vallco 1965





Figure 19: Vallco 1974





**Response DD.34:** Refer to Section 5.2 Response II.E.34.

**Comment DD.35:** LIGHT AND GLARE

The development of the proposed project and alternatives (other than retenanted mall) would include nighttime and security lighting, and may include building material that is reflective. The project and alternatives (other than re-tenanted mall) could result in light and glare impacts.

Structures facing the residential areas could have the windows and heights limited with green walls installed to mitigate light and glare effects.

**Response DD.35:** Refer to Section 5.2 Response II.E.35.

**Comment DD.36:** 3.2 AGRICULTURAL AND FORESTRY RESOURCES

The site historically was an orchard until the late 1970s. With proper planning, a limited portion of the site could be returned to orchard space, on the ground, and possibly on the Stevens Creek Blvd. and Wolfe Rd. corner.

**Response DD.36:** Refer to Section 5.2 Response II.E.36.

**Comment DD.37:** 3.3 AIR QUALITY

Data input has some errors to traffic volumes, wind direction (selected “variable” when it is N, NE), project traffic volumes, and input to the program used to model GHG such as: acreage of the lot, apartment total SF, city park acreage is on the roof and will have recycled water which results in an additional GHG, the addition of a 10,000 SF racquet club is inconsistent with the proposed project studied by others, the Government Civic Center is shown smaller than Proposed Project:

Figure 20: From DEIR: GHG Land Usage

**1.1 Land Usage**

Land Uses	Size	Metric	Lot Acreage	Floor Surface Area	Population
General Office Building	2,000.00	1000sqft	58.00	2,000,000.00	0
Enclosed Parking with Elevator	11,391.00	Space	0.00	4,556,400.00	0
User Defined Parking	1.00	User Defined Unit	0.00	0.00	0
Hotel	339.00	Room	0.00	492,228.00	0
Apartments Mid Rise	800.00	Dwelling Unit	0.00	800,000.00	2288
Regional Shopping Center	600.00	1000sqft	0.00	600,000.00	0
City Park	30.00	Acre	0.00	1,306,800.00	0
Government (Civic Center)	45.00	1000sqft	0.00	45,000.00	0
Racquet Club	10.00	1000sqft	0.00	10,000.00	0
Junior College (2Yr)	10.00	1000sqft	0.00	10,000.00	0

GHG Trips generated do not match the Fehr + Peers Traffic Study for the DEIR and have nearly 10,000 less ADT.

**Response DD.37:** Refer to Section 5.2 Response II.E.37.

**Comment DD.38:** Additionally, the Fehr + Peers average daily trip rate was erroneously low. The trips generated by the Proposed Project calculated by Fehr + Peers are incorrect and artificially low due to selecting lower trip generation rates. For instance, no break out of retail trips was made to account for a movie theater, restaurants which generate 4-10 times as much traffic as retail, ice rink, bowling alley, hotel conference room, or the performing arts center. The Civic rate is

undercalculated, the SF should be 65,000 to match the charrette discussions and the ITE Government Building 710 trip generation rate should be used. A high turnover restaurant which we would see in a business area would result in a trip generation rate of nearly 90. By using generalities for the “Shopping Center” when the Vallco Shopping District is supposed to be a regional destination with shopping, dining, and entertainment uses, the Daily trips generated are undercalculated by about 50%. The SB 35 Vallco application has 120,000 SF entertainment, 133,000 SF retail stores, and 147,000 SF restaurants. The restaurants would likely be high turnover due the high number of office employees in the area.

Figure 21: From DEIR: GHG Trip Generation  
4.2 Trip Summary Information

Land Use	Average Daily Trip Rate			Unmitigated	Mitigated
	Weekday	Saturday	Sunday	Annual VMT	Annual VMT
Apartments Mid Rise	3,616.00	3,480.00	3184.00	8,164,132	8,164,132
Enclosed Parking with Elevator	0.00	0.00	0.00		
General Office Building	20,500.00	4,580.00	1960.00	37,225,521	37,225,521
Hotel	2,352.66	2,359.44	1715.34	4,298,751	4,298,751
Regional Shopping Center	16,878.00	19,788.00	9996.00	28,597,404	28,597,404
User Defined Parking	808.00	808.00	808.00	1,470,560	1,470,560
City Park	471.00	471.00	471.00	1,005,516	1,005,516
Government (Civic Center)	844.20	0.00	0.00	1,152,717	1,152,717
Junior College (2Yr)	116.00	47.20	5.10	229,393	229,393
Racquet Club	239.00	239.00	239.00	406,530	406,530
<b>Total</b>	<b>45,824.86</b>	<b>31,772.64</b>	<b>18,378.44</b>	<b>82,550,523</b>	<b>82,550,523</b>

Figure 22: From DEIR: Fehr + Peers Trip Generation does not match

**Table 3.17-7: Project and Project Alternative Trip Generation E:**

Land Use	Project				General Plan Buildout with Maximum Residential Alternative			
	Quantity	Daily Trips	AM Peak Hour	PM Peak hour	Quantity	Daily Trips	AM Peak Hour	PM Peak hour
Office	2,000 ksf	24,700	2,580	2,400	1,000 ksf	12,350	1,290	1,200
Shopping Center	600 ksf	20,331	452	2,046	600 ksf	20,331	452	2,046
Hotel	339 rooms	2,834	159	204	339 rooms	2,834	159	204
Multifamily Housing	800 units	4,352	288	352	2,640 units	14,362	950	1,162
Green Roof	30 acres	567	135	105	30 acres	567	135	105
Civic Uses	55 ksf	1,305	168	100	55 ksf	1,305	168	100
STEM Lab	10 ksf	140	34	22	10 ksf	140	34	22
<i>Subtotal (A)</i>		54,229	3,816	5,229		51,889	3,188	4,840
Transit and/or Mixed Use Reduction %		-17%	-23%	-24%		-20%	-25%	-30%
Mixed Use Reduction (B)		-9,218	-876	-1,255		-10,377	-797	-1,452
Transit Hub (C)		808	175	193		808	175	193
<i>Total Project or Project Alternative Trips (D = A-B+C)</i>		45,819	3,113	4,167		42,320	2,566	3,581
Existing Trips (E)		-8,813	-485	-949		-8,813	-485	-949
<b>Net Project or Project Alternative Trips (F = D-E)</b>		<b>37,006</b>	<b>2,628</b>	<b>3,218</b>		<b>33,507</b>	<b>2,082</b>	<b>2,632</b>

Notes: ksf = 1,000 square feet. Refer to Appendix H for detailed breakdown of the trip generation estimates.

**Response DD.38:** Refer to Section 5.2 Response II.E.38.

**Comment DD.39:** IMPACT AQ-1

Impact AQ-1 PM 10, is missing from the DEIR but mitigations to AQ-1 are included in the GHG appendix and are repeated for Impact AQ-2.

**Response DD.39:** Refer to Section 5.2 Response II.E.39.

**Comment DD.40:** IMPACT AQ-2

The following is quoted from DEIR AQ-2:

*“Impact AQ-2: The construction of the project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would violate air quality standard or contribute substantially to an existing or projected air quality violation.*

***Significant and Unavoidable Impact with Mitigation Incorporated***

*MM AQ-2.1: 3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.”*

*14. Avoid tracking of visible soil material on to public roadways by employing the following measures if necessary: (1) Site accesses to a distance of 100 feet from public paved roads shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel and (2) washing truck tires and construction equipment of prior to leaving the site.”*

These impacts may be better mitigated following Apple Park’s method of power washing on each exit from the site and installing steel grates the trucks drive over.

**Response DD.40:** Refer to Section 5.2 Response II.E.40.

**Comment DD.41:** The soil haul on I-280, if this occurs, will need coordination with CalTrans for street sweeping on the freeway. This may take months and severely block traffic due to closing a lane for sweepers. The route for soil haul needs to be made public. Apple Park balanced cut and fill onsite, thus eliminating months of truck haul a considerable distance. The Environmental Assessment for Vallco Town Center Initiative, “Measure D” indicated many months of hauling required, trips from 7-12 miles, and that project is approximately 2 Million SF smaller than Proposed Project and alternatives. Additionally, the inclusion of having 85% of parking be subterranean in the Charrette alternatives could result in an extra level of subterranean parking needed. This will mean another 500,000 cubic yards of soil haul off. This was not anticipated in the DEIR and will impact air quality.

**Response DD.41:** Refer to Section 5.2 Response II.E.41.

**Comment DD.42:** It is expected that there will be hazardous materials needing special accepting landfills which are not near the site.

**Response DD.42:** Refer to Section 5.2 Response II.E.42.

**Comment DD.43:** The following is quoted from DEIR AQ-2:

*“Impact AQ-2:  
MM AQ-2.1:*



6. *Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.*

16. *Minimizing the idling time of diesel powered construction equipment to two minutes.”*

#6 and #16 impact mitigations are conflicting, is it two minutes or five minutes allowable idling time? How will this be enforced?

**Response DD.43:** Refer to Section 5.2 Response II.E.43.

**Comment DD.44:** The highest engine tier available is Tier 4b, the mitigations suggested include Tier 3, which should be deleted and require ALL construction equipment meet Tier 4b emissions standards because the site is adjacent to residences and within a quarter of a mile to a high school and day care. Additionally, the year of construction actually beginning is unknown.

**Response DD.44:** Refer to Section 5.2 Response II.E.44.

**Comment DD.45:** How will the City enforce that mitigations such as alternative fuel options (e.g., CNG, bio-diesel) are provided for each construction equipment type? It is the responsibility of the lead agency to ensure the equipment operated by the project actually uses alternative fuel. City must present their enforcement process.

**Response DD.45:** Refer to Section 5.2 Response II.E.45.

**Comment DD.46:** Because we have seen developers not pull permits until many years after approval, requiring that equipment be no older than eight years is better than the DEIR requirement of model year 2010 or newer.

**Response DD.46:** Refer to Section 5.2 Response II.E.46.

**Comment DD.47:**

- *All construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet EPA Tier 4 emission standards for NOx and PM, where feasible.*
- *All construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet EPA emission standards for Tier 3 engines*

**Response DD.47:** Refer to Section 5.2 Response II.E.47.

**Comment DD.48:** Consider adding the following mitigations text and explain how it will be enforced:

Figure 23: Mitigations for trucks

- new clean diesel trucks,
- lower-tier diesel engine trucks with added PM filters,
- hybrid trucks, alternative energy trucks, or
- another method that achieves the same emission standards as the highest engine tier available.

Figure 24: Mitigations for Construction Vehicles

- All off-road equipment and on-road equipment used for construction projects within the Plan area shall be no older than eight years at the time the building permit is issued. This requirement will ensure that these projects use the newest and cleanest equipment available.
- Portable diesel engines shall be prohibited at construction sites within the Plan area. Where access to grid power is available, grid power electricity should be used. If grid power is not available, propane and natural gas generators may be used.

Source, BAAQMD:

<http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak049141.pdf>

**Response DD.48:** Refer to Section 5.2 Response II.E.48.

**Comment DD.49:** IMPACT AQ-3:

The operation of the project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would violate air quality standard or contribute substantially to an existing or projected air quality violation.

### **Significant and Unavoidable Impact with Mitigation Incorporated**

*MM AQ-3.1: Future development under the proposed project (and General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative) shall use low-VOC paint (i.e., 50 g/L or less) on operational architectural coatings and no hearths or fireplaces (including natural gas-powered) shall be installed in the residential units.*

Incomplete analysis and only one mitigation was suggested for operation of the project which is for architectural coatings specifically paint when ROG<sub>s</sub> are widely used throughout construction, however the proposed project will likely have multiple sources of ROG air pollution such as air pollution caused by:

1. additional recycled water production: likely unavoidable
2. any electrostatic ozone producing equipment: consider limiting ozone producing equipment or seek alternatives
3. cooling towers: require high efficiency cooling towers
4. operation of the transit hub: require zero emission transit vehicles, especially since there will likely be sensitive receptors living on site.
5. additional electricity generation to operate the project: require solar onsite to provide a minimum 50% of required electricity, including the electricity needed to treat the water and recycled water. Any exposed roofing to be white roof.
6. day to day additional vehicular traffic: require a high percent of EV charging stations, zero emission vehicles, and site loading areas 200' from residents, medical offices, daycares,

parks, and playgrounds. Refer to Comment 2C in the following:

<http://www2.oaklandnet.com/oakca1/groups/ceda/documents/report/oak049141.pdf>

7. VOC emission from outgassing of carpets, plastics, roofing materials, curing of concrete, treatment of pool and cooling tower water, materials in the artificial roof infrastructure: require low VOC materials throughout the project to reduce
8. restaurants which may be vented to the roof exposing people to cooking fume exhaust. Main Street Cupertino gases from restaurants are visible and detectable across the street on Stevens Creek Boulevard. The standards for roof venting for a green roof must be higher than typical because people may end up near the vents.
9. Additional traffic backing up on I-280, site is downwind of the freeway: place residential areas, medical facility offices, daycares, school uses, playgrounds, and parks a minimum of 1000' from the I-280 right of way including the off ramps and particularly the on ramp due to vehicular acceleration resulting in increased air pollution emissions.
10. VOCs are not mitigated with HEPA filtration. This makes siting residences, medical facilities, school facilities, and daycares more than 1000' from the freeway imperative. Require a Merv 13 filter or better in the 1000' area and require the replacement of the filters with some city determined verification that the filters are changed.  
<http://www.latimes.com/local/lanow/la-me-ln-freeway-pollution-filters-20170709-story.html>
11. Employees working in the parking garages in the TDM program (valets underground) will need to have air quality monitored for safety. Usually they would have a separate room which is well ventilated and preferably an automated payment system for metered parking. However, if workers are needed to pack cars tightly, then the whole underground parking area would have to be rendered safe for workers exposed to the air pollution found in parking garages for a full work day.

**Response DD.49:** Refer to Section 5.2 Response II.E.49

**Comment DD.50:** IMPACT AQ-4

*The proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would result in a cumulatively considerable net increase of criteria pollutants (ROG, NOx, PM10, and/or PM2.5) for which the project region is non-attainment under an applicable federal or state ambient air quality standard.*

***Significant and Unavoidable Impact with Mitigation Incorporated***

*Mitigation Measure: MM AQ-4.1: Implement MM AQ-3.1.*

This is an incomplete analysis with incomplete mitigation measures. Refer to additional air pollution sources and mitigations listed in Impact AQ-3 above. No study of TDM workers in the underground garages has been done.

**Response DD.50:** Refer to Section 5.2 Response II.E.50.

**Comment DD.51:** IMPACT AQ-6:

*The proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would expose sensitive receptors to substantial construction dust and diesel exhaust emissions concentrations.*

## ***Significant and Unavoidable Impact with Mitigation Incorporated***

*Mitigation Measures: MM AQ-6.1: Implement MM AQ-2.1 and -2.2.*

- 1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.*
- 2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.*

This impact is not specific enough. Because there is an error in the calculations, explained in the Air Quality and Greenhouse Gas Emissions Assessment section fully, the mitigations must be made more strict. It should be mentioned, that the exposure has critical peaks of hazardous levels of GHGs.

**Response DD.51:** Refer to Section 5.2 Response II.E.51.

### **Comment DD.52:** HAZARDOUS MATERIALS

Some of the site interiors appear to have had demolition occur already. Was this done to code? How is that known?

*“Potential sources of on-site contamination – The Vallco site was historically used for agricultural purposes, and has been developed and operating as a shopping mall since at least 1979. The site is listed on regulatory agency databases as having leaking underground storage tanks (LUSTs), removing and disposing of asbestos containing materials (ACMs), and a small quantity generator of hazardous materials waste. Surface soils may contain elevated levels of residual pesticides and other chemicals of concern related to past and present use and operations at the site.” - JD Powers VTCSP 9212 report*

Include the following, modified from VTCSP 9212 report, JD Powers:

***Soil Management Plan:*** *A Soil Management Plan for all redevelopment activities shall be prepared by applicant(s) for future development to ensure that excavated soils are sampled and properly handled/disposed, and that imported fill materials are screened/analyzed before their use on the property.*

***Renovation or Demolition of Existing Structures:*** *Before conducting renovation or demolition activities that might disturb potential asbestos, light fixtures, or painted surfaces, the Town Center/Community Park applicant shall ensure that it complies with the Operations and Maintenance Plan for management and abatement of asbestos-containing materials, proper handling and disposal of fluorescent and mercury vapor light fixtures, and with all applicable requirements regarding lead-based paint.*

***Proposed use of hazardous materials*** – *Development of the VTC and alternatives could include uses that generate, store, use, distribute, or dispose of hazardous materials such petroleum products, oils, solvents, paint, household chemicals, and pesticides. The VTC shall include the following EDF to reduce adverse effects from on-site use of hazardous materials:*

***Hazardous Materials Business Plan:*** *In accordance with State Code, facilities that store, handle or use regulated substances as defined in the California Health and Safety Code Section 25534(b) in excess of threshold quantities shall prepare and implement, as necessary, Hazardous*



*Materials Business Plans (HMBP) for determination of risks to the community. The HMBP will be reviewed and approved by the Santa Clara County Department of Environmental Health Hazardous Materials Compliance Division through the Certified Unified Program Agencies (CUPA) process*

Refer to Subchapter 4. Construction Safety Orders, Article 4. Dusts, Fumes, Mists, Vapors, and Gases: <https://www.dir.ca.gov/title8/1529.html>

**Response DD.52:** Refer to Section 5.2 Response II.E.52.

**Comment DD.53:** IMPACT AQ-7

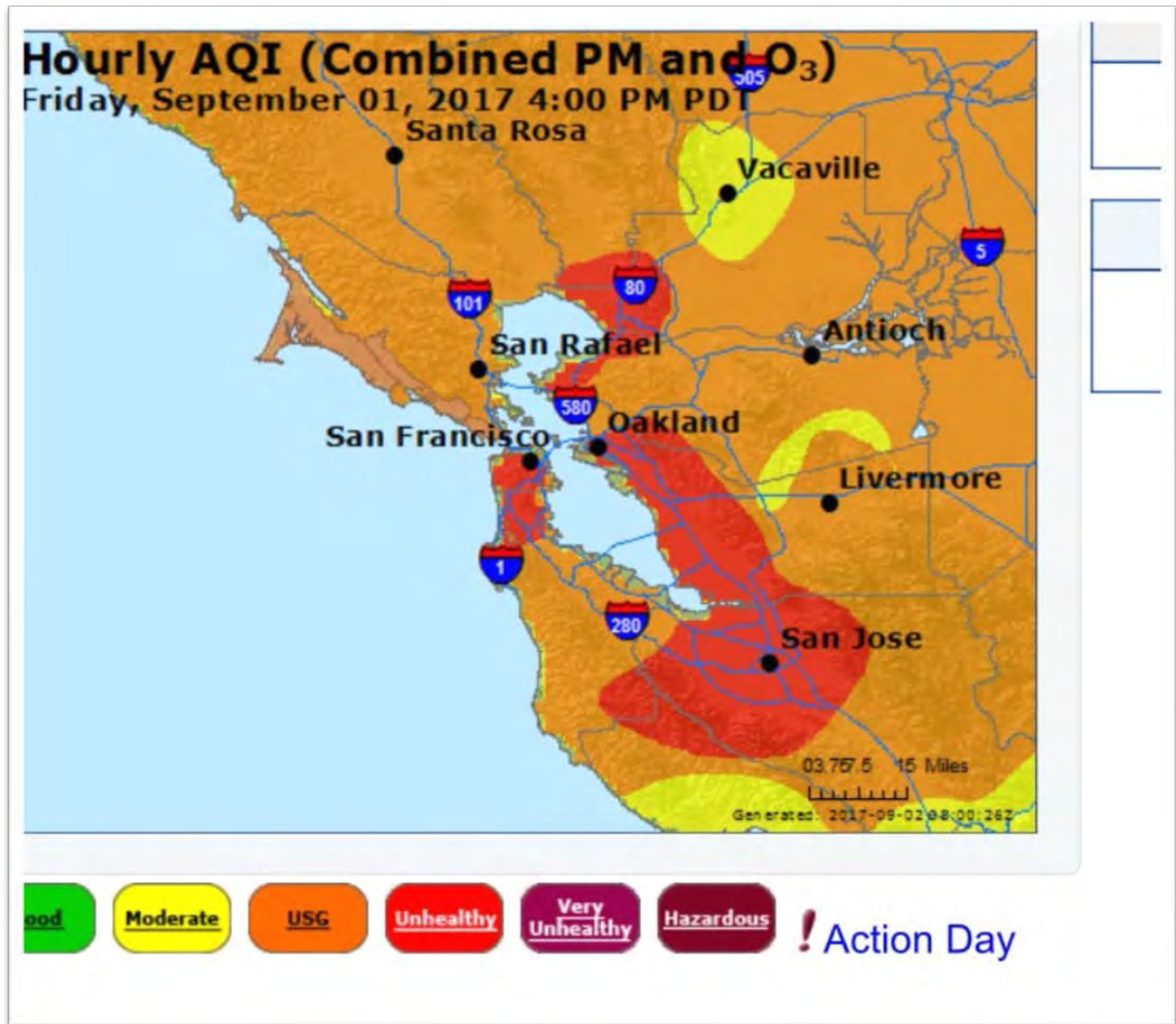
*The proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would expose sensitive receptors to substantial TAC pollutant concentrations.*

***Less than Significant Impact with Mitigation Incorporated***

*MM AQ-7.1: Future development under the proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) shall implement mitigation measure MM AQ-2.1 to reduce on-site diesel exhaust emissions, which would thereby reduce the maximum cancer risk due to construction of the project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative).*

The cancer risk assessment is based on erroneous traffic studies and the air quality monitoring stations had old data from 2013 and/or were too far away to use data. The cancer risk needs to be recalculated. The amount of exposure time should reflect seniors not leaving the project area. The baseline air quality monitoring must be taken over an extended period with particular attention paid to the summer months when Ozone levels increase. Here is an example day when children would be playing outdoors, Ozone was the primary pollutant. Note these are regional amounts, and the increases along the freeways are not shown:

Figure 25: AQI from BAAQMD



**Response DD.53:** Refer to Section 5.2 Response II.E.53.

**Comment DD.54:** The I-280 freeway produces substantial TAC pollutant concentrations and the south bay is subjected to the entire bay area's pollutants which are converted to Ozone in the warm summer months. The DEIR failed to monitor air pollution for the site for any time period, and only modeled pollutants onsite. Fires are expected to be the new normal, bringing potential further impacts to the region's air quality.

The heights of the structures planned, and layout, and planned green roof, will likely concentrate freeway pollutants into the project area and combine and intensify them with onsite traffic. Having 85% of the parking garages underground and with fresh air intake being difficult to locate may result in significantly unhealthy air quality and the need for expensive mechanical filtration which does not filter VOCs. Adding what may be approximately 147,000 SF of restaurant and up to 4,000 residential units producing cooking and restroom exhaust with a challenging ventilation system may further degrade the air quality on site. The roof park may enclose the site to the point of having hazardous air quality. The roof park covering was not studied in the cancer risk assessment model.

Reducing the amount of underground parking and having above grade parking with open walls in above ground structures is a mitigation. Alternatively, Merv 13 or better filtration and air quality monitors in the subterranean garages may improve the air quality, but it is not clear which would be better. The project alternative with 4,000 residential units will most likely result in residents within 1,000' of the freeway, re-tenanted mall results in the least construction and operational pollution, least cancer risk, and least long term GHG exposure since no residential units would be onsite.

**Response DD.54:** Refer to Section 5.2 Response II.E.54.

**Comment DD.55:** Project is “down wind” of the freeway. The freeway has over 160,000 vehicles per day and is increasing in congestion. Planned projects in San Jose will likely balance the directional flow of the I-280 and worsen traffic. Freeway pollution has been found to travel up to 1.5 miles resulting in readings above baseline.

The project will significantly slow traffic, and therefore it will increase air pollution levels. Pollutants increase dramatically when going 13 mph vs 45 mph for example, see Zhang, Kai, and Stuart Batterman. “Air Pollution and Health Risks due to Vehicle Traffic.” The Science of the total environment 0 (2013): 307–316. PMC. Web. 30 May 2018.

**Response DD.55:** Refer to Section 5.2 Response II.E.55.

**Comment DD.56:** The cumulative effects of the existing air quality next to the freeway, trapping air pollution from the geometry of the buildings proposed and potential roof, must be studied. Project may result in a tunnel effect. see Zhou R, Wang S, Shi C, Wang W, Zhao H, Liu R, et al. (2014) Study on the Traffic Air Pollution inside and outside a Road Tunnel in Shanghai, China. PLoS ONE 9(11): e112195. <https://doi.org/10.1371/journal.pone.0112195>

**Response DD.56:** Refer to Section 5.2 Response II.E.56.

**Comment DD.57:** CANCER RISK ASSESSMENT, CONSTRUCTION PHASE, CONTRADICTS PREVIOUS STUDY

The construction phase cancer risk assessment is lower than that prepared for the Measure D Vallco Town Center Environmental assessment, which, without EDFs is copied here, this disparity does not make sense:

Figure 26: VTC Hills at Vallco Cancer Risk Assessment - High

**Table AQ-13**  
**Project-Related Construction Health Risk Impacts at Sensitive Receptors, Without EDFs**  
**Town Center/Community Park**  
**Cupertino, California**

Emission Source	Cancer Risk Impact <sup>1</sup> (in one million)	Chronic Non-Cancer Hazard Index <sup>1</sup>	Acute Non-Cancer Hazard Index <sup>1</sup>	Annual PM <sub>2.5</sub> Concentration <sup>1</sup> (ug/m <sup>3</sup> )
Project Construction, Without EDFs	83	0.065	0.21	0.296
<b>BAAQMD Significance Threshold</b>	<b>10</b>	<b>1</b>	<b>1</b>	<b>0.3</b>

**Notes:**  
 1. The existing residential locations experiencing maximum project impacts with no EDFs are:

	UTMx	UTMy
Cancer	587135.52	4131721.81
Chronic HI, PM <sub>2.5</sub>	587134.89	4131761.81
Acute HI	587057.1	4131620.57

**Abbreviations:**  
 BAAQMD: Bay Area Air Quality Management District  
 EDF: Environmental Design Feature  
 HI: health index  
 ug/m<sup>3</sup>: micrograms per cubic meter  
 UTM: Universal Transverse Mercator coordinate system

And with EDF's here:

Figure 27: VTS Hills at Vallco Cancer Risk Assessment with EDFs

**Table AQ-14**  
**Project-Related Construction Health Risk Impacts at Sensitive Receptors, With EDFs**  
**Town Center/Community Park**  
**Cupertino, California**

Emission Source	Cancer Risk Impact <sup>1</sup> (in one million)	Chronic Non-Cancer Hazard Index <sup>1</sup>	Acute Non-Cancer Hazard Index <sup>1</sup>	Annual PM <sub>2.5</sub> Concentration <sup>1</sup> (ug/m <sup>3</sup> )
Project Construction, With EDFs	7.5	0.0063	0.089	0.024
<b>BAAQMD Significance Threshold</b>	<b>10</b>	<b>1</b>	<b>1</b>	<b>0.3</b>

**Notes:**  
 1. The existing residential locations experiencing maximum project impacts with EDFs are:

	UTMx	UTMy
Cancer	587360.2	4131425.31
Chronic HI, PM <sub>2.5</sub>	587361.46	4131345.32
Acute HI	587330.47	4132044.92

**Abbreviations:**  
 BAAQMD: Bay Area Air Quality Management District  
 EDF: Environmental Design Feature  
 HI: health index  
 ug/m<sup>3</sup>: micrograms per cubic meter  
 UTM: Universal Transverse Mercator coordinate system

P. 55 of GHG Assessment cancer risk assessment shows much lower risk:



*“Results of this assessment indicate that the maximum excess residential cancer risks would be 26.7 in one million for an infant/child exposure and 0.9 in one million for an adult exposure. The maximally exposed individual (MEI) would be located at a second floor residence at the location shown in Figure 5. The maximum residential excess cancer risk at the MEI would be greater than the BAAQMD significance threshold of 10 in one million. Implementation of Mitigation Measures AQ-1 and AQ-2 would reduce this risk to below the BAAQMD threshold of significance.”*

This lower result for a larger project does not make sense given both the proximity to the I-280, down wind location, and the questionable ability of the city to enforce what types of construction vehicles are used, what types of architectural coatings are used, what company electricity is purchased from, and maintain freeway volumes from increasing and slowing traffic further.

**Response DD.57:** Refer to Section 5.2 Response II.E.57.

**Comment DD.58:** Impact AQ-9

*Implementation of the proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would cumulatively contribute to cumulatively significant air quality impacts in the San Francisco Bay Area Air Basin. Significant and Unavoidable Impact with Mitigation Incorporated*

*MM AQ-9.1: Implement MM AQ-3.1*

*MM AQ-3.1: Future development under the proposed project (and General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative) shall use low-VOC paint (i.e., 50 g/L or less) on operational architectural coatings and no hearths or fireplaces (including natural gas-powered) shall be installed in the residential units.*

This is very incomplete, this suggests the re-tenanted mall is the best alternative.

**Response DD.58:** Refer to Section 5.2 Response II.E.58.

**Comment DD.59:** 3.4 BIOLOGICAL RESOURCES

The conclusions that there are no significant impacts on biological resources are incorrect and mitigations are not achievable.

General Plan Strategy LU-19.1.13 “Retain trees along the Interstate 280, Wolfe Road and Stevens Creek Boulevard to the extent feasible, when new development are proposed.”

The DEIR states: “The existing 1,125 trees on the project site were planted as part of the development of Vallco Shopping Mall and, therefore, are all protected trees.”

Because of the closing of mall activities, there has very likely been an increase in wildlife on the site with less human presence.

**Response DD.59:** Refer to Section 5.2 Response II.E.59.

**Comment DD.60:** The city has demonstrated that they will approve construction of an excessively glazed structure, Apple Park, where both birds and humans will run into the glass and be harmed. There is no assurance that there will be care taken for the existing wildlife on site during construction, and no assurance there will be care in maintaining the habitat in the future. Referring to the Vallco SB 35 application excuse that there are essentially, too many ash trees on the property provides only an expectation that the developer intends to cut them all down.

A mitigation suggested includes: “Prohibiting glass skyways and freestanding glass walls” While renderings of the two story walkway over Wolfe Rd. show an all glass walled structure. Roof top amenities shown with tall glass walls. There does not appear to be any intention to enforce this mitigation.

**Response DD.60:** Refer to Section 5.2 Response II.E.60.

**Comment DD.61:**

The following mitigation should be added, from Measure D VTCSP:

*“30. Nitrogen Deposition Fee: The Town Center/Community Park applicant and other project applicants for future development shall pay a Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan Nitrogen Deposition Fee to the Implementing Entity of the Habitat Conservation Plan, the Santa Clara Valley Habitat Agency, even though the fee would not otherwise be legally applicable to the future development. The Town Center/Community Park applicant shall pay the Nitrogen Deposition Fee commensurate with the issuance of building permits within the Town Center/Community Park.- source VTCSP 9212 report, JD Powers”*

**Response DD.61:** Refer to Section 5.2 Response II.E.61.

**Comment DD.62:** Apply the following from VTCSP with multiple historical photographs and educational information boards.

*“The Vallco Shopping District is designated as a City Community Landmark in the City’s General Plan. The General Plan EIR concluded that the redevelopment of the Vallco site would not result in significant impacts to historic resources, if redevelopment is consistent with General Plan Policy LU-6.3.60 The VTCSP would be consistent with General Plan Policy LU-6.3 by providing a plaque, reader board and/or other educational tools on the site to explain the historic significance of the resource. The plaque shall include the city seal, name of resource, date it was built, a written description, and photograph. The plaque shall be placed in a location where the public can view the information.- source 9212 report JD Powers”*

Include the history of environmental pollution of the orchard industry from the use of lead arsenate and DDT in the ‘Valley of Heart’s Delight’, photos of child employment “cutting ‘cots””, to environmental pollution from the computer industry including the Apple Park superfund site and pollutants at 19,333 Vallco Parkway (where pollutants like Freon and TCE were allegedly just dumped out the back door), and the onsite pollution already noted in this DEIR to the history of the site, to proposed project and alternatives.

**Response DD.62:** Refer to Section 5.2 Response II.E.62.

**Comment DD.63:**

Figure 28: DEIR: Energy Demand

	Estimated Electricity Demand* (GWh per year)	Estimated Natural Gas Demand* (Btu per year)	Estimated Gasoline Demand† (million gallons per year)
Existing	7	703 million	2
Proposed Project	70	64 billion	12
General Plan Buildout with Maximum Residential Alternative	60	63 billion	10
Retail and Residential Alternative	45	57 billion	6
Occupied/Re-Tenanted Mall Alternative	19	12 billion	4

Notes: \* The net energy demand is identified for the proposed project and project alternatives.  
† The estimated gasoline demand was based on the estimated vehicle miles traveled discussed in Section 3.17 Transportation/Traffic and the average fuel economy of 35 mpg.  
Source: Illingworth & Rodkin, Inc. *Vallco Special Area Specific Plan Air Quality and Greenhouse Gas Emissions Assessment*, May 2018. Attachment 2.

Because the city has no regulatory framework with which to ensure poorly operating equipment is used for the construction of the project, or for operation, or that energy would be purchased from one supplier over another, or that recycled water would come from one source over another, assumptions that the project will have less than significant impact are not verifiable. Additionally, proposed project requires 3 times the electricity, 5 times the natural gas, and 3 times the gasoline demand of the occupied/re-tenanted mall alternative.

**Response DD.63:** Refer to Section 5.2 Response II.E.63.

**Comment DD.64:** 3.7 GEOLOGY AND SOILS

There is very likely a huge amount of topsoil which was encased in the mounded soil to the north of the JC Penney building. Excavation of the site will remove any and all of what was once topsoil on the site and excavate up to 45’ below the top of curb on Wolfe Road for the subterranean parking structures.

**Response DD.64:** Refer to Section 5.2 Response II.E.64.

**Comment DD.65:** 3.8 GREENHOUSE GASES AND AIR QUALITY AND GREENHOUSE GAS EMISSIONS ASSESSMENT

Baseline values are unacceptable due to their being a combination of an air quality monitoring station from the west side of Cupertino, in a neighborhood (Voss Avenue site which closed in 2013) and data from San Jose monitoring stations which are approximately 10 miles away. Meteorological data was used from 2006-2010 at the San Jose Mineta airport, which is both too old, too far from the site, and irrelevant due to the recent drought conditions. Project site, adjacent to the I-280, has had no relevant air quality monitoring, ever. Guidelines §15064.4 in conjunction with Guidelines § 15125 concerning project baselines (“An EIR must include a description of the physical environmental conditions in the vicinity of the project, as they exist at the time the notice of preparation is published, which was February 8, 2018. The most recent data used as a baseline was from 2016. There is no excuse for not actually monitoring the air quality at the site given the relatively low cost to rent the instruments and the immense size of this project. Additionally, the air quality expectations for the existing sensitive receptors throughout the construction process will impose an

increased cancer risk, in particular during the 130 day architectural coating period, demolition phase, and excavation.

Figure 29: DEIR Air Quality Monitors

BAAQMD monitors air pollution at various sites within the Bay Area. The closest official monitoring station is located in Cupertino at 22601 Voss Avenue. However, that station closed in 2013, so data from San Jose are presented for years 2014 through 2016. Pollutant monitoring results for the years 2012 and 2013 at the Cupertino ambient air quality monitoring station are shown in Table 3.

**TABLE 3 Ambient Air Quality at the Cupertino and San Jose Monitoring Stations**

Pollutant	Average Time	Measured Air Pollutant Levels				
		Cupertino		San Jose		
		2012	2013	2014	2015	2016
Ozone (O <sub>3</sub> )	1-Hour	0.083 ppm	0.091 ppm	0.089ppm	0.094 ppm	0.087 ppm
	8-Hour	0.067 ppm	<b>0.077 ppm (1 day)</b>	0.066 ppm	<b>0.081 ppm (2 days)</b>	0.066 ppm
Carbon Monoxide (CO)	8-Hour	0.73 ppm	ND	ND	ND	ND
Nitrogen Dioxide (NO <sub>2</sub> )	1-Hour	0.045 ppm	0.042 ppm	0.058 ppm	0.049 ppm	0.051 ppm
	Annual	0.008 ppm	0.009 ppm	0.013 ppm	0.012 ppm	0.011 ppm
Respirable Particulate Matter (PM <sub>10</sub> )	24-Hour	41.5 µg/m <sup>3</sup>	33.5 µg/m <sup>3</sup>	<b>56.4 µg/m<sup>3</sup> (1 day)</b>	<b>58.8 µg/m<sup>3</sup> (1 day)</b>	41.0 µg/m <sup>3</sup>
	Annual	13.5 µg/m <sup>3</sup>	14.5 µg/m <sup>3</sup>	20.0 µg/m <sup>3</sup>	<b>21.9 µg/m<sup>3</sup></b>	18.3 µg/m <sup>3</sup>
Fine Particulate Matter (PM <sub>2.5</sub> )	24-Hour	27.5 µg/m <sup>3</sup>	<b>38.9 µg/m<sup>3</sup></b>	<b>60.4 µg/m<sup>3</sup> (2 days)</b>	<b>49.4 µg/m<sup>3</sup> (2 days)</b>	22.7 µg/m <sup>3</sup>
	Annual	ND	8.5 µg/m <sup>3</sup>	8.4 µg/m <sup>3</sup>	9.9 µg/m <sup>3</sup>	8.4 µg/m <sup>3</sup>

Source: CARB, 2018. <https://www.arb.ca.gov/adam/>

Note: ppm = parts per million and µg/m<sup>3</sup> = micrograms per cubic meter  
 Values reported in **bold** exceed ambient air quality standard  
 ND = No Data available.

**Response DD.65:** Refer to Section 5.2 Response II.E.65.

**Comment DD.66:** GHG assessment must require an analysis of how existing environmental conditions will impact future residents or users of the proposed project because "... the proposed project risks exacerbating environmental hazards or conditions that already exist (California Supreme Court Case No. S213478)." Proposed project will have operational GHG emissions in excess of BAAQMD thresholds. No accurate existing environmental conditions have yet been recorded.

**Response DD.66:** Refer to Section 5.2 Response II.E.66.

**Comment DD.67:** Proposed project will exacerbate traffic in the area and especially on I-280, backing up and slowing down traffic. Free flowing traffic produces much less air pollution than stop



and go traffic. Proposed project will exacerbate existing environmental hazards to the detriment of future residents and users. Proposed project will reduce and potentially trap airflow due to tall buildings planned and proposed 30 acre green roof which may further impede airflow and trap exhaust from traffic in the interior street grid. The green roof plans so far presented in Measure D and the Vallco SB 35 application thus far do not have living spaces directly under them to have the cooling benefit from the insulation and the roof is planned too high to mitigate air pollution for residents living below it where freeway air pollutants settle.

**Response DD.67:** Refer to Section 5.2 Response II.E.67.

**Comment DD.68:** Plans from the Specific Plan process are not finalized but have all shown 2 levels of underground parking. The site location across the freeway and massive Apple Park parking garages make it even more impacted by the freeway because 14,200 Apple employees will work at that site (according to Cupertino Mayor Paul, 6,000 employees had occupied the site as of March, 2018 up from a few hundred in December, 2017) and have acceleration and deceleration off the freeway at the Wolfe Rd. exit.

Unfortunately, Vallco site is downwind of the I-280, yet the GHG modeling selected “variable” wind rather than the N NE calm conditions typical, in doing so the pollutants would dissipate differently than actual conditions. CO modeling within the site needs to be performed along with studying the other GHG emissions. This is imperative because (as the traffic study reflects, by showing high trip reduction rates) people are expected to live and work on site and have retail needs met as well, potentially not leaving the area.

**Response DD.68:** Refer to Section 5.2 Response II.E.68.

**Comment DD.69:** GHG calculations assume an exhaust pipe height for all construction equipment of 16.9’ which is inaccurate.

**Response DD.69:** Refer to Section 5.2 Response II.E.69.

**Comment DD.70:** 2 Million CY of soil export assumption may be increased due to the Specific Plan process currently stating 85% of parking will be subterranean.

**Response DD.70:** Refer to Section 5.2 Response II.E.70.

**Comment DD.71:** Mitigation of Operational project that electricity would be purchased from a new company, Silicon Valley Clean Energy is not enforceable, and the assumption in GHG calculations that the site currently uses PG&E is not consistent with the Land Use chapter stating the site currently uses SVCE and will continue to do so.

**Response DD.71:** Refer to Section 5.2 Response II.E.71.

**Comment DD.72:** Construction period PM 2.5 Exhaust and PM 10 Exhaust do not have PM 2.5 and PM 10 values resulting from demolition and excavation? They appear to just show exhaust.

**Response DD.72:** Refer to Section 5.2 Response II.E.72.

**Comment DD.73:** DEIR GHG and Air Quality reports do not appear to have studied the cooling tower/central plant. The following has been modified from the JD Powers VTCSP 9212 report for the proposed project:

“The proposed project and alternatives will likely include a central plant (a stationary source), which would provide heating, ventilation, and air conditioning for most buildings. The central plant would consist of a condenser water system, cooling towers, and boilers. It is possible that operation of the central plant produce greenhouse gas emissions that would exceed the BAAQMD greenhouse gas threshold of significance for stationary sources. The proposed project should include the following EDF to reduce greenhouse gas emission impacts from the central plant:

“36. **Central Plant Boilers Carbon Offsets:** Prior to completion and operation of any Central Plant Boilers with emissions above 10,000 MT C02e/yr., the Town Center/Community Park applicant and other project applicants for future development shall enter into one or more contracts to purchase voluntary carbon credits from a qualified greenhouse gas emissions broker in an amount sufficient to offset the operational emissions above 10,000 MT C02e/yr., on a net present value basis in light of the fact that the applicant shall acquire such credits in advance of any creation of the emissions subject to the offset.

Pursuant to CARB’s Mandatory Reporting Requirements, applicant(s) shall register the Central Plant Boilers in the Mandatory Greenhouse Gas Emissions Reporting Program. The applicant(s) shall provide copies of carbon purchase contracts to CARB during registration.

The City would likely first require any feasible on-site modifications to the stationary source to reduce greenhouse gas emissions. If the greenhouse gas emissions from the stationary source could not be reduced below the BAAQMD threshold of significance, the City would likely require carbon credits (such as those identified in EDF 36) be purchased and that the credits be locally sourced (i.e., within the City of Cupertino, County of Santa Clara, or same air basin).”

**Response DD.73:** Refer to Section 5.2 Response II.E.73.

**Comment DD.74:** Here is the subterranean parking plan from the SB 35 application:

Figure 30: SB 35 Vallco Subterranean Parking Plan



Here is the subterranean parking plan from Vallco Measure D, nearly identical:  
Figure 31: VTC Hills at Vallco Subterranean parking Plan



General Comments: GHG emissions should be calculated for the actual construction period which is 6-8 years according to Vallco Property owner representative, Reed Moulds. By dividing tons of GHG by 10 year construction artificially lower results end up being compared to BAAQMD thresholds.

**Response DD.74:** Refer to Section 5.2 Response II.E.74.

**Comment DD.75:** The Hyatt House construction will be complete before Proposed Project construction begins and should not be included in the study for construction emissions. The lot acreage input perhaps should read 50.82 acres, instead of 58.00 per the data entry because construction on other parcels is not part of this study, and would be completed, however the operational emissions would include buildout of the entire Vallco Shopping District Specific Plan Area:



Figure 32: DEIR GHG Section, Acreage

tblLandUse	LotAcreage	45.91	58.00
tblLandUse	LotAcreage	102.52	0.00

**Response DD.75:** Refer to Section 5.2 Response II.E.75.

**Comment DD.76:** The traffic volume at I-280 was incorrectly pulled from the referenced Caltrans traffic count. I-280, between Wolfe Rd. and Stevens Creek Blvd. has an AADT of 176,000 and between Wolfe Rd. and De Anza/Saratoga Sunnyvale Blvd. of 168,000:

Figure 33: Caltrans Traffic

Dist	Route	County	Postmile	Description	Back Peak Hour	Back Peak Month	Back AADT	Ahead Peak Hour	Ahead Peak Month	Ahead AADT
02	273	SHA	16.833	JCT. RTE. 299 W AND JCT. RTE. 44 E				1750	17400	15800
02	273	SHA	17.39	QUARTZ HILL/RIO	1700	17400	16200	1800	19300	19000
02	273	SHA	17.81	REDDING, BENTON DRIVE	1800	19300	19000	1950	21700	20800
02	273	SHA	18.622	LAKE BOULEVARD	1950	21700	20800	1250	12800	12700
02	273	SHA	18.92	TWINVIEW BOULEVARD	1250	12800	12700	860	14200	9000
02	273	SHA	19.77	CATERPILLAR ROAD	860	14200	9000	710	7300	7100
02	273	SHA	20.033	JCT. RTE. 5	710	7300	7100			
03	275	YOL	12.009	JCT. RTE. 50				1350	11300	9300
03	275	YOL	12.039	WEST SACRAMENTO, JCT. RTE. 84	1350	11300	9300	1850	18000	16500
03	275	YOL	13.077	SAC/YOL COUNTY LINE, END OF ROUTE	1850	18000	16500			
03	275	SAC	0	SAC/YOL COUNTY LINE, END OF ROUTE				1850	18000	16500
04	280	SCL R	0	SAN JOSE, JCT. RTES. 101/680				12600	169000	164000
04	280	SCL R	366	MCLAUGHLIN AVENUE	13400	179000	174000	19800	264000	256000
04	280	SCL R	1.294	SAN JOSE, 10TH STREET	19800	264000	256000	17900	238000	231000
04	280	SCL R	1.992	SAN JOSE, JCT. RTE. 82	17900	238000	231000	18600	247000	240000
04	280	SCL R	2.522	SAN JOSE, JCT. RTE. 87	18600	247000	240000	15100	201000	195000
04	280	SCL R	2.875	SAN JOSE, BIRD AVENUE	15100	201000	195000	18600	248000	241000
04	280	SCL R	3.764	RACE STREET/SOUTHWEST EXPRESSWAY	18600	248000	241000	12900	172000	167000
04	280	SCL L	4.663	SAN JOSE, LELAND AVENUE	14400	193000	187000	15800	211000	205000
04	280	SCL L	5.408	SAN JOSE, JCT. RTES. 17/880	15800	211000	205000	15400	203000	196000
04	280	SCL L	5.954	SAN JOSE, WINCHESTER BOULEVARD	15100	202000	195000	17000	228000	220000
04	280	SCL	5.949	SAN JOSE, SARATOGA AVENUE	17000	228000	220000	14900	199000	192000
04	280	SCL	7.123	SAN JOSE, LAWRENCE EXPRESSWAY	14900	199000	192000	11600	155000	150000
04	280	SCL	7.388	STEVENS CREEK BOULEVARD	11600	155000	150000	13200	176000	170000
04	280	SCL	8.375	CUPERTINO, WOLFE ROAD	13200	176000	170000	12500	168000	162000
04	280	SCL	9.433	SARATOGA, SUNNYVALE/DE ANZA BOULEVARD	12500	168000	162000	11300	151000	146000

Caltrans, 2017. 2016 Annual Average Daily Truck Traffic on the California State Highway System. Available: <http://www.dot.ca.gov/trafficops/census/>

The GHG Assessment chose the lowest value from the Caltrans data to use (162,000 AADT), rather than the highest peak month value which would be a base rate of 176,000 AADT:

Figure 34: DEIR, GHG, Traffic

Traffic Data Year = 2016						
Caltrans Truck AADT	Total	Total Truck	Truck by Axle			
			2	3	4	5
I-280 B Saratoga,Sunnyvale/De Anza E	162,000	5,119	2,466	505	138	2,011
			48.17%	9.86%	2.70%	39.28%
Percent of Total Vehicles		3.16%	1.52%	0.31%	0.09%	1.24%
Traffic Increase per Year (%) = 1.00%						

The following data appears to have no source dividing up vehicular type, speed, and what type of emission each would have, and the 2029 predicted number of vehicles is too low, showing only 183,061 AADT:

Figure 35: DEIR, GHG, Traffic

Vallco Specific Plan, Cupertino, CA  
I-280 Traffic Data and PM2.5 & TOG Emission Factors - 60 mph

Analysis Year = 2029										
Vehicle Type	2016 Caltrans Number Vehicles (veh/day)	2029 Number Vehicles (veh/day)	2029 Percent Diesel	Number Diesel Vehicles (veh/day)	Vehicle Speed (mph)	Emission Factors				
						Diesel Vehicles DPM (g/VMT)	All Vehicles Total PM2.5 (g/VMT)	Exhaust PM2.5 (g/VMT)	Gas Vehicles Exhaust TOG (g/VMT)	Running TOG (g/VMT)
LDA	112,843	127,512	1.30%	1,658	60	0.0017	0.0188	0.0011	0.0069	0.037
LDT	44,038	49,783	0.19%	96	60	0.0036	0.0188	0.0011	0.0098	0.066
MDT	2,466	2,786	11.24%	313	60	0.0064	0.0220	0.0015	0.0185	0.156
HDT	2,654	2,999	90.45%	2,713	60	0.0037	0.0527	0.0033	0.0264	0.070
Total	162,001	183,061	-	4,780	60	-	-	-	-	-
Mix Avg Emission Factor						0.00315	0.01941	0.00110	0.00785	0.04671
Increase From 2016		1.13								
Vehicles/Direction		91,530		2,390						
Avg Vehicles/Hour/Direction		3,814		100						
Traffic Data Year = 2016										
Caltrans Truck AADT	Total	Total* Truck	Truck by Axle							
			2	3	4	5				
I-280 B Saratoga,Sunnyvale/De Anza E	162,000	5,119	2,466	505	138	2,011				
			48.17%	9.86%	2.70%	39.28%				
Percent of Total Vehicles		3.16%	1.52%	0.31%	0.09%	1.24%				
Traffic Increase per Year (%) = 1.00%										

The predicted ADT for I-280 was not included in the GHG calculation which has a 2029 starting date. The following VTA study shows the 2035 ADT predictions for segment A (Vallco site is within segment A). There should be a 2040 AADT prediction available as well. The 2035 forecast was for a total of 284,492 ADT for 2035.

Figure 36: VTA 2035 Forecast

Table 11: I-280 Future Traffic Projections

Forecast Future Conditions – 2035											
Segment	Directional										Truck %
	NB AM peak hr	SB AM peak hr	NB PM peak hr	SB PM peak hr	NB AM peak hr V/C	SB AM peak hr V/C	NB PM peak hr V/C	SB PM peak hr V/C	NB AADT	SB AADT	
A	10,435	9,029	11,052	10,333	1.24	1.07	1.32	1.23	150,496	133,996	3.1%
B	7,875	7,875	7,088	7,875	0.83	0.83	0.75	0.83	90,625	84,306	3.3%
C	6,235	8,400	8,400	5,979	0.74	1.00	1.00	0.71	74,674	71,604	2.3%
D	6,991	8,400	8,400	5,851	0.83	1.00	1.00	0.70	76,490	72,706	1.7%
E	7,834	8,400	8,400	8,400	0.93	1.00	1.00	1.00	119,725	125,179	0.9%
F	8,400	5,480	6,016	8,400	1.00	0.65	0.72	1.00	102,705	106,516	1.7%
G	7,350	3,595	5,106	6,043	1.17	0.57	0.81	0.96	71,565	60,838	2.5%
H	3,915	1,921	2,421	3,174	0.93	0.46	0.58	0.76	36,098	33,503	2.1%

Source: Caltrans, District 4

Source:

[http://www.dot.ca.gov/dist4/systemplanning/docs/tcr/I280draft\\_final\\_tcr\\_signed\\_07162013\\_nr\\_ig.pdf](http://www.dot.ca.gov/dist4/systemplanning/docs/tcr/I280draft_final_tcr_signed_07162013_nr_ig.pdf)

**Response DD.76:** Refer to Section 5.2 Response II.E.76.

**Comment DD.77:** GHG assessment has errors in selecting the AM and PM speeds of traffic, in particular the PM peak period average travel speed of 60 MPH is incorrect, not consistent with the CMP data they used (or our own observations) which is on the following page:

Table 4.7 2016 Freeway LOS – AM Peak Period

ID	Facility	Dir	From/To		Miles	Number of Lanes			Peak Photo Time	Max Density		LOS (Density)		Speed		Flow	
						Total	Mixed	HOV		Mixed	HOV	Mixed	HOV	Mixed	HOV	Mixed	HOV
137	I-280	EB	De Anza Blvd.	Wolfe Rd.	1.06	4	3	1	07:40 - 08:00	22	22	C	C	66	66	4360	1460
138	I-280	EB	Wolfe Rd.	Lawrence Expwy.	1.24	4	3	1	08:00 - 08:20	21	12	C	B	66	67	4160	810
120	I-280	WB	Wolfe Rd.	De Anza Blvd.	1.06	4	3	1	08:00 - 08:20	75	48	F	E	24	45	5400	2160
119	I-280	WB	De Anza Blvd.	SR 85	1.31	4	3	1	08:00 - 08:20	76	46	F	D	23	47	5250	2170

Table 4.8 2014 Freeway LOS – PM Peak Period

ID	Facility	Dir	From/To		Miles	Number of Lanes			Peak Photo Time	Max Density		LOS (Density)		Speed		Flow	
						Total	Mixed	HOV		Mixed	HOV	Mixed	HOV	Mixed	HOV		
137	I-280	EB	De Anza Blvd.	Wolfe Rd.	1.06	4	3	1	18:00 - 18:20	74	63	F	F	24	40	5330	2520
138	I-280	EB	Wolfe Rd.	Lawrence Expwy.	1.24	4	3	1	18:20 - 18:40	61	42	F	D	32	60	5860	2520
121	I-280	WB	Lawrence Expwy.	Wolfe Rd.	1.24	4	3	1	16:00 - 16:20	25	12	C	B	66	70	4950	840
120	I-280	WB	Wolfe Rd.	De Anza Blvd.	1.06	4	3	1	16:40 - 17:00	27	14	D	B	66	70	5310	980

[http://vtaorgcontent.s3-us-west-amazonaws.com/Site\\_Content/Final%20MC%20Report%202016.pdf](http://vtaorgcontent.s3-us-west-amazonaws.com/Site_Content/Final%20MC%20Report%202016.pdf)

*“For all hours of the day, other than during peak a.m. and p.m. periods, an average free-flow travel speed of 65 mph was assumed for all vehicles other than heavy duty trucks which were assumed to travel at a speed of 60 mph. Based on traffic data from the Santa Clara Valley*

*Transportation Authority's 2016 Congestion Management Program Monitoring and Conformance Report, traffic speeds during the peak a.m. and p.m. periods were identified.15 For two hours during the peak a.m. period an average travel speed of 25 mph was used for west-bound traffic. For the p.m. peak period an average travel speed of 60 mph was used for east-bound traffic. The free-flow travel speed was used for the other directions during the peak periods.” -GHG Assessment p. 39-40*

**Response DD.77:** Refer to Section 5.2 Response II.E.77.

**Comment DD.78:** IMPACT GHG-1

*Impact GHG-1: The project (and General Plan Buildout with Maximum Residential Alternative) would not generate cumulatively considerable GHG emissions that would result in a significant cumulative impact to the environment.*

***Less than Significant Cumulative Impact with Mitigation Incorporated***

An additional mitigation should include those offered for Measure D, VTCSP:

*“EDF 18. **Transportation Demand Management Plan:** Consistent with the Plan Area’s environmental design features, require the preparation and implementation of a Transportation Demand Management (“TDM”) Plan with an overall target of reducing Specific Plan office generated weekday peak hour trips by 30 percent below applicable Institute of Transportation Engineers trip generation rates...” – source VTCSP 9212 report, JD Powers.”*

**Response DD.78:** Refer to Section 5.2 Response II.E.78.

**Comment DD.79:** GHG-1 conclusion that mitigations result in less than significant cumulative impacts is inconsistent with the data from the GHG report which clearly states that the project during construction and at build out would exceed the GHG thresholds of BAAQMD, and that was determined spreading out all emissions over a period of 10 years for the construction phase which is not the actual timeline presented by the developer of 6-8 years:

**Response DD.79:** Refer to Section 5.2 Response II.E.79.

**Comment DD.80:** Figure 37: DEIR, GHG, Construction Emissions



**TABLE 6 Construction Period Emissions**

Scenario	ROG	NO <sub>x</sub>	PM <sub>10</sub> Exhaust	PM <sub>2.5</sub> Exhaust
Proposed Project Construction Emissions (tons)	41.10 tons	194.00 tons	1.68 tons	1.57 tons
Average daily emissions (pounds) <sup>1</sup>	31.6 lbs.	149.2 lbs.	1.3 lbs.	1.2 lbs.
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
<b>Exceed Threshold?</b>	<b>No</b>	<b>Yes</b>	<b>No</b>	<b>No</b>
Mitigated Proposed Project Construction Emissions (tons)		145.50 tons		
Mitigated average daily emissions (pounds) <sup>1</sup>		111.9 lbs.		
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
<b>Exceed Threshold?</b>	<b>No</b>	<b>Yes</b>	<b>No</b>	<b>No</b>
Maximum Residential Alternative Construction Emissions (tons)	51.64 tons	199.21 tons	1.73 tons	1.62 tons
Average daily emissions (pounds) <sup>1</sup>	39.7 lbs.	153.2 lbs.	1.3 lbs.	1.2 lbs.
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
<b>Exceed Threshold?</b>	<b>No</b>	<b>Yes</b>	<b>No</b>	<b>No</b>
Mitigated Maximum Residential Alternative Construction Emissions (tons)		149.41 tons		
Mitigated average daily emissions (pounds) <sup>1</sup>		114.9 lbs.		
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
<b>Exceed Threshold?</b>	<b>No</b>	<b>Yes</b>	<b>No</b>	<b>No</b>
Retail and Residential Alternative Construction Emissions (tons)	54.74 tons	175.51 tons	1.69 tons	1.58 tons
Average daily emissions (pounds) <sup>1</sup>	42.1 lbs.	135.0 lbs.	1.3 lbs.	1.2 lbs.
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
<b>Exceed Threshold?</b>	<b>No</b>	<b>Yes</b>	<b>No</b>	<b>No</b>
Mitigated Retail and Residential Alternative Construction Emissions (tons)		131.63 tons		
Mitigated average daily emissions (pounds) <sup>1</sup>		101.26 lbs.		
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
<b>Exceed Threshold?</b>	<b>No</b>	<b>Yes</b>	<b>No</b>	<b>No</b>
Notes: <sup>1</sup> Assumes 2,600 workdays				

ROG is likely due primarily from architectural coatings, as the previous Vallco Town Center Measure D Environmental Assessment showed in the Vallco Town Center Environmental Assessment PDF p 652/2023 included in the NOP EIR comments and submitted to the city:

Figure 38: DEIR, GHG, Notice Days of Construction

Table AQ-3  
 Daily Construction Mass Emissions, With EDFs  
 Town Center/Community Park  
 Cupertino, California

Project Construction	CAP Emissions (lb)			
	ROG	NOx	Exhaust PM <sub>10</sub>	Exhaust PM <sub>2.5</sub>
Off-Road Emissions	1,225	6,890	136	125
On-Road Emissions	5,282	90,773	4,188	1,956
Paving Off-Gas Emissions	60	-	-	-
Architectural Coating	43,726	-	-	-
<b>Total</b>	<b>50,293</b>	<b>97,663</b>	<b>4,324</b>	<b>2,081</b>
Length of Construction (calendar days)	1,825			
<b>Average Daily Emissions (lb/day)</b>	<b>28</b>	<b>53.5</b>	<b>2.4</b>	<b>1.1</b>
BAAQMD Significance Threshold (lb/day)	54	54	82	54

**Abbreviations:**

- CAP: Criteria Air Pollutant
- EDF: Environmental Design Feature
- lb: pounds
- NOx: nitrogen oxides
- PM: particulate matter
- ROG: reactive organic gases

The Environmental Assessment for Vallco Town Center Measure D was included in the EIR NOP comments, the following table shows errors in calculating the criteria pollutants, by dividing the entire construction period into the various pollutants, a much lower daily value is attained, this would not be the case since, architectural coatings will not be applied for the entire multi-year construction time frame, however, the GHG technical report shows 130 days or about 4 months which would likely result in extremely hazardous levels of ROGs.

Figure 39: DEIR, GHG, 130 Days for Architectural Coating

Construction Phase						
Phase Number	Phase Name	Phase Type	Start Date	End Date	Num Days Week	Num Days
1	Demolition	Demolition	1/1/2019	7/1/2019	5	130
2	Site Preparation	Site Preparation	7/2/2019	10/17/2019	5	78
3	Grading	Grading	10/18/2019	6/29/2020	5	182
4	Building Construction	Building Construction	6/30/2020	12/20/2027	5	1950
5	Paving	Paving	12/21/2027	6/19/2028	5	130
6	Architectural Coating	Architectural Coating	6/20/2028	12/18/2028	5	130

Referring back to Table 6, the tonnage of ROGs expected is 41.1, and about 80% of that is from Architectural Coatings. 130 days for architectural coatings that would be approximately 632 lbs/day which is more than ten times the BAAQMD threshold.  $41.1 \text{ tons of ROG emissions} \times 2000 \text{ lbs/ton} / 130 \text{ days} = 632 \text{ lbs/day} \times 80\% = 505.6 \text{ lbs of ROGs per day over a roughly four month period!}$



On-road emissions would be concentrated into a couple of years. Since the Proposed Project and alternatives are larger than Measure D, we can expect even larger exceeding of the BAAQMD thresholds.

**TABLE 7 2029 Operational Air Pollutant Emissions**

Scenario	ROG	NOx	PM <sub>10</sub>	PM <sub>2.5</sub>
Existing Operational Emissions (tons)	2.65 tons	5.29 tons	5.82 tons	1.58 tons
Occupied/Re-Tenanted Mall Alternative Emissions (tons)	9.83 tons	14.26 tons	15.19 tons	4.16 tons
Net Emissions (minus Existing)	7.18 tons	8.97 tons	9.37 tons	2.58 tons
Proposed Project (tons)	26.23 tons	35.20 tons	39.50 tons	10.93 tons
Net Proposed Project (minus Existing)	23.58 tons	29.91 tons	33.68 tons	9.35 tons
<i>BAAQMD Thresholds (tons per year)</i>	<i>10 tons</i>	<i>10 tons</i>	<i>15 tons</i>	<i>10 tons</i>
<b>Exceed Threshold?</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>No</b>
Maximum Residential Alternative (tons)	30.29 tons	33.61 tons	37.29 tons	10.39 tons
Net Emissions (minus Existing)	27.64 tons	28.32 tons	31.47 tons	8.81 tons
<i>BAAQMD Thresholds (tons per year)</i>	<i>10 tons</i>	<i>10 tons</i>	<i>15 tons</i>	<i>10 tons</i>
<b>Exceed Threshold?</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>No</b>
Retail and Residential Alternative (tons)	28.92 tons	20.18 tons	20.95 tons	5.98 tons
Net Emissions (minus Existing)	26.27 tons	14.89 tons	15.13 tons	4.40 tons
<i>BAAQMD Thresholds (tons per year)</i>	<i>10 tons</i>	<i>10 tons</i>	<i>15 tons</i>	<i>10 tons</i>
<b>Exceed Threshold?</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>No</b>
Average Daily Existing Emissions (pounds) <sup>1</sup>	14.5 lbs.	29.0 lbs.	31.9 lbs.	8.7 lbs.
Net Average Daily Occupied/Re-Tenanted Mall Alternative Emissions (pounds) <sup>1</sup>	39.3 lbs.	49.2 lbs.	51.3 lbs.	14.1 lbs.
Net Average Daily Proposed Project Emissions (pounds) <sup>1</sup>	129.2 lbs.	163.9 lbs.	184.5 lbs.	51.2 lbs.
<i>BAAQMD Thresholds (pounds per day)</i>	<i>54 lbs.</i>	<i>54 lbs.</i>	<i>82 lbs.</i>	<i>54 lbs.</i>
<b>Exceed Threshold?</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>No</b>
Net Average Daily Maximum Residential Alternative Emissions (pounds) <sup>1</sup>	151.5 lbs.	155.2 lbs.	172.4 lbs.	48.3 lbs.
<i>BAAQMD Thresholds (pounds per day)</i>	<i>54 lbs.</i>	<i>54 lbs.</i>	<i>82 lbs.</i>	<i>54 lbs.</i>
<b>Exceed Threshold?</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>No</b>
Net Average Daily Retail and Residential Alternative Emissions (pounds) <sup>1</sup>	144.0 lbs.	81.6 lbs.	82.9 lbs.	24.1 lbs.
<i>BAAQMD Thresholds (pounds per day)</i>	<i>54 lbs.</i>	<i>54 lbs.</i>	<i>82 lbs.</i>	<i>54 lbs.</i>
<b>Exceed Threshold?</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>No</b>

Notes: <sup>1</sup> Assumes 365-day operation.



**Response DD.80:** Refer to Section 5.2 Response II.E.80.

**Comment DD.81:** Operational air pollution thresholds per BAAQMD are lower than the construction thresholds and only PM 2.5 is not exceeded by the project but very likely exceeded by the freeway contribution. Operational Air Pollutant emissions, subtracts the existing emissions, however, that does not make sense. The threshold is in tons per year produced of GHG, not whether the project will increase the emissions by more than the threshold.

Figure 40: DEIR, GHG, Mitigated Emissions

**TABLE 8 Mitigated 2029 Operational Air Pollutant Emissions**

Scenario	ROG	NOx	PM <sub>10</sub>	PM <sub>2.5</sub>
Proposed Project (tons)	24.94 tons	35.18 tons	39.49 tons	10.93 tons
Net Proposed Project (minus Existing)	22.29 tons	29.89 tons	33.67 tons	9.35 tons
<i>BAAQMD Thresholds (tons per year)</i>	<i>10 tons</i>	<i>10 tons</i>	<i>15 tons</i>	<i>10 tons</i>
<b>Exceed Threshold?</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>No</b>
Maximum Residential Alternative (tons)	28.56 tons	33.52 tons	37.28 tons	10.38 tons
Net Emissions (minus Existing)	25.91 tons	28.23 tons	31.46 tons	8.80 tons
<i>BAAQMD Thresholds (tons per year)</i>	<i>10 tons</i>	<i>10 tons</i>	<i>15 tons</i>	<i>10 tons</i>
<b>Exceed Threshold?</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>No</b>
Retail and Residential Alternative (tons)	26.96 tons	20.04 tons	20.94 tons	5.97 tons
Net Emissions (minus Existing)	24.31 tons	14.75 tons	15.12 tons	4.39 tons
<i>BAAQMD Thresholds (tons per year)</i>	<i>10 tons</i>	<i>10 tons</i>	<i>15 tons</i>	<i>10 tons</i>
<b>Exceed Threshold?</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>No</b>
Net Average Daily Proposed Project Emissions (pounds) <sup>1</sup>	122.1 lbs.	163.8 lbs.	184.5 lbs.	51.2 lbs.
<i>BAAQMD Thresholds (pounds per day)</i>	<i>54 lbs.</i>	<i>54 lbs.</i>	<i>82 lbs.</i>	<i>54 lbs.</i>
<b>Exceed Threshold?</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>No</b>
Net Average Daily Maximum Residential Alternative Emissions (pounds) <sup>1</sup>	142.0 lbs.	154.7 lbs.	172.4 lbs.	48.2 lbs.
<i>BAAQMD Thresholds (pounds per day)</i>	<i>54 lbs.</i>	<i>54 lbs.</i>	<i>82 lbs.</i>	<i>54 lbs.</i>
<b>Exceed Threshold?</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>No</b>
Net Average Daily Retail and Residential Alternative Emissions (pounds) <sup>1</sup>	133.2 lbs.	80.8 lbs.	82.8 lbs.	24.1 lbs.
<i>BAAQMD Thresholds (pounds per day)</i>	<i>54 lbs.</i>	<i>54 lbs.</i>	<i>82 lbs.</i>	<i>54 lbs.</i>
<b>Exceed Threshold?</b>	<b>Yes</b>	<b>Yes</b>	<b>Yes</b>	<b>No</b>

Notes: <sup>1</sup> Assumes 365-day operation.

**Mitigation Measure AQ-3: Require the use of Low VOC paint for ongoing architectural coating and no hearths.** The project applicant shall require the use of Low VOC paint (i.e., 50 g/L or less) on all operational architectural coatings and that no hearths or fireplaces be installed in the residential uses (including natural gas-powered).

<http://www.cupertino.org/home/showdocument?id=20886>



**Response DD.81:** Refer to Section 5.2 Response II.E.81.

**Comment DD.82:** BL2: DECARBONIZED BUILDINGS

Air quality modeling used the old data from an air quality monitoring station set up to study Lehigh Cement and situated on Voss Road which is not adjacent to the I-280 and closed in 2013 making the data irrelevant. Additionally, that data was during a period of lesser traffic regionally.

Providing clean energy to the site through an alternative fuel provider is not a mandate. This is potential mitigation. Proposed Project may need to purchase less expensive energy. The assumption that Silicon Valley Clean Energy is the energy provider for the site ignores future condominium, retail, and office space lessors and owners from choosing which energy company serves them. This assumption is unacceptable, any GHG reductions based on this assumption need to be removed.

*“Electricity is provided to the site by Silicon Valley Clean Energy (SVCE). SVCE customers are automatically enrolled in the GreenStart plan, which generates its electricity from 100 percent carbon free sources; with 50 percent from solar and wind sources, and 50 percent from hydroelectric. Customers have the option to enroll in the GreenPrime plan, which generates its electricity from 100 percent renewable sources such as wind and solar”*

**Response DD.82:** Refer to Section 5.2 Response II.E.82.

**Comment DD.83:** BL4: URBAN HEAT ISLAND MITIGATION

*“Future development under the proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would reduce the urban heat island effect by incorporating measures such as cool surface treatments for parking facilities, cool roofs, cool paving, and landscaping to provide well shaded areas.”*

There is no approved Specific Plan to make this determination. Any GHG reductions based on this assumption, must be removed.

**Response DD.83:** Refer to Section 5.2 Response II.E.83.

**Comment DD.84:** NW2: URBAN TREE PLANTING

*Consistent: Future development under the proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would provide a comfortable, well- shaded environment.*

This statement does not mandate tree planting. The cause of shade is not described, it could be a building blocking direct light. With a 30 acre green roof, what trees would be at street level?

**Response DD.84:** Refer to Section 5.2 Response II.E.84.

**Comment DD.85:** There is an error in calculating Construction Period emissions because they use the entire 10 year construction period to get a better outcome of the pounds per day of emissions. Additionally, Sand Hill Property Company representative Reed Moulds stated in the Vallco presentation meeting presented by the League of Women Voters and the Chamber of Commerce, linked here: <https://youtu.be/hiDvHM027R4> that construction would be 6-8 years, not 10. The bulk

of the construction exhaust would occur in demolition and haul off which would be a matter of months and not years. There would be peaks in the construction emissions and they will likely exceed BAAQMD thresholds. This chart needs to be recalculated taking into consideration the reality of the construction timeline:

Figure 41: DEIR, GHG, Construction Period Emissions

**TABLE 6 Construction Period Emissions**

Scenario	ROG	NO <sub>x</sub>	PM <sub>10</sub> Exhaust	PM <sub>2.5</sub> Exhaust
Proposed Project Construction Emissions (tons)	41.10 tons	194.00 tons	1.68 tons	1.57 tons
Average daily emissions (pounds) <sup>1</sup>	31.6 lbs.	149.2 lbs.	1.3 lbs.	1.2 lbs.
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
<b>Exceed Threshold?</b>	<b>No</b>	<b>Yes</b>	<b>No</b>	<b>No</b>
Mitigated Proposed Project Construction Emissions (tons)		145.50 tons		
Mitigated average daily emissions (pounds) <sup>1</sup>		111.9 lbs.		
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
<b>Exceed Threshold?</b>	<b>No</b>	<b>Yes</b>	<b>No</b>	<b>No</b>
Maximum Residential Alternative Construction Emissions (tons)	51.64 tons	199.21 tons	1.73 tons	1.62 tons
Average daily emissions (pounds) <sup>1</sup>	39.7 lbs.	153.2 lbs.	1.3 lbs.	1.2 lbs.
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
<b>Exceed Threshold?</b>	<b>No</b>	<b>Yes</b>	<b>No</b>	<b>No</b>
Mitigated Maximum Residential Alternative Construction Emissions (tons)		149.41 tons		
Mitigated average daily emissions (pounds) <sup>1</sup>		114.9 lbs.		
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
<b>Exceed Threshold?</b>	<b>No</b>	<b>Yes</b>	<b>No</b>	<b>No</b>
Retail and Residential Alternative Construction Emissions (tons)	54.74 tons	175.51 tons	1.69 tons	1.58 tons
Average daily emissions (pounds) <sup>1</sup>	42.1 lbs.	135.0 lbs.	1.3 lbs.	1.2 lbs.
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
<b>Exceed Threshold?</b>	<b>No</b>	<b>Yes</b>	<b>No</b>	<b>No</b>
Mitigated Retail and Residential Alternative Construction Emissions (tons)		131.63 tons		
Mitigated average daily emissions (pounds) <sup>1</sup>		101.26 lbs.		
<i>BAAQMD Thresholds (pounds per day)</i>	54 lbs.	54 lbs.	82 lbs.	54 lbs.
<b>Exceed Threshold?</b>	<b>No</b>	<b>Yes</b>	<b>No</b>	<b>No</b>
Notes: <sup>1</sup> Assumes 2,600 workdays				

“...estimated 2,600 construction workdays (based on an average of 260 workdays per year). Average daily emissions were computed by dividing the total construction emissions by the number of construction days”

Even with mitigation methods and spreading out the NO<sub>x</sub> generated from construction over 10 years, only a 25% reduction in NO<sub>x</sub> was achieved, and it did not meet the BAAQMD threshold. Are there more mitigations available?

**Response DD.85:** Refer to Section 5.2 Response II.E.85.

**Comment DD.86:** Construction haul is shown to be 20 miles for demolition, has this been verified? No actual location has been stated to accept materials. Is the 20 miles round trip? What accepting locations are within 10 miles? Within 20 miles for hazardous material drop off (asbestos)?

**Response DD.86:** Refer to Section 5.2 Response II.E.86.

**Comment DD.87:** Existing mall does not have enclosed parking garages with elevator which the GHG states. If this means that the parking garages have walls and requisite blowers to bring in fresh air, then this assumption would have an associated energy consumption inconsistent with the current mall parking. Much of the parking is at grade with no garage structure. Where there are parking garages, they are open.

Plan provides incomplete data on fuel usage.

**Response DD.87:** Refer to Section 5.2 Response II.E.87.

**Comment DD.88:** 3.9 HAZARDS AND HAZARDOUS MATERIALS  
Because hazardous materials have already been noted onsite, the distance required to find an accepting landfill must be added into the GHG travel distance for hauling.

**Response DD.88:** Refer to Section 5.2 Response II.E.88.

**Comment DD.89:** 3.9.1.3 OTHER HAZARDS  
The 30 acre green roof may pose a fire hazard. The SB 35 application suggested equipping golf carts on the roof with fire fighting equipment. What mitigations are going to be implemented for Proposed Project and alternatives? To what standard?

#### 3.9.2.1 HAZARDS AND HAZARDOUS MATERIALS IMPACTS

Wildfire hazard from the green roof may be excessive without a mitigation plan. Emergency response may be too slow given the complex structures.

**Response DD.89:** Refer to Section 5.2 Response II.E.89.

**Comment DD.90:** 3.10 HYDROLOGY AND WATER QUALITY  
Proposed project and all alternatives (other than re-tenanted mall) drastically alter the existing terrain. Over 2 Million Cubic Yards of soil cut is expected in all plans and an untested green roof over 30 acres is proposed for two of the options. The entire site will be encased in concrete or other non-permeable surface. Attempting to have rainfall percolate into the soil would be extremely difficult given the site plan. The amount of storage area for rainfall to reuse for 50.82 acres would be a prohibitive expense.

The city cannot conclude that the roof park, which is sloped and of unknown depth, can or would absorb the same amount of rainfall that a flat grass park would. If the space is landscaped to be drought tolerant, there may be many open spaces and exposed gravel, concrete, and other impermeable areas. There is proposed public entertainment space planned on the roof which would not be permeable.

**Response DD.90:** Refer to Section 5.2 Response II.E.90.

**Comment DD.91:** If recycled water is used, and any chemical fertilizers, on the green roof, these will concentrate and enter the water supply. If this runoff is collected and reused on the roof, it will further concentrate. Should gray water also be collected and used for irrigation, this may further degrade the chemical build up on the roof. These issues need to be very carefully thought out. The green roof is an experiment and further analysis into what the runoff coefficient would be is required.

The depth of groundwater may be of concern should an additional level of subterranean parking be required, given the shallow depth of the drainage trench along the north end of the property.

The project will interfere with groundwater recharge because the consumption of recycled water for the green roof, when it becomes available will redirect that water from being used for groundwater recharge.

**Response DD.91:** Refer to Section 5.2 Response II.E.91.

**Comment DD.92:** 3.11 LAND USE AND PLANNING

**Impact LU-2** assumes the General Plan has no residential allocation controls in place, therefore residential alternatives above proposed project are not consistent with the General Plan.

DEIR, states in 2.4.2:

*“The General Plan, however, controls residential development through an allocation system. This alternative [General Plan Buildout with Maximum Residential Alternative] assumes that there are no residential allocation controls in place and development can occur at the maximum density allowed by the General Plan”.*

**Response DD.92:** Refer to Section 5.2 Response II.E.92.

**Comment DD.93:** Table 3.11.11 has errors due to assuming some type of construction would result in disturbing the exterior environment of the existing mall in the re-tenanted mall option. The assumptions regarding the other alternatives would need to be verified after any corrections are made based on comments to DEIR.

**Response DD.93:** Refer to Section 5.2 Response II.E.93.

**Comment DD.94:** The minimization of impermeable surfaces strategy is dependent on whether there is a ground level park. If the re-tenanted mall has areas converted to above grade parking structures, then that option would increase permeable surface area.

**Response DD.94:** Refer to Section 5.2 Response II.E.94.

**Comment DD.95:** Policy ES-7.1: This policy is violated by proposed project and alternatives. Strategy ES-7.1.1: The concentration of dissolved solids in the recycled water, along with 30 acres of space requiring fertilizer, may result in unacceptable storm water runoff. Policy ES-7.2: the green roof may increase runoff amounts, it is not the same as park on grade from a hydrologic standpoint. Strategy ES-7.2.3: onsite filtration is beyond the scope of capabilities of a typical development.



Policy ES-7.3: this is an unacceptable mitigation because of the scientific background required to monitor the runoff. This should be the responsibility solely of the owner and not suggest volunteers perform this duty.

**Response DD.95:** Refer to Section 5.2 Response II.E.95.

**Comment DD.96:** Policy HE-4.1: This policy is violated because there is an excessive amount of green roof space proposed for the 800 residential units in Proposed Project.

**Response DD.96:** Refer to Section 5.2 Response II.E.96.

**Comment DD.97:** Policy HS-3.2: Fire Department must study the green roof for emergency access and fire prevention.

**Response DD.97:** Refer to Section 5.2 Response II.E.89.

**Comment DD.98:** Policy HS-8.1: This policy is violated due to excessive construction and operational noise.

Policy HS-8.3: Likely violated because construction vibrations may not be mitigated.

**Response DD.98:** Refer to Section 5.2 Response II.E.98.

**Comment DD.99:** Strategy LU-3.3.1, LU- 3.3.2, LU-3.3.3: These strategies are not followed. The existing AMC is 83' in height. The adjacent 19,800 Wolfe Rd. apartment building is 61' to tallest parapet. Apple Park maximum height is 75'. The Apple Park parking garages across the I-280 are 48'. The scale of proposed project and alternatives is more than double the height of any building in the area and it is much denser.

**Response DD.99:** Refer to Section 5.2 Response II.E.99.

**Comment DD.100:** Strategy LU-19.1.4: The proposed projects shown at the Opticos Charrettes have insufficient retail. The residential amounts over 800 are inconsistent with the General Plan.

**Response DD.100:** Refer to Section 5.2 Response II.E.100.

**Comment DD.101:** Policy M-1.2: Proposed project degrades traffic LOS excessively.

**Response DD.101:** Refer to Section 5.2 Response II.E.101.

**Comment DD.102:** Impact LU-4: Due to the Combination of Apple Park, Hamptons, Main Street Cupertino, and Proposed Project and alternatives, the project will have a cumulatively considerable contribution to a significant cumulative land use impact.

**Response DD.102:** Refer to Section 5.2 Response II.E.102.

**Comment DD.103:** 3.12 MINERAL RESOURCES  
Agree with DEIR.

**Response DD.103:** Refer to Section 5.2 Response II.E.103.

**Comment DD.104:** 3.13 NOISE AND VIBRATION

Loud noise can cause hearing loss. The construction noise over the 10 year period may cause hearing loss for sensitive receptors and patrons of the surrounding retail areas. An outdoor concert venue in the proposed project or alternatives, will very likely result in hearing loss.

**Response DD.104:** Refer to Section 5.2 Response II.E.104.

**Comment DD.105:** The future noise contours from the DEIR indicate that walking along Wolfe Rd., Stevens Creek Blvd. and the proposed bike path along the I-280 will have areas above 80 dB.

The I-280 has directional traffic flow, slowed traffic, and associated decreased noise, during peak hour traffic would only be for 4 of the 8 lanes. There would always be traffic at free flow, generating that noise level. As the freeway continues to decline in service, and development in San Jose increases, the traffic should slow at peak hour in both directions.

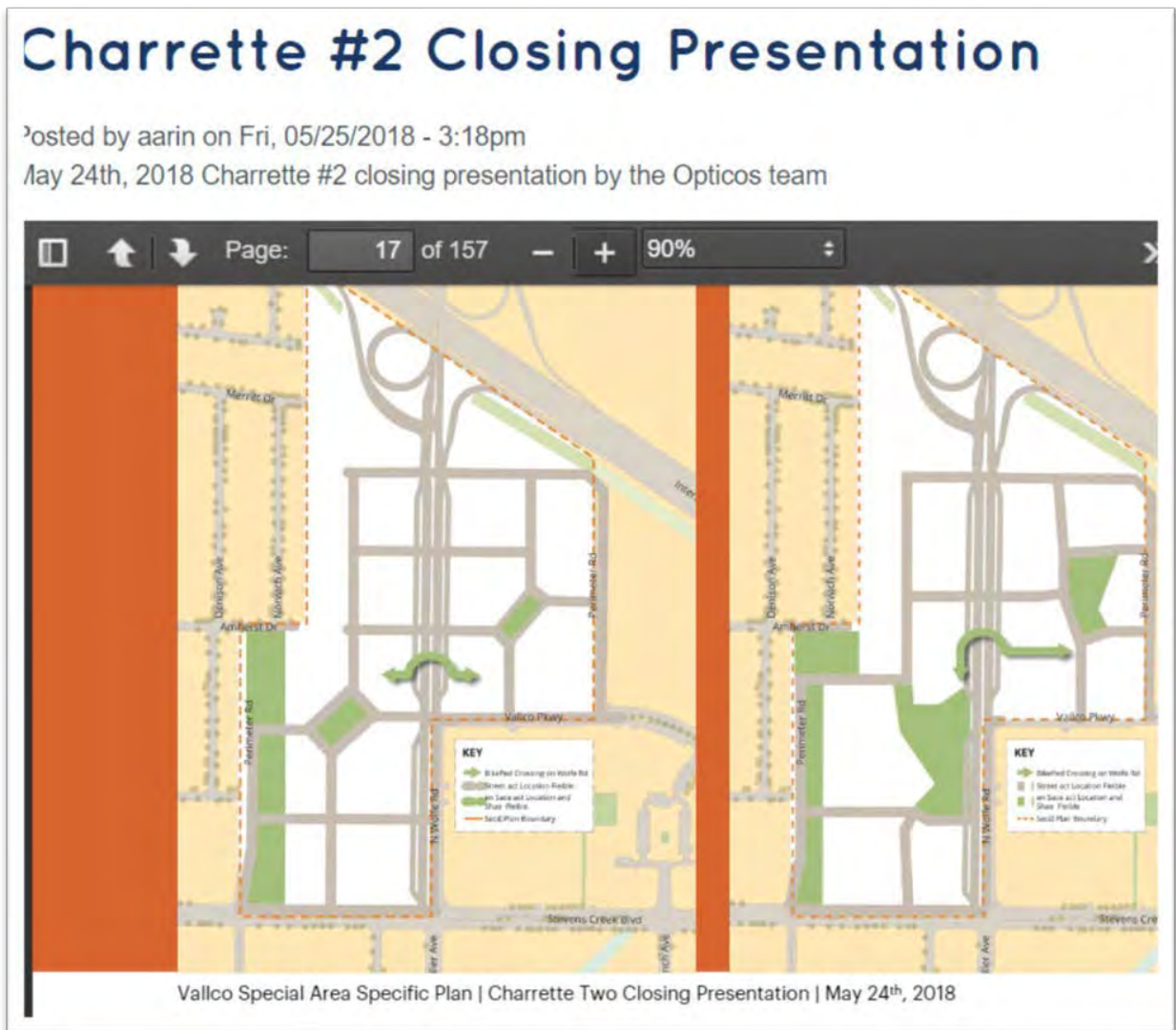
From DEIR:

**PLAYGROUNDS**

*“Playground noise would primarily result from activities such as raised voices and the use of playground equipment. Typical noise levels resulting from various playground activities range from 59 to 67 dBA Leq at a distance of 50 feet. Maximum instantaneous noise levels typically result from children shouting and can reach levels of 75 dBA Lmax at a distance of 50 feet. Assuming playground activities would be restricted to daytime hours only, the minimum setback of the center of the playground areas to the nearest residential property lines would need to be 60 feet for the typical noise levels to meet the daytime threshold of 65 dBA.”*

Charrette #2 Closing Presentation shows parks adjacent to back yards of single family residences. This may, combined with Perimeter Rd. noise exceed Municipal Code permissible sound levels. The DEIR does not adequately address this.

Figure 42: Opticos Charrette #2

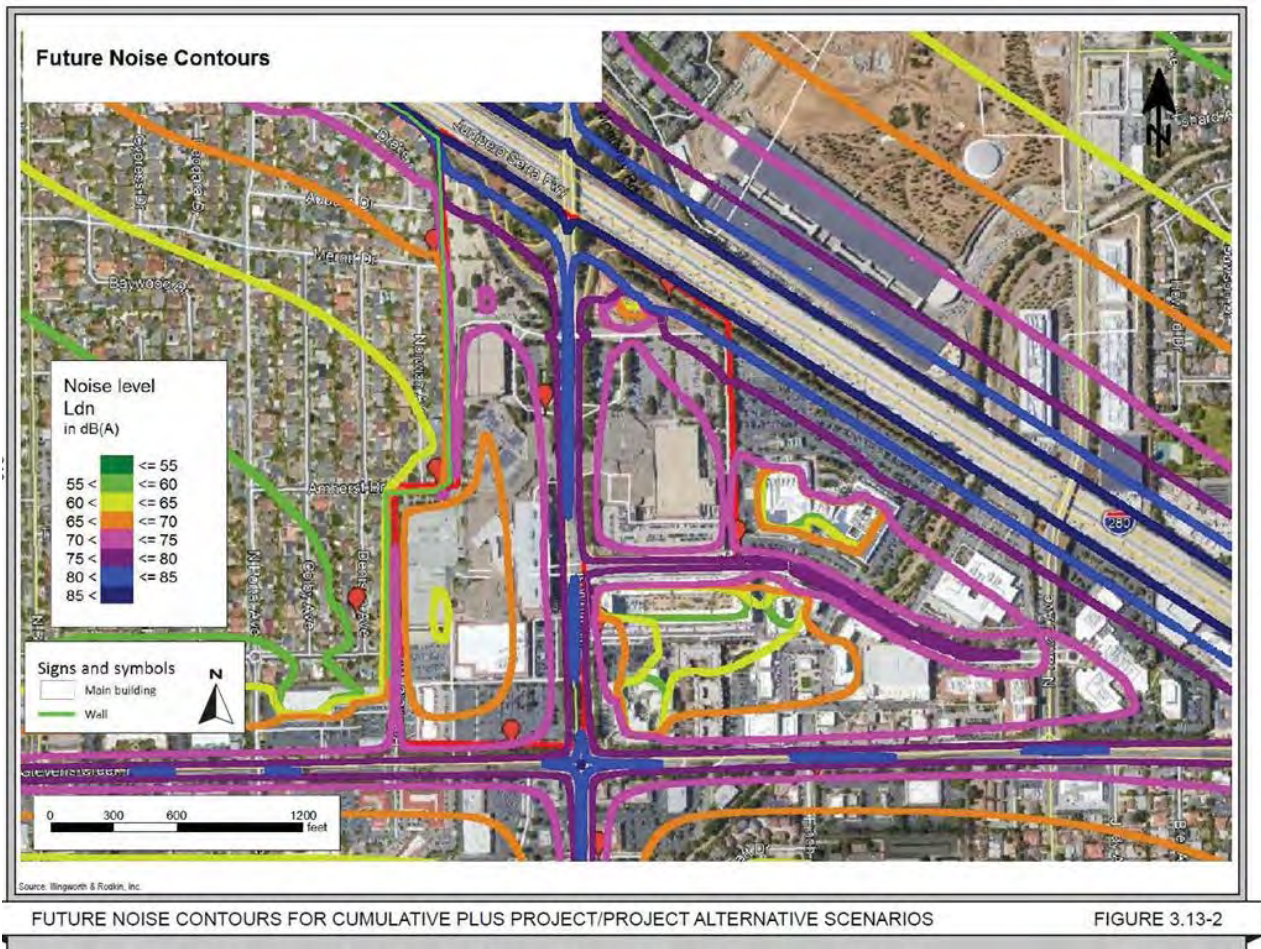


**Response DD.105:** Refer to Section 5.2 Response II.E.105.

**Comment DD.106:** FUTURE NOISE CONTOURS

The Future Noise Contours map has some omissions regarding noise from the Perimeter Road, western edge park, and proposed amphitheater. The map has gross assumptions regarding what the plan would look like and ignores conditions on the roof which would result in a separate layer of mapping: One layer for ground level (ear level) and one level for the roof park to see if it meets park noise requirements.

The future noise contours for the project site exceed residential maximum levels according to the Cupertino Municipal Code 10.48.040.



CUPERTINO MUNICIPAL CODE MAXIMUM PERMISSIBLE SOUND LEVELS  
 Figure 43: from VTC Hills at Vallco EA, CMC 10.48.040

**Table 5: Cupertino Maximum Permissible Sound Levels**

Land Use at Point of Origin	Maximum Noise Level at Complaint Site of Receiving Property	
	Nighttime <sup>(a)</sup>	Daytime <sup>(b)</sup>
Residential	50 dBA	60 dBA
Non-Residential	55 dBA	65 dBA

<sup>(a)</sup> Nighttime hours are defined in CMC 10.48.010 as the "... periods of weekdays from eight p.m. [8 p.m.] to twelve midnight [12 a.m.], and from midnight [12 a.m.] to seven a.m. [7 a.m.], and periods on weekends from six p.m. [6 p.m.] to midnight [12 a.m.] and from midnight [12 a.m.] to nine a.m. [9 a.m.]."

<sup>(b)</sup> Daytime hours are defined in CMC 10.48.010 as "... the period from seven a.m. [7 a.m.] to eight p.m. [8 p.m.] on weekdays, and the period from nine a.m. [9 a.m.] to six p.m. [6 p.m.] on weekends."

Source: CMC 10.48.040

**Response DD.106:** Refer to Section 5.2 Response II.E.106.

**Comment DD.107:** CONSTRUCTION NOISE

The DEIR did not show Construction Noise Emissions, this needs to be included.

**Response DD.107:** Refer to Section 5.2 Response II.E.107.



**Comment DD.108:** During Construction, which is 6-10 years, according to the Ramboll Environ Noise Assessment for Vallco Town Center Specific Plan, noise levels exceed noise limits, and it does not make sense that demolition of the parking garage near R4 would not exceed noise limits:

Figure 44: VTC Hills at Vallco EA, Construction Noise

**Table 17: Construction Noise Emissions at Property Line**

Rec	Distance to Receptor (ft)	Sound Level from Construction at 25 feet from Property Line (dBA)						CMC Construction Noise Limit
		Demolition	Site Preparation	Grading	Building Construction	Paving	Architectural Coating	
R1-R5 <sup>(a)</sup>	35	79	80	82	81	74	66	80 dBA
R6-R8	25	93	94	95	94	87	80	

Source: Calculations by Ramboll Environ  
 Note: Shading denotes sound levels that exceed CMC construction noise limit  
 (a) Noise levels for R1-R5 assume the receptor is located 10 feet from an 8-foot wall for a total distance of 35 feet from source; walls provides an approximate reduction of 11 dBA.

Figure 45: VTC Hills at Vallco EA, Noise Receptors



Figure 4. Construction Noise Receptor Locations

**Response DD.108:** Refer to Section 5.2 Response II.E.108.

**Comment DD.109:** Suggest requiring the following from the VTCSP 9212 report:

“The development of the VTCSP would be subject to applicable noise policies and regulations including those in the General Plan (including Policies HS-8.1, HS-8.2, HS-8.3, and HS-8.4), Municipal Code, and Zoning Ordinance. The development of the VTCSP could result in the noise and vibration impacts discussed below.

- **Construction-related noise** – Noise generated from construction activities associated with the development of the VTCSP would likely result in significant, temporary noise impacts at adjacent residences. The VTCSP includes the following EDFs that would reduce construction-related noise impacts:

**On-Site Construction Noise:** The Town Center/Community Park applicant and other project applicants for future development shall be required to adhere to the construction noise limits of the Cupertino Municipal Code. The following items would further reduce the potential for high levels of noise from construction equipment or activities, and ensure that noise complaints are address promptly and if necessary, corrective action is taken:

- Along the western boundary of the Town Center/Community Park and near the existing residential district, prepare and implement a 24-hour construction noise monitoring program to be installed and operated remotely. The noise monitoring program would continuously monitor construction noise levels at select perimeter locations and alert a designated person(s) when noise levels exceed allowable limits. If noise levels are found to exceed allowable limits, additional noise attenuation measures (i.e., sound walls) will be undertaken.

**Response DD.109:** Refer to Section 5.2 Response II.E.109.

**Comment DD.110:**

- Require that all equipment be fitted with properly sized mufflers, and if necessary, engine intake silencers.
- Require that all equipment be in good working order.
- Use quieter construction equipment models if available, and whenever possible, use pneumatic tools rather than using diesel or gas-powered tools.
- Place portable stationary equipment as far as possible from existing residential areas, and if necessary, place temporary barriers around stationary equipment.
- Whenever possible, require that construction contractors lift heavy equipment rather than drag.
- For mobile equipment that routine operates near residential area (i.e., within approximately 200 feet), consider placement of typical fixed pure-tone backup alarms with ambient-sensing and/or broadband backup alarms.
- Assign a noise control officer to ensure that the above requirements are being implemented.
- Implement a noise complaint hotline and post the hotline phone number on nearby visible signs and online. Require that either the noise control officer or a designated person be available at all times to answer hotline calls and ensure that follow-up and/or corrective action is taken, if necessary.

**Response DD.110:** Refer to Section 5.2 Response II.E.110.

**Comment DD.111:** **Prompt Demolition:** To ensure swift completion of the remainder of the Plan Area, a commitment to demolish 100% of the remaining existing Mall improvements within 6 months of receiving a certificate of occupancy for the afore-described initial retail component, subject to existing leases and an appropriate temporary improvement plan for demolished areas.

**Response DD.111:** Refer to Section 5.2 Response II.E.111.

**Comment DD.112:** **Haul Traffic Noise:** To reduce haul traffic noise, contractors for developments pursuant to the Specific Plan shall require that haul trucks travel at low speeds (e.g., 10 mph) when operating on or adjacent to the Plan Area. The Town Center/Community Park applicant and other project applicants for future development shall ensure that this requirement is included in the construction specifications. In addition, the construction contractor shall ensure that haul trucks be fitted with properly sized and functioning exhaust mufflers.”

**Response DD.112:** Refer to Section 5.2 Response II.E.112.

**Comment DD.113:** **Operation-related noise** – Operation of the uses at Vallco under the VTCSP could result in significant noise increases at adjacent sensitive receptors. To mitigate operation-related noise impacts at adjacent sensitive receptors, the City requires compliance with the noise standards in the Municipal Code, and could require measures that limit or attenuate noise such as sound barriers, limitations on hours of operations, and orientation of stages and speakers away from sensitive receptors

Operation of the VTCSP would result in an increase in traffic to and from the site, which could increase noise levels at adjacent sensitive receptors. On Stevens Creek Boulevard and North Wolfe Road in the Vallco vicinity, the existing daily trips are 30,000 and 34,000 respectively. **In general, for traffic noise to increase noticeably (i.e., by a minimum of three dBA), existing traffic volumes must double.”**

Traffic volumes on Perimeter Rd. may at a minimum, double. The DEIR did not address this fully.

**Response DD.113:** Refer to Section 5.2 Response II.E.113.

**Comment DD.114:** Additional noise requirements from the VTCSP 9212 report:

“The noise and land use compatibility of the proposed uses in the VTC with the existing ambient noise environment could also be an issue. Exterior and interior noise levels at future uses at Vallco under the VTC would exceed the City’s noise standards in the General Plan and Municipal Code. The VTC shall include the following EDF to meet the State and City interior noise standard at future residences on-site:

**Acoustical Assessment:** Prior to completion of detailed design for dwelling units, the Town Center/Community Park applicant and other project applicants for future development shall prepare an acoustical assessment to demonstrate how interior sound levels would achieve interior sound levels at or below 45 dBA CNEL. The following development standards shall be included in the acoustical assessments:

- Install HVAC systems for all residential units to ensure that windows and doors can remain closed during warm weather;
- Install double-glazed windows, especially on sides of buildings that are adjacent to busy roadways;
- Ensure that all windows and doors are properly sealed; and
- Ensure that exterior wall building materials are of an adequately rated Sound Transmission Class.”



**Response DD.114:** Refer to Section 5.2 Response II.E.114.

**Comment DD.115:** If there is an outdoor performance venue, it must not be located where adjacent homes will be impacted, how will the plan address this? The following table is from VTCSP EA:

Figure 46: VTC Hills at Vallco EA, Noise for Outdoor Performance Venue

**Table 12: Outdoor Performance Venue**

Existing Avg. Evening Sound Level at LT-3 (a)	Estimated Future Evening Sound Level at LT-3 (a)	Estimated Non-Rock Concert Sound Level at 100 feet (c)	Concert at 450 feet (LT-3), With Topo (d)	Limits (e)	Within Limits?
56	53	90	63	70 dBA (daytime, can be exceeded for up to 3 hours)	Yes
				65 dBA (8pm – 11pm)	Yes

(a) From Illingworth & Rodkin, Inc. Sound Level Measurement summary data at LT-3, average of hourly evening sound levels between 6 p.m. and 9 p.m., Nov 19, 20, 21, and 22, 2015.  
 (b) Assumed reduction of 3-dBA in ambient levels based on I&R observations that I-280 is major noise source. Future configuration of buildings would provide intervening topography between LT-3 and I-280 and reduce noise from I-280.  
 (c) Anticipated concert sound level for outdoor venue in busy urban area by a non-rock type performance (rock music or similar typically 10 to 20 dBA higher). Actual sound levels at 100 feet may be higher or lower depending performance and unlikely to be a continuous noise source.  
 (d) Based on standard attenuation rate of 6-dBA per doubling of distance for a point source (i.e., concert stage). Assumed reduction provided by Project green roof is 15 dBA.  
 (e) From CMC 10.48.051  
 Source: Sound level measurement data by Illingworth & Rodkin, Inc.; calculations and assessment by Ramboll Environ

**Response DD.115:** Refer to Section 5.2 Response II.E.115.

**Comment DD.116:** VIBRATION

It is unlikely vibration could be mitigated particularly for the residences on the west property.

**Response DD.116:** Refer to Section 5.2 Response II.E.116.

**Comment DD.117:** 3.14 POPULATION AND HOUSING

3.14.12 EXISTING CONDITIONS

The existing population per the footnote provided shows Cupertino’s 2018 population at 60,091 not the 58,915 population estimate they show which is from 2016. The existing condition should be the most current.

**Response DD.117:** Refer to Section 5.2 Response II.E.117.

**Comment DD.118:** The city states the population of residents per residential unit is 2.94, per the DEIR:

*Note: The estimated residential population and jobs/employees for buildout of the General Plan are based on the following general, programmatic rates: 2.94 residents per unit, 1 employee/450 square feet of commercial uses, 1 employee/300 square feet of office uses, and 0.3 employees/hotel room (City of Cupertino. Cupertino General Plan Community Vision 2015-2040. October 15, 2015. Page 3-12.).*

#### IMPACT POP-1

Increases in population for Proposed Project would be 800 residential units resulting in 2,264 residents which would be a 4% increase in city population. This excludes the Hamptons approved 600 residential unit increase to 942 residential units which are adjacent to the project.

Alternative with 2,640 residential units would result in 7,471 residents and a 12% population increase to the city. The 4,000 residential unit alternative would result in 11,320 residents and a 19% population increase.

**Response DD.118:** Refer to Section 5.2 Response II.E.118.

**Comment DD.119:** The Proposed Project and re-tenanted mall do not induce significant population growth to the city. Project Alternatives with 2,640 and 4,000 residential units induce significant population growth to the city.

**Response DD.119:** Refer to Section 5.2 Response II.E.119.

#### **Comment DD.120:** IMPACT POP-3

The proposed project, with 2 Million SF of office space will result in a housing deficit across the region. Project alternatives will induce significant population growth in an area of the city already impacted with Apple Park and other developments.

The Charrette alternatives also induce significant population growth to the city (3,200 residential units) and further exacerbate the excess jobs in the city.

**The project (and project alternatives) will have a cumulatively considerable contribution to a significant cumulative population and housing impact.**

**Response DD.120:** Refer to Section 5.2 Response II.E.120.

**Comment DD.121:** Emotional effects of cramped housing on children:  
<http://citeseerx.ist.psu.edu/viewdoc/download?doi=10.1.1.734.6008&rep=rep1&type=pdf>

**Response DD.121:** Refer to Section 5.2 Response II.E.121.

#### **Comment DD.122:** 3.15 PUBLIC SERVICES

**Impact PS-1:** It is unclear what special Fire Department services are required for the green roof.

**Response DD.122:** Refer to Section 5.2 Response II.E.122.

**Comment DD.123:** **Impact PS-2:** It is unclear, if a major tech employer were to occupy the 2 Million SF of office space, what additional police support would be necessary. What additional support would a potential 11,320 residents require?

**Response DD.123:** Refer to Section 5.2 Response II.E.123.

**Comment DD.124:** SANITARY SEWER

**“Sanitary Sewer System Capacity** – The existing sewer lines in the vicinity of Vallco are in North Wolfe Road, Vallco Parkway, and Stevens Creek Boulevard. Most sewage generated at Vallco discharges to the 15-inch sewer main in North Wolfe Road. Under existing peak wet weather flow conditions, flows to this 15-inch sewer main in North Wolfe Road exceed its capacity.<sup>37</sup>

Development of the VTCSP would intensify the use of the site, which would result in an increase in sewage generated from the site compared to existing conditions. For this reason, the development of the VTCSP would require sewer system improvements to ensure sufficient conveyance capacity. Based on preliminary analysis, redevelopment of Vallco under the General Plan would require the construction of a parallel pipe to the existing 15- inch sewer main in North Wolfe Road.

**Sanitary Sewer Conveyance Facilities:** Prior to the issuance of occupancy permit(s) for the final construction sequence, the Town Center/Community Park applicant and other project applicants for future development shall demonstrate to the reasonable satisfaction of the Public Works Director that adequate sanitary sewer services are available.” – 9212 VTCSP

**Response DD.124:** Refer to Section 5.2 Response II.E.124.

**Comment DD.125:** SCHOOL IMPACTS

Figure 47: DEIR SGR and Students Generated. DEIR p. 247

<b>Table 3.15-2: Projected Student Generation Rates</b>			
	<b>Proposed Project</b>	<b>General Plan Buildout with Maximum Residential Alternative</b>	<b>Retail and Residential Alternative</b>
Elementary (Grades K-5)	0.13	0.20	0.13
Middle (Grades 6-8)	0.04	0.06	0.04
High School (Grades 9-12)	0.04	0.06	0.04

The estimated numbers of students that would be generated by the proposed project, General Plan Buildout with Maximum Residential Alternative, Retail and Residential Alternative are listed in Table 3.15-3.

<b>Table 3.15-3: Estimated Students Generated</b>			
	<b>Proposed Project</b>	<b>General Plan Buildout with Maximum Residential Alternative</b>	<b>Retail and Residential Alternative</b>
Elementary (Grades K-5)	104	528	520
Middle (Grades 6-8)	32	158	160
High School (Grades 9-12)	32	158	160

The student generation rates are based off of too small of a sample size and the data appears to have been from Fall of 2015, since the same results for 19,800 Wolfe Rd. and Biltmore have repeated after 2 ½ years.

**Response DD.125:** Refer to Section 5.2 Response II.E.125.

**Comment DD.126:** Additionally, from that same initial result, the current SGRs they calculated for the Proposed Project, which is nearly identical to The Hills at Vallco now have inexplicably dropped the SGR's for the same project.

**Response DD.126:** Refer to Section 5.2 Response II.E.126.

**Comment DD.127:** Since the proposed project will likely have the possibility of selling the residential units at some time, and the lack of information regarding the sizes of the units, and the continued growth and interest in the Cupertino High School boundary area, these SGRs are likely too low. A larger sampling size is needed for these figures to be believable.

The BMR units proposed will have a higher student generation rate according to Polly Bove of FUHSD (Vallco meeting recorded by League of Women Voters, May, 2018). These higher rates are not reflected. The project alternatives are untested as to number of students generated.

**Response DD.127:** Refer to Section 5.2 Response II.E.127.



**Comment DD.128:** DEIR STUDENT GENERATION RATES

Figure 48: DEIR SGR

Unfortunately, these averages are for only two buildings, the only multiple-unit buildings that have been completed in the last few years. The individual SGRs of these buildings are also relevant. Table I-1 shows the SGRs of the two developments and their combined SGR (weighted by their number of units).

Table I-1  
SGRs in Comparable Developments

Development	Unit Characteristics	Number of Units	CUSD SGR	FUHSD SGR
<i>Nineteen800/Rose Bowl</i>	large apartments	204	0.33	0.10
<i>Biltmore Addition</i>	average size apartments	80	0.28	0.04
<i>Both Projects</i>		284	0.32	0.08

Sources: Enrollment Projection Consultants.

The “Nineteen800 apartment complex, also known as the “Rose Bowl”, is adjacent to the Vallco Special Area. Its 204 units have 68 CUSD students, an SGR of 0.33 and 21 FUHSD students, an SGR of 0.10. It should be noted that these units are on average significantly larger than the average size of units built in the decade before them, indicating that the Nineteen800 development SGRs are higher than new units of more average size are likely to be. The 80 new units in the Biltmore apartment development at the intersection of Blaney Avenue and Stevens Creek Blvd. have significantly lower SGRs, 22 CUSD students, an SGR of 0.28, and three FUHSD students, an SGR of 0.04. These SGRs are lower, especially for the middle school and

Figure 49: DEIR: SGRs of Alternatives

Table I-2  
Vallco Specific Plan and Alternatives  
Projected SGRs

	Proposed Project	General Plan Buildout	Retail and Residential
<i>Elementary (K-5) SGR</i>	0.13	0.20	0.13
<i>Middle (6-8) SGR</i>	0.04	0.06	0.04
<b><i>Total CUSD SGR</i></b>	<b>0.17</b>	<b>0.26</b>	<b>0.17</b>
<b><i>High School FUHSD SGR</i></b>	<b>0.04</b>	<b>0.06</b>	<b>0.04</b>

Source: Schoolhouse Services.

FAILED MEASURE D HILLS AT VALLCO STUDENT GENERATION RATES TO COMPARE

Figure 50: VTC Hills at Vallco EA, SGRs Comparables

to the proposed project site. As of Fall 2015, 184 units (out of 204) had been rented. These units have 60 CUSD students, an SGR of 0.33, and 13 FUHSD students, an SGR of 0.07. It should be noted that these units are on average significantly larger than the proposed units in The Hills at Vallco project, indicating that the Rosebowl SGRs are likely to be higher than those of the units in the Vallco project.

The 80 new units in the Biltmore apartments, nearby along Stevens Creek Blvd., have significantly lower SGRs - 12 CUSD students, an SGR of 0.15, and three FUHSD students, an SGR of 0.04. These SGRs are surprisingly low, especially given that the units are modestly larger than the proposed units in the Vallco project. These two are the only large projects that have been renting in the last 18 months. Table I-4 shows other developments and their SGRs.

**Table I-4  
SGRs in Comparable Developments**

Development	Unit Characteristics	Number of Units	CUSD SGR	FUHSD SGR
19800/Rosebowl	much larger apartments <sup>1</sup>	184 <sup>1</sup>	0.33	0.07
Biltmore Addition	larger apartments <sup>2</sup>	80	0.15	0.04
Earlier Apartments <sup>3</sup>	high density	828	0.32	0.07

<sup>1</sup> Number and average size of units: 165 2-bedroom, 1,310 sq. ft.; and 39 3-bedroom, 1,573 sq.ft. Only 184 units occupied at the time of the Fall 2015 student counts.

<sup>2</sup> Number and average size of units: 34 1-bed-room, 813 sq. ft., 46 2-bedroom, 1,212, sq. ft.

<sup>3</sup> SGRs in 2013, when the units were significantly more affordable.

Sources: Enrollment Projection Consultants, City of Cupertino, and Schoolhouse Services.

Figure 51: VTC Hills at Vallco SGRs

**Table I-5  
Vallco Development  
Projected SGRs**

	Vallco Project
Elementary (K-5) SGR	0.19
Middle (6-8) SGR	0.09
<b>Total CUSD SGR</b>	<b>0.28</b>
High School (FUHSD) SGR	0.06

Source: Schoolhouse Services.

**Response DD.128:** Refer to Section 5.2 Responses II.E.128.

**Comment DD.129:** The DEIR may study the impacts of traffic rerouting of students. According to the Shute, Mihaly, and Weinberger Memo to the City of Cupertino Attorney, February 25, 2014:

*“Therefore, a lead agency may consider, in an EIR, among other factors the following impacts potentially caused by school expansion or construction:*

- traffic impacts associated with more students traveling to school;*
- dust and noise from construction of new or expanded school facilities;*
- effects of construction of additional school facilities (temporary or permanent) on wildlife at the construction site;*
- effects of construction of additional school facilities on air quality;*
- other “indirect effects” as defined by CEQA Guidelines § 15258 (a)(2)*

*(growth-inducing effects, changes in pattern of land use and population density, related effects on air and water and other natural systems). See Chawanakee Unified School District, 196 Cal. App. 4th at 1029.*

#### **CONCLUSION**

*When it comes to arguments about the impact of a proposed development on existing school facilities and their ability to accommodate more students, the CEQA process is essentially ministerial. Agencies must accept the fees mandated by SB 50 as the exclusive means of considering and mitigating the impacts of the proposed development on school facilities. However, nothing in SB 50 or in CEQA or current case law prohibits an agency from conducting environmental review of an application that creates significant environmental impacts on non-school-facility settings or sites, regardless of whether the applicant has agreed to pay mitigation fees under SB 50.”*

**Response DD.129:** Refer to Section 5.2 Response II.E.129.

#### **Comment DD.130:** PARK LAND REQUIREMENTS

The city residents per unit is 2.83. The park land calculations are both low and assuming a City Council action to accept park land acreage on a roof in lieu of park land. This has been discussed in earlier sections.

**Response DD.130:** Refer to Section 5.2 Responses II.E.130.

#### **Comment DD.131:** RECREATION

The 70,000 SF Bay Club gym on site is the only gym in the east side of Cupertino and it will be closed for multiple years during construction and likely will not return.

Creekside park is permitted year around to the De Anza Youth Soccer League and has additional camps in the summer using the space.

Ranch San Antonio is so over utilized by the region that the neighboring residents had to have permitted parking and parking has been limited to preserve the area because it is a natural area. During the weekdays a return trip across town after 2:30pm results in a 30 minute drive. Due to excess demand on Rancho San Antonio, there is a limited window mid day and mid week where a parking spot may be found.

Proposed project and alternatives will have significant negative impacts to the area and further increase demand for the parks existing. Even the low SGR for the school is enough students to start an entire new soccer league.

**Response DD.131:** Refer to Section 5.2 Response II.E.131.

**Comment DD.132:** 3.17 TRANSPORTATION/TRAFFIC  
EXISTING CONDITIONS

Counts on January 15, 2018 included the AMC movie theater which is closed, and a transit hub which includes Genentech, Google, and Facebook with no individual counts to separate out these uses. The mall had a 24% occupancy at the time.

**Response DD.132:** Refer to Section 5.2 Response II.E.132.

**Comment DD.133:** LEVELS OF SERVICE

Please note that LOS is an average and there is some directional flow within the city intersections such that the LOS may not reflect what drivers are experiencing because of the averaging of each lane approach. Of particular concern is how slow the movement of traffic out of the city and returning would be for the 80%+ of Cupertino worker commuters out of the city daily.

The trips generated by the Proposed Project calculated by Fehr + Peers are incorrect and artificially low due to selecting lower trip generation rates. For instance, no break out of retail trips was made to account for a movie theater, restaurants which generate 4-10 times as much traffic as retail, ice rink, bowling alley, hotel conference room, or the performing arts center. The Civic rate is undercalculated, the SF should be 65,000 to match the charrette discussions and the ITE Government Building 710 trip generation rate should be used. A high turnover restaurant which we would see in a business area would result in a trip generation rate of nearly 90. By using generalities for the "Shopping Center" when the Vallco Shopping District is supposed to be a regional destination with shopping, dining, and entertainment uses, the Daily trips generated are undercalculated by about 50%. The SB 35 Vallco application has 120,000 SF entertainment, 133,000 SF retail stores, and 147,000 SF restaurants. The restaurants would likely be high turnover due the high number of office employees in the area.

**Response DD.133:** Refer to Section 5.2 Response II.E.133.

**Comment DD.134:** APPROVED AND PENDING PROJECTS TRIP GENERATION,  
DISTRIBUTION, AND ASSIGNMENT

It is unclear, given that Apple Park has been occupying, how their (Apple Park) traffic has been assigned. For instance, there were traffic counts in May, 2017 which would reflect thousands of trips by construction workers to the site which would likely have been coming from the I-280 and east bound AM and westbound PM. There were also traffic counts in January, 2018, which would perhaps now show a few hundred Apple tech workers who would presumably be coming from other areas along with continued construction workers. As of March, 2018 approximately 6,000 employees were at Apple Park out of the expected 14,200. There have been many requests of the city to wait until Apple Park fully occupies to perform traffic counts. Main Street Cupertino was also under construction during May, 2017 and those construction workers would also be impacting the counts. There have been several intersections under construction, including the Calvert/I-280 project and Lawrence Expressway/I-280 exit project. These multiple projects have rerouted traffic and



altered the makeup of drivers into artificial patterns not reflected in the study. What the traffic counts show, is what the area traffic is like with major construction underway.

**Response DD.134:** Refer to Section 5.2 Response II.E.134.

**Comment DD.135:** Figure 52: Sample of local advertising showing higher employees per 1000 SF than studied



Traffic impacts, while significant and unavoidable with mitigation is underestimated.

Figure 53: DEIR Trip Generation Estimates

Land Use	Project				General Plan Buildout with Maximum Residential Alternative				Retail and Residential Alternative				Occupied/Re-Tenanted Mall Alternative			
	Quantity	Daily Trips	AM Peak Hour	PM Peak hour	Quantity	Daily Trips	AM Peak Hour	PM Peak hour	Quantity	Daily Trips	AM Peak Hour	PM Peak hour	Quantity	Daily Trips	AM Peak Hour	PM Peak hour
Office	2,000 ksf	24,700	2,580	2,400	1,000 ksf	12,350	1,290	1,200								
Shopping Center	600 ksf	20,331	452	2,046	600 ksf	20,331	452	2,046	600 ksf	20,331	452	2,046	1,208 ksf	32,717	756	3,434
Hotel	339 rooms	2,834	159	204	339 rooms	2,834	159	204	339 rooms	2,834	159	204	148 rooms	1,209	78	89
Multifamily Housing	800 units	4,352	288	352	2,640 units	14,362	950	1,162	4,000 units	21,760	1,440	1,760				
Green Roof	30 acres	567	135	105	30 acres	567	135	105								
Civic Uses	55 ksf	1,305	168	100	55 ksf	1,305	168	100								
STEM Lab	10 ksf	140	34	22	10 ksf	140	34	22								
<i>Subtotal (A)</i>		54,229	3,816	5,229		51,889	3,188	4,840		44,925	2,051	4,010		33,926	834	3,523
Transit and/or Mixed Use Reduction %		-17%	-23%	-24%		-20%	-25%	-30%		-20%	-20%	-25%		-5%	-5%	-5%
Mixed Use Reduction (B)		-9,218	-876	-1,255		-10,377	-797	-1,452		-8,985	-411	-1,003		-1,696	-42	-176
Transit Hub (C)		808	175	193		808	175	193		808	175	193				
<i>Total Project or Project Alternative Trips (D = A-B+C)</i>		45,819	3,113	4,167		42,320	2,566	3,581		36,748	1,815	3,200		32,230	792	3,347
Existing Trips (E)		-8,813	-485	-949		-8,813	-485	-949		-8,813	-485	-949		-8,813	-485	-949
<b>Net Project or Project Alternative Trips (F = D-E)</b>		<b>37,006</b>	<b>2,628</b>	<b>3,218</b>		<b>33,507</b>	<b>2,082</b>	<b>2,632</b>		<b>27,935</b>	<b>1,330</b>	<b>2,251</b>		<b>23,417</b>	<b>307</b>	<b>2,398</b>

Notes: ksf = 1,000 square feet. Refer to Appendix H for detailed breakdown of the trip generation estimates.

**Response DD.135:** Refer to Section 5.2 Response II.E.135.

**Comment DD.136:** Trips generated are lower than the Hills at Vallco? That seems incorrect. Neither break out actual uses (restaurants, theater, City Halls which all generate much heavier traffic than is shown).

Figure 54: VTC Hills at Vallco Trip Generation Planner

**Trip Generation Planner (ITE 9th Edition) - Summary Report**

Weekday Trip Generation Trips Based on Average Rates/Equations			Project Name Project Number	Vallco Town Center Specific Plan 097283001.1.340											
ITE Code	Notes	Land Use Description	Independent Variable	No. of Units	Avg Rate or Eq	Rates			Total Trips						
						Daily Rate	AM Rate	PM Rate	Daily Trips	AM Trips	PM Trips	AM Trips In	AM Trips Out	PM Trips In	PM Trips Out
SV-A	1	The Town Center/Community Park - Office	1,000 Sq Ft	2000	Avg	12.35	1.29	1.20	24,700	2,580	2,400	2,270	310	408	1,992
820-A	2	The Town Center/Community Park - Retail	1,000 Sq Ft GLA	640	Eq	N/A	N/A	N/A	22,698	484	2,078	300	184	997	1,081
220	3	The Town Center/Community Park - Apartment	Dwelling Unit(s)	760	Eq	N/A	N/A	N/A	4,730	376	436	75	301	283	153
252	4	The Town Center/Community Park - Senior Adult Housing (Attached)	Occ Dwelling Unit(s)	40	Avg	3.44	0.19	0.23	138	8	9	3	5	5	4
SV-B	5	The Town Center/Community Park - Pavilion 4 - Banquet Hall	1,000 Sq Ft	15	Avg										
530	5	The Town Center/Community Park - High School Innovation Center (1)	Student(s)	100	Avg	1.71	0.43	0.13	171	31	29	29	2	10	19
SV-C	1	The Town Center/Community Park - Pavilion 6 - Civic Meeting Space	1,000 Sq Ft	4	Avg	12.35	1.29	1.20	50	5	5	4	1	1	4
SV-D	6	The Town Center/Community Park - Transit Center	1,000 Sq Ft		Avg										
SV-E	1	The Town Center/Community Park - Pavilion 5 - Office Event Center	1,000 Sq Ft	20	Avg	12.35	1.29	1.20	248	26	24	23	3	4	20
SV-F	1	The Town Center/Community Park - Pavilion 7 - Office Caf / Fitness	1,000 Sq Ft	20	Avg	12.35	1.29	1.20	248	26	24	23	3	4	20
SV-G	1	The Town Center/Community Park - Additional Office Amenities	1,000 Sq Ft	135	Avg	12.35	1.29	1.20	1,668	174	162	153	21	28	134
SV-H	1	The Town Center/Community Park - Loading Facilities & Security Areas	1,000 Sq Ft	75	Avg	12.35	1.29	1.20	928	97	90	85	12	15	75
110		The Town Center/Community Park - Industrial Testing & Workshop	1,000 Sq Ft	175	Eq	N/A	N/A	N/A	1,206	117	93	103	14	11	82
SV-I	7	The Town Center/Community Park - Central Plant	1,000 Sq Ft	45	Avg										
411-A	8	The Town Center/Community Park - Rooftop Garden Park	Acre(s)	10	Avg	20.00	4.50	3.50	200	45	35	25	20	20	15
		The Town Center/Community Park Total Project Trips							56,985	3,969	5,385	3,093	876	1,786	3,599
310		Vallco Town Center Specific Plan - Block 14	Room(s)	191	Avg	8.17	0.53	0.60	1,562	101	115	60	41	59	56
		Total Gross Vallco Town Center Specific Plan Project Trips							58,547	4,070	5,500	3,153	917	1,845	3,655
	9	MXD Trip Reduction - Internal and Non-Motorized Trips				-21%	-16%	-21%	-12,169	-632	-1,125	-492	-139	-373	-752
		Net External Project Trips							46,378	3,438	4,374	2,661	778	1,472	2,903
820-C	10	Existing Mall - 82.83% Occupancy	1,000 Sq Ft GLA	994	Eq	N/A	N/A	N/A	-30,216	-633	-2,791	-392	-241	-1,340	-1,451
		Totals							16,162	2,805	1,583	2,269	537	132	1,452

- Notes:  
 (f) AM and/or PM rates correspond to peak hour of generator.
- Silicon Valley (SV) Trip Rates applied to office land uses based on local surveys and empirical data from Fehr & Peers Study
  - Includes entertainment uses, health club uses, and roof pavilions.
  - Includes clubhouse and fitness pool.
  - Land Use only expected to generate trips on special events and excluded from weekday Trip Generation.
  - High School trips based on Fehr & Peers Study and agreed with the City of Cupertino.
  - Facility on Stevens Creek Blvd. Trip Generation accounted in Office Land Use from SV Trip Rates.
  - Not a typical ITE Land Use. Facility does not generate additional trips.
  - Trip Generation conservatively estimated by assuming City Park (ITE Land Use 411) rates to 1/3 of 30 total acres. AM and PM rates from ITE weekday peak hour generator studies.
  - MXD reductions account for internalization, transit, and bike/ped access. Rates determined from EPA MXD model for the Proposed The Town Center/Community Park Project.
  - Daily, AM, and PM Trips for existing land use at the Existing Mall are conservatively based on 1.2 million Sq Ft Shopping Center (ITE Land Use 820) reduced to reflect 82.83% mall occupancy.

**Response DD.136:** Refer to Section 5.2 Response II.E.136.

**Comment DD.137:** 3.18 UTILITIES AND SERVICE SYSTEMS

Projects with recycled water (30 acre green roof) will result in an expansion of recycled water production which is a significant negative impact. Redirecting water which could be used for groundwater recharge and then used for drinking water is wasteful.

City must have a regulatory framework to manage conservation claims.

**Response DD.137:** Refer to Section 5.2 Response II.E.137.

**Comment DD.138:** SECTION 4.0 GROWTH-INDUCING IMPACTS

The claim that project and alternatives would have no significant impact is subjective. Residents per unit are inconsistently applied in the DEIR when the population increase from Vallco project and alternatives would largely be accounting for the city-wide population increase, therefore the assumption to population must logically use 2.94 residents per unit:

*Note: The estimated residential population and jobs/employees for buildout of the General Plan are based on the following general, programmatic rates: 2.94 residents per unit, 1 employee/450 square feet of commercial uses, 1 employee/300 square feet of office uses, and 0.3 employees/hotel room (City of Cupertino. Cupertino General Plan Community Vision 2015-2040. October 15, 2015. Page 3-12.).*

Figure 55: DEIR Population and Employees

<b>Table 4.0-1: Estimated Project and Project Alternative, Citywide, and Countywide Residential Population and Employee Projections</b>			
	<b>Estimated Dwelling Units</b>	<b>Estimated Residential Population</b>	<b>Estimated Jobs/Employees</b>
<b>Plan Bay Area Projections Year 2040</b>			
Santa Clara County	818,400	2,423,500	1,229,520
Cupertino	24,040	71,200	33,110
<b>General Plan 2040 Buildout</b>			
Cupertino General Plan Buildout 2040	23,294	69,183	48,509
<b>Project and Project Alternatives Buildout</b>			
Project	800	1,600	9,594
General Plan Buildout with Maximum Residential Alternative	2,640	5,280	5,594
Retail and Residential Alternative	4,000	8,000	1,400
Occupied/Re-Tenanted Mall Alternative	0	0	2,550
<p>Note: The estimated residential population and jobs/employees for buildout of the General Plan are based on the following general, programmatic rates: 2.94 residents per unit, 1 employee/450 square feet of commercial uses, 1 employee/300 square feet of office uses, and 0.3 employees/hotel room (City of Cupertino. <i>Cupertino General Plan Community Vision 2015-2040</i>. October 15, 2015. Page 3-12.). The estimated population and jobs/employees for the project and project alternatives are based on a project-specific study of the specific uses proposed by the project completed by Economic &amp; Planning Systems, Inc. The estimated residential and jobs/employees for the project and project alternatives are based on the following project-specific rates: 2.0 residents per unit, 1 employee/250 square feet of office, 1 employee/400 square feet of retail/restaurant, 1 employee/1,000 square of entertainment retail, and 1 employee/2 hotel rooms (Source: Economic &amp; Planning Systems, Inc. "Population and Employment Projections." April 26, 2018.).</p>			

**Response DD.138:** Refer to Section 5.2 Response II.E.138.

**EE. Eileen McLaughlin (July 19, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment EE.1:**

- Believes there should be a public meeting discussing what the project is and the development parameters
- Clarification on where standards are coming from would be helpful
- Knows that this Specific Plan process is about development density, not aesthetics and final design
- Concerned about including affordable housing in the project
- Would appreciate additional visuals/renderings on the proposed project

**Response EE.1:** Refer to Master Responses 1 and 2. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**FF. Ed Hirshfield (June 19, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment FF.1:**

- Does not approve of Hills project at Vallco
- Traffic concerns: access to 280 needs to be improved, City should work with Caltrans to improve flow of traffic on 280, construct flyovers directly to Vallco and Apple Campus from 280

**Response FF.1:** Refer to Master Response 1 regarding the relationship between the Specific Plan, a development application, and the SB 35 application. regarding the relationship between the project and the Hills project at Vallco. The project's impact to Interstate 280 (I-280) is discussed in Section 3.17 of the Draft EIR. The construction of "flyovers" or ramps directly from I-280 to the project site is not proposed as part of this project. This comment also expresses the opinion of the commenter. The comment does not raise any issues about the adequacy of the EIR. For this reason, no further response is required.



**GG. Lisa Warren (June 19, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment GG.1:**

- Former orchard and gas station on the project site not mentioned in EIR, possible contaminants in soil not mentioned, such as lead, arsenic and DDT
- Project site is listed on hazmat database and is therefore not compliant with SB 35

**Response GG.1:** The project's historic uses (including orchards, row crops, and a gasoline station) are described on page 135-136 of the Draft EIR and in the Phase 1 ESA, which is Appendix E to the Draft EIR. The potential for on-site sources of contamination related to historic and/or existing uses are discussed under Impact HAZ-1 starting on page 140 of the Draft EIR. Refer to Master Response 1 regarding the relationship between the Specific Plan, a development application, and the SB 35 application.

**HH. Janet Van Zoeren (June 19, 2018 City Council meeting, Oral Communications)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment HH.1:**

- Cupertino resident
- Housing Choices Cupertino Task Force
- Wants 40 units to be set aside for adults with developmental disability in Vallco development agreement

**Response HH.1:** No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**II. Randy Shingai (June 19, 2018 City Council meeting, Oral Communications)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment II.1:**

- San Jose resident
- Concern about the consistency between Vallco notice of preparation for draft EIR and actual content of draft EIR. Says NOP is null operation
- Says doesn't conform to Government Code 15.0.82

**Response II.1:** Refer to Master Response 3 regarding the NOP.

**JJ. Peggy Griffin (June 19, 2018 City Council meeting, Oral Communications)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment JJ.1:**

- Cupertino resident
- Wants city to set strict precedence for Vallco and future SB35 reviews
- Says there are many noncompliant issues with the SB35 application and City must act on these

**Response JJ.1:** Refer to Master Response 1 regarding the relationship between the Specific Plan, a development application, and the SB 35 application. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**KK. Jennifer Griffin (June 19, 2018 City Council meeting, Oral Communications)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment KK.1:**

- Says Cupertino is a retail desert, many retail stores use to be offered at Vallco
- Vallco should have more retail

**Response KK.1:** No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**LL. Danessa Techmanski (June 19, 2018 City Council meeting, Oral Communications)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment LL.1:**

- Cupertino resident
- Concern about compliancy of trading parkland for green roof in SB35
- Says sets wrong precedence, not great as community amenity
- Wants parkland vs rooftop pool for Cupertino residents
- Says maintenance and cost would be issue

**Response LL.1:** Refer to Master Response 1 regarding the relationship between the Specific Plan, a development application, and the SB 35 application. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**MM. Res Dent (June 19, 2018 City Council meeting, Oral Communications)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment MM.1:**

- Cupertino resident
- SB35 takes control from community
- Wants City to determine if SB35 is compliant, because if not, City must take control of plans and give power back to community

**Response MM.1:** Refer to Master Response 1 regarding the relationship between the Specific Plan, a development application, and the SB 35 application. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**NN. Jon Willey (June 19, 2018 City Council meeting, Oral Communications)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment NN.1:**

- Cupertino resident
- Not pleased with difference between Vallco in General Plan and SB35
- Compares density to Main St
- Says density is 204%
- Compares Vallco to Sunnyvale Towncenter
- Says Sunnyvale Towncenter is at 100% and lacks open space and urban greenery
- Says Vallco must follow sensible growth

**Response NN.1:** Refer to Master Response 1 regarding the relationship between the Specific Plan, a development application, and the SB 35 application. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.



**OO. Liang Chao (June 19, 2018 City Council meeting, Oral Communications)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment OO.1:**

- Cupertino resident
- Says City of Berkeley has rejected their SB35 application and found many issues with that app
- Why is it that Cupertino's SB35 application is not met with the same scrutiny, despite communal concerns
- Argues Vallco SB35 doesn't qualify because 2/3 of SF should be residential use, but application counts swimming pools, rooftop gardens, and parking lot as residential while excluding office space
- BMR should not be in segregated area
- Wants rejection of SB35 and fixing of general plan to address max height and density

**Response OO.1:** Refer to Master Response 1 regarding the relationship between the Specific Plan, a development application, and the SB 35 application. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**PP. Kitty Moore (June 19, 2018 City Council meeting, Oral Communications)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment PP.1:**

- Cupertino resident
- Argues SB35 application violates many laws as listed by Better Cupertino
- Why has City not taken action on this yet?
- Offers Friends of Better Cupertino resources to help reject application

**Response PP.1:** Refer to Master Response 1 regarding the relationship between the Specific Plan, a development application, and the SB 35 application. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**QQ. Hannah Follweiler (June 19, 2018 City Council meeting, Oral Communications)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment QQ.1:**

- Cupertino resident
- Concern about Vallco specific plan process. Argues it is too influenced by small group of community members
- Believes only way forward is using SB35 plan
- Supports Vallco redevelopment

**Response QQ.1:** Refer to Master Response 1 regarding the relationship between the Specific Plan, a development application, and the SB 35 application. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**RR. Lisa Warren (June 19, 2018 City Council meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment RR.1:**

- Cupertino resident
- Feels like there has been lack of response from city on acting on SB35

**Response RR.1:** Refer to Master Response 1 regarding the relationship between the Specific Plan, a development application, and the SB 35 application. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**SS. Kitty Moore (June 19, 2018 City Council meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment SS.1:**

- Cupertino resident
- Oppose head tax
- Vallco is a transit hub and apple would be losing it with SB35
- Says Office allocation has expired
- Says if you take money from apple, you are helping Vallco have more office space by having electric shuttle
- Don't think city should take apple money to help Vallco issues
- Thinks we should go from 65% tax discount to 100%

**Response SS.1:** Refer to Master Response 1 regarding the relationship between the Specific Plan, a development application, and the SB 35 application. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**TT. Randy Shingai (June 19, 2018 City Council meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment TT.1:**

- San Jose resident
- Concern about May 11th and June 5th minutes. In a letter written, he reads "that the current SB35 application, Randolph Homs approach will result in lawsuit in much larger scale than measure C by Better Cupertino and Steven Scharf. Please disqualify Steven Scharf's vote since he is an active party of litigation where city attorney is legal representative of city."
- Shinghai says City Attorney issue must be addressed and info should be made available to clarify SB35 concerns
- Rod Sinks says this is out of order and not related to Subject 7

**Response TT.1:** Refer to Master Response 1 regarding the relationship between the Specific Plan, a development application, and the SB 35 application. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**UU. Jennifer Griffin (July 3, 2018 City Council meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment UU.1:**

- Cupertino resident
- Wants more retail in Cupertino, like Olive Garden, Kohls, Urban Outfitters, Forever 21

**Response UU.1:** No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**VV. Ignatius Ding (July 3, 2018 City Council meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment VV.1:**

- Cupertino resident
- Has a survey polling people's input on Vallco and Oak site
- Key poll concerns from Cupertino registered voters include water, traffic, school, and retail. Says no one wants office
- Says alternative plans are poorly planned because meetings were set at inconvenient times. Says voters rejected Measure D with 7 stories, why would they like alternative with 22 story
- Says Friends of Better Cupertino has filed a lawsuit against City of Cupertino with Superior Court of Santa Clara County

**Response VV.1:** Refer to Master Response 1 regarding the relationship between the Specific Plan, a development application, and the SB 35 application. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.



**WW. Jennifer Griffin (July 3, 2018 City Council meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment WW.1:**

- Cupertino resident
- Believes public should be more involved on Business tax restructuring because neighboring city businesses have impacted Cupertino
- Similarly, Vallco will also have the same impact on S De Anza and neighboring cities

**Response WW.1:** No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**XX. Connie Cunningham (July 3, 2018 City Council meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment XX.1:**

- In regards to June 19th which references June 4th meeting, she believes key words, “developmentally disabled” should be added for legal reasons
- Wants this type of housing represented in ELI Housing

**Response XX.1:** No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**YY. Kitty Moore (July 31, 2018 City Council meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment YY.1:**

- Concern about her 27 emails to City Attorney Hom about SB35 non compliance
- Concern about where City Attorney Hom has left the SB35 response and where he is
- Thinks transparency should be made on this point

**Response YY.1:** Refer to Master Response 1 regarding the relationship between the Specific Plan, a development application, and the SB 35 application. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

**ZZ. Liang Chao (July 31, 2018 City Council meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment ZZ.1:**

- Concern about SB35. Believes there is noncompliance with the application
- Says CC should have fixed the general plan, especially in regards to office entitlement
- Says there should be a survey for residents around Vallco site

**Response ZZ.1:** Refer to Master Response 1 regarding the relationship between the Specific Plan, a development application, and the SB 35 application. No specific questions were raised in the above comment on the environmental review for the project. For this reason, no further response is required.

### **AAA. Kitty Moore (August 7, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

#### **Comment AAA.1:**

- The density bonus law in the Draft EIR was not included in the first Draft EIR.
- Project says that they need to use density bonus law in order to get to their totals and are claiming 35 percent.
- At 35 percent density bonus they get a minimum of two concessions.
- If they increase their affordable housing slightly they get to three concessions... which sounds a lot like SB35.
- Draft EIR Amendment makes the assumption of meeting the state density bonus law by providing 35 percent affordable housing, qualifying them for the maximum density bonus units. This results in concessions that negate the form based code Specific Plan process.

**Response AAA.1:** The EIR Amendment (pages 2 and 6) clarifies the use of the state Density Bonus Law as a possible mechanism of achieving the residential units of the previous Specific Plan and project alternatives. The Draft EIR and EIR Amendment evaluate the environmental impacts of the proposed number of residential units of the previous project and project alternatives.

#### **Comment AAA.2:**

- With SB35, setback and height requirements may not be followed because they may be taken as concessions. This process will not inform neighbors/Apple of what heights the project will choose.
- Vallco SB35 used their concessions to reduce retail from 600,000 to 400,000 square feet and does not provide the same number of bedrooms in the below market rate units as the market rate units. They would provide studio and one bedroom below market rate units but then provide one to five bedroom market rate units using concessions.

**Response AAA.2:** The comment does not raise any issues about the adequacy of the EIR. Refer to Master Response 1 regarding the relationship between the previous Specific Plan and the SB35 application. No further response is required.

#### **Comment AAA.3:**

- Is it legal to have the density bonus units and the assumption of density bonus law in the EIR?
- Looked at the fact that they were using the density bonus law in SB35 project and then saw that the concessions allow for increased heights and setbacks and make changes on the regulations to make project more financially feasible.
- Project is a moving target so how could the city in good faith say “here is your cross section, this is what you can expect at Vallco for height”. Therefore, the project isn’t viable.

**Response AAA.3:** Refer to Section 5.3 Responses AAA.1 and AAA.2 above.

**Comment AAA.4:**

- The alternatives are supposed to obtain similar objectives as the original proposed project, but with less impacts... does not seem like this happened.

**Response AAA.4:** Alternatives to the previous project are described in Draft EIR Section 8.0, including how they meet project objectives and how their impacts compare to those of the project. Refer to Master Response 4.

**Comment AAA.5:**

- There is a problem with the noise vs traffic section of the Draft EIR because they do not have the same allocations that they are studying.

**Response AAA.5:** It is not clear from the comment what allocations are not similar. The noise impact discussion was based upon the same project description as the traffic report and the discussion of traffic-generated noise was based upon the trip generation estimates provided in the Draft EIR traffic report.

**Comment AAA.6:**

- Traffic study used shopping center as the retail portion yet we will actually have 95 percent restaurants, so the study using the shopping center yields much lower amounts of traffic than what we are realistically going to end up with.
- Calculation of traffic due to green roof... if it is going to be a regional draw/ tourist attraction than you could end up with triple the amount of traffic there.
- Transit hub numbers were about 808 daily trips (in and out), which sounds low out of the total.

**Response AAA.6:** The proposed commercial uses include retail shops, restaurants, and other similar uses. The trip generation estimates were based upon standard Institute of Transportation Engineers (ITE) trip generation rates for shopping centers, which includes a typical amount of restaurant use. Refer to Section 5.2 Response II.E.38.

Trips attributed to the green roof were included in the traffic analysis. As described in the Draft EIR (page 30), as part of the project, the existing transit hub on-site would be upgraded to include additional features such as an information center, drop-off point, and a bike sharing distribution point. It is anticipated that the upgraded transit hub would function similarly as the existing transit hub; therefore, proposed transit hub is assumed to generate the existing amount of shuttle and shuttle related vehicle trips to the site. The existing shuttle related vehicle trips were estimated from driveway counts and field observations of shuttles and employee vehicle trips to the site and park-and-ride locations collected in January 2018.

**Comment AAA.7:**

- The project that being looked at does not match up with the two projects from the charrettes... another amendment may be necessary.



- Pushed the two project alternatives together into one and then studied that... which is not how it works.

**Response AAA.7:** Refer to Master Response 2 regarding the relationship between the EIR and the Specific Plan process.

**Comment AAA.8:**

- 95 percent of retail is restaurants.
- Restaurants generate 4-10 times the amount of traffic as regular retail. We do not know what percent of restaurants they anticipate to have.
- In SB35 it looked like they had 120,000 square feet of entertainment, 147,000 square feet of restaurants and 133,000 square feet of street retail. Yet here the new commercial is coming in at 95 percent from economic development manager Angela.
- Can expect a higher amount of traffic.

**Response AAA.8:** Refer to Section 5.3 Response AAA.6 regarding the trip generation estimates used in the traffic report. Refer to Master Response 1 regarding the relationship between the previous project and the SB 35 application.

**Comment AAA.9:**

- Restaurants have a higher carbon footprint than other retail.
- Process of a cow in a pasture becoming a meal in a restaurant produces a high carbon footprint.

**Response AAA.9:** The GHG analysis for the project included standard parameters and methodology commonly utilized for such analyses. The specific type of restaurants that may occupy the project site is unknown at this time.

**Comment AAA.10:**

- The project would have three times the amount of water usage as Apple Park even though Apple Park is significantly larger.

**Response AAA.10:** The water demand of the project and project alternatives described in the Draft EIR is based upon the land use mix included in the previous project and alternatives and the water demand rates used by Cal Water, the water supplier to the site. Residential uses generate a higher demand for water than office. The comment does not raise any issues about the adequacy of the EIR. No further response is required.

**Comment AAA.11:** New amendment is larger than the SB35 plan.

**Response AAA.11:** Refer to Master Response 1 regarding the relationship between the previous Specific Plan and the SB35 application.

**Comment AAA.12:**

- Phase One Environmental Site Assessment is missing information that is available from the Santa Clara County Fire Department records.

- WSP contacted the Fire Department for information on any above/underground storage tanks, hazardous waste storage, inspections and plans associated with the mall property and no records were found, according to Fire Department.
- However, the commenter was able to find a vast amount of records.
- Current Cornerstone Earth Group did not provide all the records that are available.
- Cornerstone showed pictures of various issues but did not go into detail about them.
- Project did not complete a Phase Two ESA.
- Cornerstone only went up to 2010 with their records and they are missing some curious things.
- Cornerstone showed a picture of a concrete access cover near a stormdrain to the suspected waste oil underground storage tank location at Sears Automotive. The steel cover of the acid neutralization cover adjacent to the battery room had tetrachloroethylene (dry cleaner fluid) on site, which is hard to get out of the soil. There was no indication of this in Cornerstone's ESA.
- Sandhill Property Company did not complete the questionnaire provided by Cornerstone, which was intended to obtain information on the history of hazards on the site. They referred Cornerstone to the previously completed reports listed in Table 3, the reports mentioned earlier that did not use data from the Fire Department, as well as provided copies of each, access to the site, contact information and interviews with previous owners and occupants. However, contact information of previous owners was not provided to them, therefore interviews with previous site owners could not be performed.
- In 1969 building plans for Sears Automotive depict several features associated with the auto center, including two adjacent 500 gallon oil USTs and underground storage tank, a nearby 100 gallon waste oil ground storage tank located west of the building, a sump pump in the southwest corner of the building's basement, multiple hydraulic vehicle lifts, a battery storage room with drains leading to a below ground neutralization chamber located east of the building, which is likely to have lead (a photo of the floor shows white markings which look like lead residue), a below ground sand and grease interceptor located east of the building, grease oil and transmission fluid distribution piping throughout the interior of the building, and an elevator in the southeast portion.
- Contract said that they removed two USTs in 1986, yet no details regarding the content nor locations of the UST was described in the contract.
- Dates of various hazardous material inventories indicated that various automotive related hazardous materials were stored on site, including oils, transmission fluid, brake fluid, antifreeze, lead, acid batteries, refrigerants, and others. These materials were noted to be contained in drums and ASTs.
- In the report they show historic photographs that indicate there were several buildings on the southeast corner of the Sears lot. Suspects there might be underground storage tanks in there. They were torn down in 1968 when there was a gas station at Sears. Because there was an orchard from at least the 1930's, suspects they have some lead arsenate residue and lead mixed with arsenic and water. There hasn't been any testing of this.
- Between 1991 and 2010 inspection reports from the Department of Environmental Health Records noted multiple violations, including unlabeled waste containers, open containers, improper record keeping, improper management of lead wheel weights, lack of proper training and lack of secondary containment and the presence of an oil water separator that was reportedly connected to four floor drains within the auto service shop.

- People say that JCPenny is a closed case, but it is not because they had to leave an underground storage tank, as well as contaminated material.
- In the Cornerstone report they indicate that there is material that was still dripping during their study. Sears has been closed for three years. Underground storage tanks should be cataloged, according to the health and safety code. There are very high daily fees to keep an underground storage tank.

**Response AAA.12:** The Draft EIR discussion of hazards and hazardous materials issues and impacts on the project site in Section 3.9 of the Draft EIR and Section 4.9 of the EIR Amendment is thorough and appropriate, as is the Phase I Environmental Site Assessment (ESA) upon which the Draft EIR was prepared. Responses are provided below to comments generally in the order they were made. The WSP report has been superseded by the more recent Cornerstone Phase I ESA, which included a review of Santa Clara County Fire Department (SCCFD) records. The Cornerstone Earth Group Phase I referenced in the Draft EIR (Appendix E) was prepared in accordance with ASTM E 1527-13 titled, “Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process.”

The purpose of the Phase I ESA is to strive to identify, to the extent feasible, Recognized Environmental Conditions at the property. As defined by ASTM E 1527-13, the term Recognized Environmental Condition means the presence or likely presence of any hazardous substances or petroleum products in, on, or at a property: (1) due to any release to the environment; (2) under conditions indicative of a release to the environment; or (3) under conditions that pose a material threat of a future release to the environment. De minimis conditions are not Recognized Environmental Conditions. The Cornerstone records review did not go only up to 2010; nor is any pertinent information missing. Providing “all the records that are available” is not within the scope of a Phase I ESA; pertinent records were reviewed and summarized.

The Cornerstone Phase I ESA provides recommendations for Phase II sampling activities, which shall be conducted prior to redevelopment of the site (Draft EIR MM HAZ-1.2, page 142). Sections 9.4 and 9.5 of the Cornerstone Phase I ESA provide recommendations for further evaluation of the suspected waste oil UST and the acid neutralization chamber associated with the battery room (Draft EIR MM HAZ-1.2, page 142). Removal of these features and soil sampling was recommended, and shall be completed prior to redevelopment of the site.

With regard to the site owner questionnaire, ASTM Standard Designation E 1527-13 requires the Environmental Professional to comment on significant data gaps that affect the ability of the expert (Cornerstone) to identify Recognized Environmental Conditions. A data gap is a lack of or inability to obtain information required by ASTM Standard Designation E 1527-13 despite good faith efforts by the Environmental Professional to gather such information. A data gap by itself is not inherently significant; it only becomes significant if it raises reasonable concerns. The general environmental setting of the project site has been established based on

the information reviewed from other data sources. Cornerstone did not consider this data gap to be significant.

SCCFD records contained a contract dated June 12, 1986 between Sears, Roebuck and Company, and K.E. Curtis Construction Company for the removal of a 500 gallon UST. No details regarding the contents or location of the UST were described in the contract, and no other records pertaining to a UST removal at Sears in 1986, or later, were identified during this study.

Based upon the Phase I and the expert's past experience with similar site conditions, Cornerstone identified a potential for on-site soil, soil vapor, and groundwater contamination due to historic and existing hazardous material use, generation and storage. Mitigation measures are identified to avoid or reduce impacts related to hazardous material contamination to a less than significant level, including preparation of a Site Management Plan (SMP), Health and Safety Plan (HSP) for the proposed demolition and redevelopment activities, and specific measures for the demolition of the former Sears and JC Penny automotive centers, with oversight by the City, SCCFD, and Santa Clara County Department of Environmental Health (SCCDEH) (Draft EIR MM HAZ-1.1, page 140-141). The purpose of these documents is to establish appropriate management practices for handling impacted soil, soil vapor and ground water or other materials that may potentially be encountered during construction activities. The SMP and HSP will establish practices for properly handling contaminated materials, implementing measures during demolition activities to identify, remove and clean up hazardous materials on-site, properly closing groundwater monitoring wells, and obtaining site closure from regulatory agencies.

No information was identified during Cornerstone's Phase I ESA indicating that USTs were associated with the former orchard or associated structures. If USTs are encountered during construction, they will be handled in accordance with protocols to be established within the recommended SMP.

Section 9.3 of the Cornerstone Phase I ESA provides recommendations for soil sampling to evaluate if agricultural chemicals are present (Draft EIR MM HAZ-1.2, page 142). If elevated concentrations are identified, appropriate soil handling and mitigation measures would be required to be implemented under the oversight of an appropriate regulatory agency (i.e., the Water Board, DTSC or County DEH).

Section 9.5 of the Cornerstone Phase I ESA provides recommendations for further evaluation and removal of the oil-water separator, which would be required to be completed prior to redevelopment of the site (Draft EIR MM HAZ-1.2, page 141).

The JC Penny LUST case was closed by the Santa Clara Valley Water District (the overseeing regulatory agency) in 1994. The 750 gallon oil-water separator at the JC Penny Automotive Center was steam cleaned and closed in place in 1994 by filling it with cement grout under SCCFD oversight. Based on reported soil sampling data, this separator does not appear to have significantly impacted underlying soil quality. No underground storage tank was left in place at JC Penny.



The Cornerstone Phase I ESA provides recommendations for the removal of remnant piping from the Sears facility, cleaning of residual oil/stains from interior building surfaces, and the removal of any remaining USTs (Draft EIR MM HAZ-1.2, page 141). This work would be required to be completed prior to redevelopment of the Site.

There is nothing presented in this comment that change the conclusions in the EIR about potential hazardous materials impacts, or that requires mitigation measures in addition to mitigation measures MM HAZ-1.1 through MM HAZ-1.4 identified in the Draft EIR and EIR Amendment.

**BBB. Steven Scharf (August 7, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment BBB.1:**

- On page 174-175 of Table 4.1.7-3 it shows the existing traffic with project ratings of the intersection. How was this done?
- For Wolfe and I-280 North/South intersections, it shows no change in the level of service (LOS) for the on and off ramps of I-280 for when this project is built. How is this possible? How are they measuring this?

**Response BBB.1:** As described in the Draft EIR (pages 269-271), the level of service (LOS) for signalized study intersections was calculated based on methodology of the 2000 Highway Capacity Manual (HCM), which was adopted by the City of Cupertino (General Plan Policy M-7.1) and adjacent local agencies, and analyzes operations based on average control delay per vehicle. Existing conditions traffic counts were taken in January 2018, and the project estimated trips (and project alternative trips) were added to the existing intersection turning movement volumes to estimate existing plus project conditions. As shown in Table 4.17-3, the intersections of Wolfe/I-280 (north) and Wolfe/I-280 (south) ramps were determined to operate at LOS B under both existing and existing plus project conditions.

**Comment BBB.2:**

- How can they say “existing” when the major Apple campus “spaceship” is only 2/3 occupied now? Once is it fully occupied (4,000 – 5,000 more employees) would that change the LOS at these intersections?

**Response BBB.2:** The existing conditions scenario reflects the roadway volumes present on the streets on the day the counts were taken; in this case, in January 2018. To reflect the increase in traffic volumes that will result from approved, but not built

or occupied developments in the area (e.g., Apple campus), the EIR traffic analysis includes “background conditions.” Background conditions traffic volumes were estimated by adding to existing traffic volumes the traffic from approved but not built or occupied development and associated changes in the roadway network. The results of the intersection LOS under background and background plus project (and project alternatives) conditions are included in the Draft EIR, Table 3.17-15, and Draft EIR Amendment, Table 4.17-9.

**CCC. Lisa Warren (August 7, 2018 public meeting)**

**The following responses pertain to the previous project and project alternatives analyzed in the Draft EIR and EIR Amendment. Please refer to Section 2.0 of this Final EIR for a description of the revised project and a discussion of its impacts on the environment. As discussed in Section 2.0, the revised project would not result in new or substantially more severe significant impact than disclosed previously in the Draft EIR and EIR Amendment.**

**Comment CCC.1:**

- In the graph shown in the PowerPoint presentation, the amendment is called the “housing rich alternative”, yet the offices have increased by 50 percent as well. Could argue this amendment is also office rich.
- This could possibly be because the proposed Specific Plan, which is incorrect according to our General Plan, mentions 2 million offices while the housing rich amendment only mentions 1.5 million offices?
- Proposed Specific Plan variety shows 800 dwelling units when the General Plan only allowed for 839 based on the housing numbers that were chosen by City Council.

**Response CCC.1:** Refer to Master Response 2 regarding the relationship between the EIR and the Specific Plan process.

**Comment CCC.2:**

- Biggest issue is that no one really knows what is being studied/ how it is being studied.
- With so many studies all over the place, it is hard to look at the study and pinpoint what it is missing/which parts are poor.
- Unsure of if the wide range of project alternatives really achieve the same objectives and lessen the impacts (which is what is required).

**Response CCC.2:** Refer to Master Response 2 regarding the relationship between the EIR and Specific Plan processes, and Master Response 4 regarding the evaluation of alternatives.

**Comment CCC.3:** 95 percent of Cupertino retail is restaurants, which is a huge amount of restaurants and restaurants emit large amounts of GHGs. Was GHG emissions studied properly?

**Response CCC.3:** The GHG emissions of the project, including proposed commercial and restaurant space, was evaluated properly using methodology

commonly utilized for such analyses. Refer also to Section 5.3 Response AAA.9 regarding the GHG analysis of the commercial and restaurant space.

**Comment CCC.4:**

- The Proposed Specific Plan and the Housing Rich Amendment had 30 acres of parks. This park land is needed, but not on the roof.
- The roof park would be slanted and a large amount of the park would not be accessible to the public because it would be private amenities.
- There is no breakdown showing the amount of park available to the general public. The amount of park land is expected to be much smaller than the 30 acres discussed.
- What they do provide as park land likely would not be usable for sports because it would be sloped. Even if this is fixed/flattened, the roof is still not a good place to be play sports, as it is next to a freeway.
- East side of city is park-starved and density challenged, so they need more parks.
- Project should look more into park research. There are studies (such as by the California Department of Education) showing statistics of physical fitness levels of school aged children based on park demographics.
- General Plan might need to amend their description of a park, as two narrow strips of grass on either side of a road should possibly not qualify as a real park.

**Response CCC.4:** Refer to Section 5.2 Responses, II.E.25, II.E.26, and II.AA.1 regarding the proposed green roof and the previous project's parkland requirements.

## SECTION 6.0 DRAFT EIR TEXT REVISIONS

---

This section contains revisions to the text of the Vallco Special Area Specific Plan Draft EIR dated May 2018. Revised or new language is underlined. All deletions are shown with a ~~line through the text~~.

Pages ix-xxi Summary of Impacts and Mitigation Measures: **REPLACE** the Summary of Impact and Mitigation Measures table with the following:



Summary of Impacts and Mitigation Measures	
Impact	Mitigation Measures
<b>Air Quality</b>	
<p><b>Impact AQ-2:</b> The construction of the project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would violate air quality standard or contribute substantially to an existing or projected air quality violation.</p> <p><b>Significant and Unavoidable Impact with Mitigation Incorporated</b></p>	<p><b>MM AQ-2.1:</b> Future development under the proposed project (and General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative) shall implement the following BAAQMD-recommended measures to control dust, particulate matter, and diesel emissions during construction:</p> <p><i>Basic Measures</i></p> <ol style="list-style-type: none"> <li>1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.</li> <li>2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.</li> <li>3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.</li> <li>4. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).</li> <li>5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.</li> <li>6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to <u>two</u>five minutes (<del>as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations (CCR)</del><u>unless subject to state law exemption (e.g., safety issues)</u>). Clear signage shall be provided for construction workers at all access points.</li> <li>7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.</li> <li>8. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.</li> </ol>

<b>Summary of Impacts and Mitigation Measures</b>	
<b>Impact</b>	<b>Mitigation Measures</b>
	<p><i>Applicable Enhanced Control Measures</i></p> <ol style="list-style-type: none"> <li>9. All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.</li> <li>10. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph and visible dust extends beyond site boundaries.</li> <li>11. Wind breaks (e.g., trees, fences) shall be installed on the windward side(s) of actively disturbed areas of construction adjacent to sensitive receptors. Wind breaks should have at maximum 50 percent air porosity.</li> <li>12. Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.</li> <li>13. The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.</li> <li>14. Avoid tracking of visible soil material on to public roadways by employing the following measures if necessary: (1) Site accesses to a distance of 100 feet from public paved roads shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel and (2) washing truck tires and construction equipment of prior to leaving the site.</li> <li>15. Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.</li> <li>16. Minimizing the idling time of diesel powered construction equipment to two minutes <u>unless subject to state law exemptions (e.g., safety issues).</u></li> </ol> <p><i>Exhaust Control Measures</i></p> <ol style="list-style-type: none"> <li>17. The project shall develop a plan demonstrating that the off-road equipment (more than 25 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a project wide fleet-average 25 percent NO<sub>x</sub> reduction and 65 percent PM (particulate matter) exhaust reduction compared to the CalEEMod modeled average used in this report. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available. The following are feasible methods:</li> </ol>

**Summary of Impacts and Mitigation Measures**

<b>Impact</b>	<b>Mitigation Measures</b>
	<ul style="list-style-type: none"> <li>• All construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet EPA Tier 4 emission standards for NO<sub>x</sub> and PM, where feasible.</li> <li>• <u>If Tier 4 equipment is not feasible, A</u>ll construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve an 85 percent reduction in particulate matter exhaust.</li> <li>• Use of alternatively-fueled equipment with lower NO<sub>x</sub> emissions that meet the NO<sub>x</sub> and PM reduction requirements above.</li> <li>• Diesel engines, whether for off-road equipment or on-road vehicles, shall not be left idling for more than two minutes, except as provided in exceptions to the applicable state regulations (e.g., traffic conditions, safe operating conditions). The construction sites shall have posted legible and visible signs in designated queuing areas and at the construction site to clearly notify operators of idling limit.</li> <li>• All on-road heavy-duty diesel trucks with a gross vehicle weight rating of 33,000 pounds or greater (EMFAC Category HDDT) used at the project site (such as haul trucks, water trucks, dump trucks, and concrete trucks) shall be model year 2010 or newer.</li> <li>• Develop a Transportation Demand Management program for construction worker travel <u>that includes transit and carpool subsidies in order</u> to reduce worker trips <del>by 10 percent</del>.</li> <li>• Provide line power to the site during the early phases of construction to minimize the use of diesel powered stationary equipment, such as generators.</li> <li>• <del>Enforce idling limit of two minutes unless subject to state law exemptions (e.g., safety issues).</del></li> </ul> <p><u>18. A project-specific construction management plan describing the measures to minimize construction emissions shall be required of future development. As part of the construction management plan, the on-site Construction Manager shall ensure and regularly document that equipment, trucks, and architectural coatings meet the above mitigation requirements. The documentation shall be submitted regularly to the City for review and compliance.</u></p>

<b>Summary of Impacts and Mitigation Measures</b>	
<b>Impact</b>	<b>Mitigation Measures</b>
<p><b>Impact AQ-3:</b> The operation of the project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would violate air quality standard or contribute substantially to an existing or projected air quality violation.</p> <p><b>Significant and Unavoidable Impact with Mitigation Incorporated</b></p>	<p><b>MM AQ-3.1:</b> Future development under the proposed project (and General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative) shall use low-VOC paint (i.e., 50 g/L or less) on operational architectural coatings and no hearths or fireplaces (including natural gas-powered) shall be installed in the residential units.</p>
<p><b>Impact AQ-4:</b> The proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would result in a cumulatively considerable net increase of criteria pollutants (ROG, NO<sub>x</sub>, PM<sub>10</sub>, and/or PM<sub>2.5</sub>) for which the project region is non-attainment under an applicable federal or state ambient air quality standard.</p> <p><b>Significant and Unavoidable Impact with Mitigation Incorporated</b></p>	<p><b>MM AQ-4.1:</b> Implement MM AQ-3.1.</p>
<p><b>Impact AQ-6:</b> The proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would expose sensitive receptors to substantial construction dust and diesel exhaust emissions concentrations.</p>	<p><b>MM AQ-6.1:</b> Implement MM AQ-2.1 and <del>2.2</del>.</p>



<b>Summary of Impacts and Mitigation Measures</b>	
<b>Impact</b>	<b>Mitigation Measures</b>
<b>Significant and Unavoidable Impact with Mitigation Incorporated</b>	
<p><b>Impact AQ-7:</b> The proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would expose sensitive receptors to substantial TAC pollutant concentrations.</p> <p><b>Less than Significant Impact with Mitigation Incorporated</b></p>	<p><b>MM AQ-7.1:</b> Future development under the proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) shall implement mitigation measure MM AQ-2.1 to reduce on-site diesel exhaust emissions, which would thereby reduce the maximum cancer risk due to construction of the project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative).</p>
<p><b>Impact AQ-9:</b> Implementation of the proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would cumulatively contribute to cumulatively significant air quality impacts in the San Francisco Bay Area Air Basin.</p> <p><b>Significant and Unavoidable Impact with Mitigation Incorporated</b></p>	<p><b>MM AQ-9.1:</b> Implement MM AQ-3.1.</p>
<b>Cultural Resources</b>	
<p><b>Impact CR-2:</b> The project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would not significantly impact archaeological resources, human remains, or tribal cultural resources.</p>	<p><b>MM CR-2.1:</b> A qualified archaeological monitor shall be retained by the project proponent for future development under the proposed project (or General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative) to inspect the ground surface at the completion of demolition activities as they occur to search for archaeological site indicators.</p> <p>In the event that any indicators are discovered, work shall be halted within a sensitivity zone to be determined by the archaeologist. The archaeologist shall prepare a plan for the evaluation of the</p>

<b>Summary of Impacts and Mitigation Measures</b>	
<b>Impact</b>	<b>Mitigation Measures</b>
<b>Less than Significant Impact with Mitigation Incorporated</b>	<p>resource to the CRHP and submit the plan to the Cupertino Planning Department for review and approval prior to any construction related earthmoving within the identified zone of archaeological sensitivity. The plan shall also include appropriate recommendations regarding the significance of the find and the appropriate mitigation. The identified mitigation shall be implemented and can take the form of limited data retrieval through hand excavation coupled with continued archaeological monitoring inside of the archaeologically sensitive zone to ensure that significant data and materials are recorded and/or removed for analysis. Monitoring also serves to identify and thus limit damage to human remains and associated grave goods.</p> <p><b>MM CR-2.2:</b> Pursuant to Section 7050.5 of the Health and Safety Code and Section 5097.94 of the Public Resources Code of the State of California, in the event of the discovery of human remains during construction of the proposed project (or General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative), there shall be no further excavation or disturbance of the site within a 100-foot radius of the remains or any nearby area reasonably suspected to overlie adjacent remains. The Santa Clara County Coroner shall be notified and shall make a determination as to whether the remains are Native American. If the Coroner determines that the remains are not subject to his authority, he shall notify the NAHC within 24 hours. The NAHC shall attempt to identify descendants of the deceased Native American. If no satisfactory agreement can be reached as to the disposition of the remains pursuant to this State law, then the land owner shall re-inter the human remains and items associated with Native American burials on the property in a location not subject to further subsurface disturbance.</p> <p><b>MM CR-2.3:</b> If archaeological resources are identified during construction of the proposed project (or General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative), a final report summarizing the discovery of cultural materials shall be submitted to the City’s Project Planner prior to issuance of building permits. This report shall contain a description of the mitigation program that was implemented and its results, including a description of the monitoring and testing program, a list of the resources found and conclusion, and a description of the disposition/curation of the resources.</p> <p><b>MM CR-2.4:</b> The City of Cupertino shall coordinate with the applicable Native American tribal representatives following approval of a development on-site under the proposed project (or General Plan</p>

<b>Summary of Impacts and Mitigation Measures</b>	
<b>Impact</b>	<b>Mitigation Measures</b>
	Buildout with Maximum Residential Alternative or Retail and Residential Alternative). Cultural sensitivity training shall be provided to all contractors prior to the start of ground-disturbing activities.
<p><b>Impact CR-4:</b> The project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would not result in a considerable contribution to a significant cumulative cultural resources impact.</p> <p><b>Less than Significant Impact with Mitigation Incorporated</b></p>	<p><b>MM CR-4.1:</b> Implement mitigation measures MM CR-2.1 through -2.4.</p>
<b>Greenhouse Gas</b>	
<p><b>Impact GHG-1:</b> The project (and General Plan Buildout with Maximum Residential Alternative) would not generate cumulatively considerable GHG emissions that would result in a significant cumulative impact to the environment.</p> <p><b>Less than Significant Cumulative Impact with Mitigation Incorporated</b></p>	<p><b>MM GHG-1.1:</b> Under the proposed project (and General Plan Buildout with Maximum Residential Alternative <del>and Retail and Residential Alternative</del>), the project proponent shall prepare and implement a GHG Reduction Plan to offset the project (or General Plan Buildout with Maximum Residential Alternative)-related incremental increase of greenhouse gas emissions resulting in the exceedance of the significance threshold of 2.6 MTCO<sub>2</sub>e/year/service population. Refinement of the estimated GHG emissions from the project (or General Plan Buildout with Maximum Residential Alternative) shall be completed as part of the GHG Reduction Plan in order to reflect the most current and accurate data available regarding the project’s estimated emissions (including emission rates). The GHG Reduction Plan shall include the implementation of a qualifying TDM program reduce mobile GHG emissions. Additional offsets may include, but are not limited to, the following:</p> <ul style="list-style-type: none"> <li>• Construct on-site or fund off-site carbon sequestration projects (such as a forestry or wetlands projects for which inventory and reporting protocols have been adopted). If the project (or General Plan Buildout with Maximum Residential Alternative) develops an off-site project, it must be registered with the Climate Action Reserve or otherwise approved by BAAQMD in order to be used to offset project (or General Plan Buildout with Maximum Residential Alternative) emissions; and/or</li> <li>• Purchase of carbon credits to offset project (or General Plan Buildout with Maximum Residential Alternative) annual emissions. Carbon offset credits shall be verified and registered with The Climate Registry, the Climate Action Reserve, or another source approved by CARB or</li> </ul>

<b>Summary of Impacts and Mitigation Measures</b>	
<b>Impact</b>	<b>Mitigation Measures</b>
	BAAQMD. The preference for offset carbon credit purchases include those that can be achieved as follows: 1) within the City; 2) within the San Francisco Bay Area Air Basin; 3) within the State of California; then 4) elsewhere in the United States. Provisions of evidence of payments, and funding of an escrow-type account or endowment fund would be overseen by the City.
<b>Hazards and Hazardous Materials</b>	
<p><b>Impact HAZ-1:</b> The project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would not create a significant hazard to the public or the environment through routine transport, use, disposal, or foreseeable upset of hazardous materials; or emit hazardous emissions or hazardous materials within one-quarter mile of an existing or proposed school.</p> <p><b>Less than Significant with Mitigation Incorporated</b></p>	<p><b>MM HAZ-1.1:</b> A Site Management Plan (SMP) and Health and Safety Plan (HSP) shall be prepared and implemented for demolition and redevelopment activities under the proposed project (and the General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative). The purpose of the SMP and HSP is to establish appropriate management practices for handling impacted soil, soil vapor, and groundwater or other materials that may potentially be encountered during construction activities, especially in areas of former hazardous materials storage and use, and the profiling of soil planned for off-site disposal and/or reuse on-site. The SMP shall document former and suspect UST locations, hazardous materials transfer lines, oil-water separators, neutralization chambers, and hydraulic lifts, etc. The SMP shall also identify the protocols for accepting imported fill materials, if needed. The SMP <u>and HSP</u> shall be submitted to the City and SCCDEH for approval <u>and the approved SMP and HSP shall be submitted to the City Building Division</u> prior to commencement of construction (including demolition) activities.</p> <p><b>MM HAZ-1.2:</b> The site contains equipment and facilities associated with past activities that are known to or may contain residual hazardous materials. The following measures shall be implemented under the proposed project (and the General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) during building demolition and shall be indicated on demolition plans:</p> <ul style="list-style-type: none"> <li>• Sears and JC Penney Automotive Centers: <ul style="list-style-type: none"> <li>– Sears: Remnant piping that appears to have formerly distributed grease, oil and transmission fluid from storage locations to the service bays located along interior building walls, ceilings and within the basement shall be properly removed and disposed, and stains and residual oil shall be cleaned from the interior building surfaces. This work shall be coordinated with the SCCFD.</li> <li>– Sears: The below ground oil-water separator (connected to floor drains within the building) and an acid neutralization chamber (connected to drains within a former battery storage room) shall be cleaned and removed. This work shall be coordinated with the SCCFD and</li> </ul> </li> </ul>



**Summary of Impacts and Mitigation Measures**

<b>Impact</b>	<b>Mitigation Measures</b>
	<p>SCCDEH. Soil quality below each of the structures shall be evaluated via sampling and laboratory analyses.</p> <ul style="list-style-type: none"> <li>– Sears: The potential presence of a waste oil UST shall be further investigation by removing the access cover and, if uncertainty remains, the subsequent performance of a geophysical survey. If a UST is identified, it shall be removed in coordination with the SCCFD and SCCDEH, and underlying soil quality shall be evaluated. If no UST is identified, soil quality at the location of the waste oil UST, as depicted on the 1969 building plan, shall be evaluated via the collection of soil samples from borings for laboratory analyses.</li> <li>– Sears and JC Penney: Each of the below-ground lift casings and any associated hydraulic fluid piping and reservoirs from hydraulic lifts shall be removed and properly disposed. An Environmental Professional shall be retained to observe the removal activities and, if evidence of leakage is identified, soil sampling and laboratory analyses shall be conducted.</li> <li>– JC Penney: The 750 gallon oil-water separator shall be properly removed and appropriately disposed during redevelopment activities.</li> </ul> <ul style="list-style-type: none"> <li>• Existing staining and spilled oil on-site, including at the Sears Automotive Center and Cupertino Ice Center, shall be properly cleaned. When these facilities are demolished, an Environmental Professional shall be present to observe underlying soil for evidence of potential impacts and, if observed, collect soil samples for laboratory analyses.</li> <li>• If the lead-based paint on-site is flaking, peeling, or blistering, it shall be removed prior to demolition. Applicable OSHA regulations shall be followed; these include requirements for worker training and air monitoring and dust control. Any debris containing lead shall be disposed appropriately.</li> <li>• An asbestos survey shall be completed of the buildings prior to their demolition in accordance with the National Emissions Standards for Hazardous Air Pollutants (NESHAP) guidelines. NESHAP guidelines require the removal of potentially friable ACMs prior to building demolition or renovation that may disturb the ACM.</li> <li>• Once existing buildings and improvements are removed, soil sampling shall be completed to evaluate if agricultural chemicals and lead are present. The agricultural pesticide sampling shall focus on former orchard and row crop areas, as well as in the vicinity of outbuilding (barns and sheds) that were formerly located of the southeast portion of the site. Testing for lead contamination shall be completed at the former structure locations. The sampling, which shall follow commonly accepted environmental protocols, shall be performed prior to soil excavation activities in order to appropriately profile the soil for off-haul to a disposal facility. The</li> </ul>

<b>Summary of Impacts and Mitigation Measures</b>	
<b>Impact</b>	<b>Mitigation Measures</b>
	<p>analytical data shall be compared to either residential screening levels and/or the specific acceptance criteria of the accepting facility. If this soil is planned to be reused on-site, it shall be compared to residential screening levels and/or natural background levels of metals.</p> <p><b>MM HAZ-1.3:</b> Prior to issuance of demolition and/or grading permits, groundwater monitoring wells shall be properly destroyed in accordance with the SCVWD Ordinance 90-1.</p> <p><b>MM HAZ-1.4:</b> As part of the facility closure process for occupants that use and/or store hazardous materials, the SCCFD and SCCDEH typically require that a closure plan be submitted by the occupant that describes required closure activities, such as removal of remaining hazardous materials, cleaning of hazardous material handling equipment, decontamination of building surfaces, and waste disposal practices, among others. Facility closures shall be coordinated with the Fire Department and SCCDEH to ensure that required closure activities are completed prior to issuance of demolition and/or grading permits.</p>
<p><b>Impact HAZ-6:</b> The project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would not have a considerable contribution to a significant cumulative hazardous materials impact.</p> <p><b>Less than Significant Cumulative Impact with Mitigation Incorporated</b></p>	<p><b>MM HAZ-6.1:</b> Implement MM HAZ-1.1 through -1.4.</p>
<b>Noise and Vibration</b>	
<p><b>Impact NOI-1:</b> The project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would not expose persons to or generation of noise levels in excess of standards established in the General Plan</p>	<p style="text-align: center;"><b>Construction Noise</b></p> <p><b>MM NOI-1.1:</b> Construction activities under the proposed project (or General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative) shall be conducted in accordance with provisions of the City’s Municipal Code which limit temporary construction work to</p>

<b>Summary of Impacts and Mitigation Measures</b>	
<b>Impact</b>	<b>Mitigation Measures</b>
<p>Municipal Code, or applicable standard of other agencies.</p> <p><b>Significant and Unavoidable Impact with Mitigation Incorporated</b></p>	<p>daytime hours,<sup>20</sup> Monday through Friday. Construction is prohibited on weekends and all holidays pursuant to <u>Municipal Code Section 10.48.053(B)(C)(D)</u>.<sup>21</sup> Further, the City requires that all equipment have high-quality noise mufflers and abatement devices installed and are in good condition. Additionally, the construction crew shall adhere to the following construction best management practices listed in MM NOI-1.2 below to reduce construction noise levels emanating from the site and minimize disruption and annoyance at existing noise-sensitive receptors in the project vicinity.</p> <p><b>MM NOI-1.2:</b> Future development shall <u>prepare and submit a construction noise control plan to the City’s Building Department and Code Enforcement for review and approval. The on-site Construction Manager shall implement the construction noise control plan, which would include</u>ing, but is not limited to, the following available controls:</p> <ul style="list-style-type: none"> <li>• Construct temporary noise barriers, where feasible, to screen stationary noise-generating equipment. Temporary noise barrier fences would provide a five dBA noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receptor and if the barrier is constructed in a manner that eliminates any cracks or gaps.</li> <li>• Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.</li> <li>• <u>Enforce unnecessary idling limit of two minutes of internal combustion engines unless subject to state law exemptions (e.g., safety issues) shall be strictly prohibited.</u></li> <li>• Locate stationary noise-generating equipment, such as air compressors or portable power generators, as far as possible from sensitive receptors as feasible. If they must be located near receptors, adequate muffling (with enclosures where feasible and appropriate) shall be used to reduce noise levels at the adjacent sensitive receptors. Any enclosure openings or venting shall face away from sensitive receptors.</li> <li>• Utilize “quiet” air compressors and other stationary noise sources where technology exists.</li> </ul>

<sup>20</sup> Per Municipal Code Section 10.48.010, daytime is defined as the period from 7:00 AM to 8:00 PM weekdays.

<sup>21</sup> Municipal Code Section 10.48.053(B): Notwithstanding Section 10.48.053A, it is a violation of this chapter to engage in any grading, street construction, demolition or underground utility work within seven hundred fifty feet of a residential area on Saturdays, Sundays and holidays, and during the nighttime period, except as provided in Section 10.48.030. Municipal Code Section 10.48.053(C): Construction, other than street construction, is prohibited on holidays, except as provided in Sections 10.48.029 and 10.48.030. Municipal Code Section 10.48.053(D): Construction, other than street construction, is prohibited during nighttime periods unless it meets the nighttime standards of Section 10.48.040.

<b>Summary of Impacts and Mitigation Measures</b>	
<b>Impact</b>	<b>Mitigation Measures</b>
	<ul style="list-style-type: none"> <li>• Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction.</li> <li>• Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.</li> <li>• Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.</li> <li>• If impact pile driving is proposed, temporary noise control blanket barriers shall shroud pile drivers or be erected in a manner to shield the adjacent land uses.</li> <li>• If impact pile driving is proposed, foundation pile holes shall be pre-drilled to minimize the number of impacts required to seat the pile. Pre-drilling foundation pile holes is a standard construction noise control technique. Pre-drilling reduces the number of blows required to seat the pile. Notify all adjacent land uses of the construction schedule in writing.</li> <li>• The contractor shall prepare a detailed construction schedule for major noise-generating construction activities and provide it to adjacent land uses. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.</li> <li>• Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaint (e.g., bad muffler, etc.) and would require that reasonable measures be implemented to correct the problem. The telephone number for the disturbance coordinator shall be conspicuously posted at the construction site and included in the notice sent to neighbors regarding the construction schedule.</li> </ul> <p style="text-align: center;"><b>Mechanical Equipment Noise</b></p> <p><b>MM NOI-1.3:</b> A qualified acoustical consultant shall be retained for development under the proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) to review mechanical noise, as these systems are selected, to determine specific noise reduction measures necessary to ensure noise complies with the City's noise level requirements. Mechanical equipment shall be selected and designed to reduce impacts on surrounding uses to meet the City's noise level requirements. Noise reduction measures could include, but are not limited to:</p> <ul style="list-style-type: none"> <li>• Selection of equipment that emits low noise levels;</li> </ul>



<b>Summary of Impacts and Mitigation Measures</b>	
<b>Impact</b>	<b>Mitigation Measures</b>
	<ul style="list-style-type: none"> <li>• Installation of noise barriers, such as enclosures and parapet walls, to block the line-of-sight between the noise source and the nearest receptors;</li> <li>• Locating equipment in less noise-sensitive areas, where feasible.</li> </ul> <p style="text-align: center;"><b>Truck Loading and Unloading</b></p> <p><b>MM NOI-1.4:</b> Section 10.48.062 prohibits deliveries between 8:00 PM and 8:00 AM on weekdays and between 6:00 PM and 9:00 AM on weekends and holidays, which shall be enforced as part of the proposed project and all project alternatives. Additionally, the effect of loading zone activities would be evaluated for noise impacts and help determine design decisions once project-specific information for the project (or General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative), such as type and size of the commercial uses, hours of operation, frequency of deliveries, and location of loading zones, is available. Noise reduction measures could include, but are not limited to, the following:</p> <ul style="list-style-type: none"> <li>• Move loading zones inside (e.g., within parking structures), where possible, and as far from adjacent residential uses as possible.</li> <li>• Implement a no idling policy at all locations that requires engines to be turned off after <del>five</del> <u>two</u> minutes.</li> <li>• Recess truck docks into the ground or locate them within parking structures.</li> <li>• Equip loading bay doors with rubberized gasket type seals to allow little loading noise to escape.</li> </ul> <p><b>MM NOI-1.5:</b> Prior to issuance of building permits, a noise study shall be completed to determine noise levels due to truck deliveries at the proposed buildings, and the specific noise control that shall be implemented to reduce noise levels below the City’s thresholds at adjacent residential property lines shall be identified.</p>
<p><b>Impact NOI-2:</b> The project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would not expose persons to or generation of excessive groundborne vibration.</p>	<p><b>MM NOI-2.1:</b> Where vibration levels due to construction activities under the proposed project (or General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative) would exceed 0.3 in/sec PPV at nearby sensitive uses, development shall:</p> <ul style="list-style-type: none"> <li>• Comply with the construction noise ordinance to limit hours of exposure. The City’s Municipal Code allows construction noise to exceed limits discussed in Section 10.48.040 during daytime hours. No construction is permitted on Sundays or holidays.</li> </ul>

<b>Summary of Impacts and Mitigation Measures</b>	
<b>Impact</b>	<b>Mitigation Measures</b>
<b>Less than Significant with Mitigation Incorporated</b>	<ul style="list-style-type: none"> <li>• In the event pile driving would be required, all receptors within 300 feet of the project site shall be notified of the schedule a minimum of one week prior to its commencement. The contractor shall implement “quiet” pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration, or the use of portable acoustical barriers), in consideration of geotechnical and structural requirements and conditions.</li> <li>• To the extent feasible, the project contractor shall phase high-vibration generating construction activities, such as pile driving/ground-impacting operations, so they do not occur at the same time with demolition and excavation activities in locations where the combined vibrations would potentially impact sensitive areas.</li> <li>• The project contractor shall select demolition methods not involving impact tools, where possible (for example, milling generates lower vibration levels than excavation using clam shell or chisel drops).</li> <li>• The project contractor shall avoid using vibratory rollers and packers near sensitive areas.</li> <li>• Impact pile driving shall be prohibited within 90 feet of an existing structure surrounding the project site. Vibratory pile driving shall be prohibited within 60 feet of an existing structure surrounding the project site.</li> <li>• Prohibit the use of heavy vibration-generating construction equipment, such as vibratory rollers or clam shovel, within 20 feet of any adjacent sensitive land use.</li> <li>• If pile driving is required in the vicinity of vibration-sensitive structures adjacent to the project site, survey conditions of existing structures and, when necessary, perform site-specific vibration studies to direct construction activities. Contractors shall continue to monitor effects of construction activities on surveyed sensitive structures and offer repair or compensation for damage.</li> <li>• Construction management plans for substantial construction projects, particularly those involving pile driving, shall include predefined vibration reduction measures, notification requirements for properties within 200 feet of scheduled construction activities, and contact information for on-site coordination and complaints.</li> </ul>

<b>Summary of Impacts and Mitigation Measures</b>	
<b>Impact</b>	<b>Mitigation Measures</b>
<p><b>Impact NOI-3:</b> The project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would result in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project.</p> <p><b>Significant and Unavoidable Impact with Mitigation Incorporated</b></p>	<p><b>MM NOI-3.1:</b> Future development under the proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) shall implement available measures to reduce project-generated noise level increases from project traffic on Perimeter Road. The noise attenuation measures shall be studied on a case-by-case basis at receptors that would be significantly impacted. Noise reduction methods could include the following:</p> <ul style="list-style-type: none"> <li>• New or larger noise barriers or other noise reduction techniques constructed to protect existing residential land uses. Final design of such barriers shall be completed during project level review.</li> <li>• Alternative noise reduction techniques, such as re-paving Perimeter Road with “quieter” pavement types including Open-Grade Rubberized Asphaltic Concrete. The use of “quiet” pavement can reduce noise levels by two to five dBA, depending on the existing pavement type, traffic speed, traffic volumes, and other factors.</li> <li>• Traffic calming measures to slow traffic, such as speed bumps.</li> <li>• Building sound insulation for affected residences, such as sound-rated windows and doors, on a case-by-case basis as a method of reducing noise levels in interior spaces.</li> </ul>
<p><b>Impact NOI-4:</b> The project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would result in a substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project.</p> <p><b>Significant and Unavoidable Impact with Mitigation Incorporated</b></p>	<p><b>MM NOI-4:</b> Implement MM NOI-1.1 and -1.2.</p>

<b>Summary of Impacts and Mitigation Measures</b>	
<b>Impact</b>	<b>Mitigation Measures</b>
<p><b>Impact NOI-6:</b> The project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would result in a cumulatively considerable permanent noise level increase at existing residential land uses.</p> <p><b>Significant and Unavoidable Impact with Mitigation Incorporated</b></p>	<p><b>MM NOI-6.1:</b> Implement MM NOI-3.1 to reduce project-generated noise level increases on Perimeter Road north of Stevens Creek Boulevard and Vallco Parkway east of North Wolfe Road.</p>
<b>Transportation/Traffic</b>	
<p><b>Impact TRN-1:</b> Under existing with project conditions, the project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system; and conflict with an applicable congestion management program, including standards established for designated roads or highways.</p> <p><b>Significant and Unavoidable Impact with Mitigation Incorporated</b></p>	<p><del><b>MM TRN-1.1:</b> Develop and implement a TDM Program for office uses that achieves a 25 to 35 percent reduction in office vehicle trips. The required TDM reduction would vary depending on the amount of office development constructed and whether the office development has a single tenant or multiple tenants. Generally, the larger the office development, the greater the TDM reduction that can be achieved. Similarly, single tenants office buildings can generally implement more effective TDM programs than multiple tenant office buildings. The percentage reduction required shall be based on the characteristics of the office development (size, number of tenants, etc.) and shall be calculated based on Institute of Transportation Engineer's Office (ITE Land Use 710) average trip generation rates.</del></p> <p><del>As part of the TDM Program, the City shall require future development to implement the Specific Plan's TDM Monitoring Program to ensure that the TDM reduction goals are achieved. If future development is not able to meet the identified TDM goal, then the City would collect penalties, as specified the Specific Plan's TDM Monitoring Program.</del> <u>Develop and implement a TDM Program which includes a trip cap that is based on a 34 percent non-SOV rate for the office uses. The TDM Program includes the creation of a Transportation Management Association that would:</u></p> <ul style="list-style-type: none"> <li>• <u>Provide concierge services to residents and retail owners (for their employees);</u></li> <li>• <u>Coordinate with the office component; and</u></li> <li>• <u>Oversee the overall TDM program among property owners and tenants to achieve the office trip caps</u></li> </ul>



**Summary of Impacts and Mitigation Measures**

<b>Impact</b>	<b>Mitigation Measures</b>
	<p><u>As part of the TDM Program, the City shall require future development to implement the Specific Plan’s TDM Monitoring Program to ensure that the TDM reduction goals are achieved. The TDM Monitoring Program shall require a robust Monitoring Program to ensure that this TDM program mitigation measure is implemented and that the required trip caps are achieved. The Monitoring Program shall be subject to review and approval by the City of Cupertino and would include driveway monitoring for all office uses during the AM and PM peak hours. The TDM Monitoring Program would occur in the fall (mid-September through mid-November) after six months occupancy of 50 percent of the total approved buildout. The TDM Monitoring Program shall be conducted annually for the first 10 years. If the monitoring reveals that the peak trip counts have not been exceeded in the last three years of the first 10 years of annual monitoring, the TDM monitoring shall be reduced to once every two years (i.e., year 10, 12, 14, etc.). However, if any biennial report reveals that the peak trip counts have been exceeded, the monitoring shall revert to annual monitoring until such time that the peak trip counts have not been exceeded for three consecutive annual reports. If future development is not able to meet the identified TDM goal, then the City would collect penalties (assigned proportionately between the uses that do not meet the trip cap), as specified in the Specific Plan’s TDM Monitoring Program. Penalties collected from the TDM Monitoring Program will be used to improve multimodal access around the site and throughout the City of Cupertino.</u></p> <p><b>MM TRN-1.2:</b> Intersection 12, De Anza Boulevard/McClellan Road, convert the shared left-turn/through lane on the eastbound approach of McClellan Road to a dedicated through lane (for a total of one left-turn lane, one through lane, and one right-turn lane). This would allow converting the phasing on the east-west approaches from split phasing to protected left-turn phasing. This improvement is included in the City’s TIF Program and would improve intersection operations to an acceptable LOS D. Future development under the proposed project (or General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative) shall pay transportation mitigation fees as calculated pursuant to the TIF program to mitigate this impact.</p> <p><b>MM TRN-1.3:</b> A fair-share payment contribution to improvements identified in VTA’s VTP 2040 for freeway segments on SR 85, I-280, and I-880 that the project (or project alternative) significantly impacts shall be paid by future development associated with the project (or General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative).</p>

<b>Summary of Impacts and Mitigation Measures</b>	
<b>Impact</b>	<b>Mitigation Measures</b>
<p><b>Impact TRN-2:</b> Under background with project conditions, the project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system; and conflict with an applicable congestion management program, including standards established for designated roads or highways.</p> <p><b>Significant and Unavoidable Impact with Mitigation Incorporated</b></p>	<p><b>MM TRN-2.1:</b> Implement MM TRN-1.1.</p> <p><b>MM TRN-2.2:</b> Intersection 12, De Anza Boulevard/McClellan Road: Implement MM TRN-1.1. Implementation of MM TRN-1.2 would improve intersection the average intersection delay to better than background (without project or project alternative) conditions.</p> <p><b>MM TRN-2.3:</b> Intersection 31, Wolfe Road/Vallco Parkway: Provide an overlap phase for the westbound right-turn movement, which would provide for a green right-turn arrow while the southbound left-turn movement has its green phase. Southbound U-turns shall also be prohibited. Implementation of this mitigation measure would improve intersection level of service to an acceptable LOS D.</p> <p><b>MM TRN-2.4:</b> Intersection 42, Stevens Creek Boulevard/Tantau Avenue: Provide a northbound left-turn lane (for a total of one left-turn lane and one shared through/right-turn lane). This would allow converting the phasing on the east-west approaches from split phasing to protected left-turn phasing. This improvement is included in the City’s TIF Program and would improve intersection operations to an acceptable LOS D. Future development under the proposed project (or General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative) shall pay transportation mitigation fees as calculated pursuant to the TIF program to mitigate this impact.</p> <p><b>MM TRN-2.5:</b> Intersections 43-45, Contribute a fair-share to a traffic signal timing study and implementation of the revised timings on Stevens Creek Boulevard at Stern Avenue, Calvert Drive, and Agilent Driveway.</p> <p><b>MM TRN-2.6:</b> Intersection 48, Lawrence Expressway/Homestead Road: Pay a fair-share contribution to the near-term improvement identified in the Santa Clara County’s Expressway Plan 2040 Study for this intersection. The Expressway Plan 2040 Study identifies a near-term improvement of an additional eastbound through lane on Homestead Road. With this improvement, intersection operations would improve, but the intersection would continue to operate at LOS F with delays greater than under background conditions.</p>

**Summary of Impacts and Mitigation Measures**

<b>Impact</b>	<b>Mitigation Measures</b>
	<p><b>MM TRN-2.7:</b> Intersection 51, Lawrence Expressway/Calvert Drive-I-280 Southbound Ramp: Improvements to mitigate the impact would include providing a fourth northbound through lane (for a total of four through lanes and one right-turn lane). This would require four receiving lanes north of Calvert Drive-I-280 Southbound Ramps. With this improvement, the intersection would operate at acceptable LOS E or better. The widening of Lawrence Expressway from three to four lanes in each direction between Moorpark Avenue to south of Calvert Drive is included in the VTP 2040 as a constrained project (VTP 2040 Project# X10). The VTP 2040 does not include widening of Lawrence Expressway at or north of Calvert Drive, however. The fourth northbound through lane on Lawrence Expressway could potentially be provided with an added receiving lane that would connect directly to the off-ramp to Lawrence Expressway (also known as “trap” lane) just north of the I-280 overcrossing. The City shall coordinate with the County of Santa Clara to and Caltrans to determine if a fourth through lane could be provided. Future development under the proposed project shall be required to pay a fair-share contribution if the improvement is feasible.</p> <p><b>MM TRN-2.8:</b> Intersection 53, Lawrence Expressway/Bollinger Road: Improvements to mitigate the project’s (and General Plan Buildout with Maximum Residential Alternative) impact would include providing a fourth northbound through lane (for the PM peak hour impact) and fourth southbound through lane (for the AM peak hour impact). The widening of Lawrence Expressway from three to four lanes in each direction between Moorpark Avenue to south of Calvert Drive is included in the VTP 2040 as a constrained project (VTP 2040 Project# X10). This VTA project also includes the provision of an additional westbound through lane on Moorpark Avenue.</p> <p>Assuming that both the northbound and southbound approaches would be modified to accommodate four through lanes, the intersection would operate at or better than acceptable LOS E under the project and all project alternatives during the AM and PM peak hours. Future development under the proposed project (and General Plan Buildout with Maximum Residential Alternative) shall be required to pay a fair-share to VTP Project# X10.</p> <p><b>MM TRN-2.9:</b> Implement MM TRN-1.2.</p>

<b>Summary of Impacts and Mitigation Measures</b>	
<b>Impact</b>	<b>Mitigation Measures</b>
<p><b>Impact TRN-7:</b> The project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would result in a considerable contribution to a significant cumulative transportation impact.</p> <p><b>Significant and Unavoidable Impact with Mitigation Incorporated</b></p>	<p><b>MM TRN-7.1:</b> Implement MM TRN-1.1.</p> <p><b>MM TRN-7.2:</b> Intersection 2, Stevens Creek Boulevard/SR 85 northbound ramps: The City’s TIF Program identifies the addition of an exclusive northbound left-turn lane from the SR 85 off-ramp onto westbound Stevens Creek Boulevard. This improvement would mitigate the project’s (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) to a less than significant level. Future development under the proposed project (or General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative) shall pay transportation mitigation fees as calculated pursuant to the TIF program to mitigate this impact.</p> <p><b>MM TRN-7.3:</b> Intersection 8, De Anza Boulevard/Homestead Road: The City’s TIF Program identifies the widening of De Anza Boulevard to four through lanes between the I-280 interchange and Homestead Road. This improvement would mitigate the project’s (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) to a less than significant level. Future development under the proposed project (or General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative) shall pay transportation mitigation fees as calculated pursuant to the TIF program to mitigate this impact.</p> <p><b>MM TRN-7.4:</b> Intersection 12, De Anza Boulevard/McClellan Road: Implement MM TRN-1.2. Implementation of MM TRN-1.2 would improve intersection operations to better than cumulative (without) project (or project alternative) conditions.</p> <p><b>MM TRN-7.5:</b> Intersection 23, Wolfe Road/Fremont Avenue: Provide a dedicated southbound right-turn lane from Wolfe Road onto westbound Fremont Avenue. <del>This would improve operations to LOS D and reduce the project impact to a less than significant level under the proposed project and General Plan Buildout with Maximum Residential Alternative.</del> The intersection would continue to operate at unacceptable LOS E under the <u>proposed project, General Plan Building with Maximum Residential Alternative, and Retail and Residential Alternative</u>, but the delay would be reduced to a level lower than cumulative conditions. Thus, the impact would be mitigated to a less than significant level.</p>



<b>Summary of Impacts and Mitigation Measures</b>	
<b>Impact</b>	<b>Mitigation Measures</b>
	<p>The City of Sunnyvale recently approved improvements to the “Triangle” area of Wolfe Road/El Camino Real, Wolfe Road/Fremont Avenue, and El Camino Real/Fremont Avenue. The “Triangle” improvements include the provision of a southbound right-turn lane from Wolfe Road to Fremont Avenue. Thus, future development under the project (or General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative) would be required to contribute their fair-share to the “Triangle” improvement project.</p> <p><b>MM TRN-7.6:</b> Intersection 26, Wolfe Road/Homestead Road: Provide a dedicated southbound right-turn lane from Wolfe Road onto westbound Homestead Road. To minimize secondary impacts to pedestrian travel, the right-turn lanes would need to be signal controlled, right-turns on red would be prohibited, and pedestrians should have a leading pedestrian phase (i.e., a pedestrian walk indication is provided several seconds before the right-turning vehicle traffic). This mitigation measures would improve intersection operations but not to a less than significant level.</p> <p>The City’s TIF Program includes the provision of the dedicated southbound right-turn lane. Future development under the proposed project (or General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative) shall pay transportation mitigation fees as calculated pursuant to the TIF program to mitigate this impact.</p> <p><b>MM TRN-7.7:</b> Intersection 31, Wolfe Road/Vallco Parkway: Implement MM TRN-2.3.</p> <p><b>MM TRN-7.8:</b> Intersection 42, Stevens Creek Boulevard/Tantau Avenue: Implement MM TRN-2.4.</p> <p><b>MM TRN-7.9:</b> Intersection 43-45: Implement MM TRN-2.5.</p> <p><b>MM TRN-7.10:</b> Intersection 48, Lawrence Expressway/Homestead Road: Implement MM TRN-2.6. As discussed under MM TRN-2.6, the project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) shall pay a fair-share contribution to the long-term improvement identified in the Santa Clara County’s Expressway Plan 2040 Study for this intersection.</p>

<b>Summary of Impacts and Mitigation Measures</b>	
<b>Impact</b>	<b>Mitigation Measures</b>
	<p><b>MM TRN-7.11:</b> Intersection 51, Lawrence Expressway/Calvert Drive-I-280 Southbound Ramp: Implement MM TRN-2.7.</p> <p><b>MM TRN-7.12:</b> Intersection 53, Lawrence Expressway/Bollinger Road: Implement MM TRN-2.8.</p> <p><b>MM TRN-7.13:</b> Intersection 60, Stevens Creek Boulevard/Cabot Avenue: Contribute a fair-share to a traffic signal timing study and implementation of the revised timings on Stevens Creek Boulevard at Cabot Avenue. The project (and General Plan with Maximum Residential Alternative and Retail and Residential Alternative) impacts would likely improve with modifications to the signal timings as traffic volumes change.</p> <p><b>MM TRN-7.14:</b> Retail and Residential Alternative Only – Intersection 38, Tantau Avenue/Homestead Road: Restripe the southbound approach to provide a separate left-turn lane and shared through/right-turn lane (including removal of on-street parking). This improvement is included in the City’s TIF Program and would improve intersection operations to an acceptable LOS D. Future development under the Retail and Residential Alternative shall pay transportation mitigation fees as calculated pursuant to the TIF program to mitigate this impact. However, because the TIF improvements are not fully funded and the timing of implementation is not known at this time, the impact is considered significant and unavoidable.</p> <p><b>(Significant and Unavoidable Cumulative Impact with Mitigation Incorporated)</b></p> <p><b>MM TRN-7.15:</b> Implement MM TRN-1.3.</p>
<b>Utilities and Service Systems</b>	
<p><b>Impact UTL-2:</b> The project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would require improvements to the existing sewer system, however, the construction of the improvements would not cause significant environmental effects.</p>	<p><b>MM UTIL-2.1:</b> Future development under the proposed project (or General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative) shall replace the existing <u>12- and 15-inch</u> sewer mains in Wolfe Road with new mains of an adequate size as determined by CuSD, <del>and/or</del> shall install an 18- to 21-inch parallel pipe to the existing <u>12- and 15-inch</u> mains to accommodate existing and project flows.</p>

<b>Summary of Impacts and Mitigation Measures</b>	
<b>Impact</b>	<b>Mitigation Measures</b>
<b>Less than Significant with Mitigation Incorporated</b>	<p><b>MM UTIL-2.2:</b> Future development under the proposed project (or General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative) shall replace the existing 27-inch sewer main in Wolfe Road and Homestead Road with new mains of an adequate size determined by the CuSD, <u>or install a parallel pipe of an adequate size to the existing 27-inch sewer main as determined by CuSD.</u></p> <p><del><b>MM UTIL-2.3:</b> Developer shall complete improvements as designated in the City of Santa Clara's Sanitary Sewer Management Plan to allow for adequate downstream sewer capacity through the City of Santa Clara sewer system. No occupancies can occur on the project site that would exceed the current contractual permitted sewer flows through the City of Santa Clara until the contractual agreement between CuSD and the City of Santa Clara is amended to recognize and authorize this increased flow. No certificates of occupancy shall be issued by the City for structures or units that would result in the permitted peak wet weather flow capacity of 13.8 mgd through the Santa Clara sanitary sewer system being exceeded. The estimated sewage generation by the project shall be calculated using the sewer generation rates used by the San Jose - Santa Clara Water Pollution Control Plant Specific Use Code &amp; Sewer Coefficient table, and from the City of Santa Clara Sanitary Sewer Capacity Assessment, May 2007,<sup>22</sup> unless alternative (i.e., lower) sewer generation rates achieved by future development are substantiated by the developer based on evidence to the satisfaction of the CuSD.</del></p>

---

<sup>22</sup> The average dry weather sewerage generation rates used by the San Jose - Santa Clara Water Pollution Control Plant Specific Use Code & Sewer Coefficient table, and the City of Santa Clara Sanitary Sewer Capacity Assessment, May 2007, for the different uses within the project are as follows: High Density Residential = 121 gpd/unit; Commercial/Retail = 0.076 gpd/SF; Commercial/Restaurant = 1.04 gpd/SF; Office = 0.1 gpd/SF; Hotel = 100 gpd/Room; Civic Space (office) = 0.21 gpd/SF; Adult Education = 15 gpd/Person; and Civic Space (Auditorium) = 0.11 gpd/SF.

Page 9            Section 2.3 Background Information; **ADD** the following text to the third paragraph as follows:

Sand Hill Property Company acquired approximately 51 acres within the Vallco Shopping District Special Area, in late 2014, while the City was in the process of planning for the revitalization of the mall area. In December 2014, after a two-year community outreach process, the City Council adopted new General Plan goals, policies, and strategies specifically relating to the newly created Vallco Shopping District Special Area, within which Vallco Shopping Mall is located. The General Plan envisions a complete redevelopment of Vallco Shopping Mall site into a “vibrant mixed-use town center” that is a focal point for regional visitors and the community.<sup>7</sup> As further stated on page LU-50 of the General Plan, it is envisioned the project site “will become a destination for shopping, dining, and entertainment in the Santa Clara Valley (General Plan, page LU-50). To realize this community vision, the General Plan “requires a master developer in order to remove the obstacles to the development of a cohesive district” (Strategy LU-19.1.1).<sup>8</sup>

Page 30            Section 2.4.4.3: **REVISE** the subheading title and discussion in this section as follows:

**2.4.4.3            *Transit Center and Transportation Demand Management Program***

The Specific Plan site is served by Santa Clara Valley Transportation Authority (VTA) bus routes and indirectly by Caltrain commuter rail service. The site acts as a transfer center for VTA bus routes and as a transit hub for private shuttles run by large employers (such as Google, Genentech, and Facebook). As part of the Specific Plan, the existing transit hub would be upgraded, and would include additional features such as an information center, drop-off point, and a bike sharing distribution point.

~~The Specific Plan would also include a Transportation Demand Management (TDM) program to reduce vehicle trips and vehicle miles traveled. The TDM program could include on-site transportation coordinator, ride share marketing and promotion, unbundling parking, a transit incentive program, safe routes to school support programs, transit subsidy for employees, vanpool subsidy for employees, workplace parking pricing, employee parking cash-out, alternative work schedules and telecommute programs, and guaranteed ride home programs. Additional details about possible TDM measures are included in Table 28 in Appendix H. The TDM program for future development would be completed to the satisfaction of the City of Cupertino City’s Project Planner prior to approval of a development permit. Future development would submit an annual monitoring report to the Project Planner to measure the effectiveness of the TDM plan. Additional TDM measures may be required by the City if the TDM measures are not effective.~~

Page 30            Section 2.4.4.4: **REVISE** the paragraph in this section as follows:

The Specific Plan would require connections to existing water, sanitary sewer, storm drain, communications, gas and electricity utility lines in the area. The Specific Plan may includes the extension of existing Wolfe Road recycled water pipeline serving the Apple Park office campus (formerly called Apple Campus 2) approximately one mile from Homestead Road, under I-280, to the project site and possibly to Stevens Creek Boulevard. An additional pump to the existing booster



pump station for the Wolfe Road recycled water pipeline may be required. Recycled water ~~may~~would be used on-site for landscape irrigation.

Page 31 Section 2.4.4.6: **ADD** the following text after the subheading as follows:

#### **2.4.4.6 Specific Plan Assumptions**

The EIR is based on the assumption that the below measures are proposed as part of, or conditions of approval for, future development implementing the Specific Plan.

Page 32 Section 2.4.4.6: **REPLACE** the last two bullets on the page with the following:

- ~~• Outdoor dining areas located on the green roof with direct line of sight to the existing residences to the west of the site, opposite Perimeter Road, and to the southeast of the site, opposite Vallec Parkway and North Wolfe road, shall be setback a minimum distance of 310 feet from the nearest residential property line to meet the nighttime threshold of 55 dBA. Alternately, outdoor dining areas shall be acoustically shielded by noise barriers or buildings.~~
- ~~• Playgrounds proposed on the green roof shall be setback a minimum distance of 60 feet from the nearest residential property line or acoustically shielded by noise barriers.~~
- Outdoor dining areas and playgrounds shall demonstrate that appropriate design and noise attenuation measures including, but not limited to, setbacks and/or noise barriers have been incorporated to meet the daytime threshold of 65 dBA and the nighttime threshold of 55 dBA in the City's Municipal Code at the existing, adjacent residences.
- Future development shall pay its fair-share contribution towards the City's share for the cost of constructing the I-280/Wolfe Interchange project.

Page 33 Section 2.4.4.6: **ADD** the following before the first bullet point on the page as follows:

In addition, the EIR analysis includes the following Specific Plan elements:

- The Specific Plan would include a Transportation Demand Management (TDM) program, which shall provide sitewide TDM support services to coordinate TDM efforts for all users and includes an office-specific trip cap to reduce vehicle trips and vehicle miles of travel. The non-office portion of the project is not subject to a trip cap. The office trips cap related to the TDM program of the project shall be measured at the peak commute hours, when roadways are most congested.

#### **OFFICE TRIP CAP**

Trip caps for the office uses were developed assuming full buildout of the office uses for the revised project. The office trip cap is designed to reduce single-occupancy vehicle trips from office uses. Specifically, the office trips caps assume that at a minimum 34 percent of office trips would be by non-single-occupancy vehicle (non-SOV) modes (i.e., the percentage of

employees traveling to the site via walking, bicycling, riding in private shuttle or public transit vehicles, or ridesharing).

A target of 34 percent non-SOV has been identified as a reasonable target because it is considered aggressive but achievable for office developments in suburban locations greater than one-half (1/2) mile from a rail station. While higher alternative mode share rates have been established for a few corporate campuses in the Bay Area, such rates have generally been in areas more urban than Cupertino with proximity to mass transit facilities.

As the Specific Plan develops, annual trip caps for the office uses will be established based building square footage rate of 1.05 for the AM peak hour and 1.04 for the PM peak hour. Peak hours are defined as the time periods on the adjacent streets with the highest hourly volumes occurring during the morning and evening commute periods. At full buildout, the office uses in the revised project shall be required to meet the trip caps presented in the following table:

	<b><u>AM Peak Hour</u></b>	<b><u>PM Peak Hour</u></b>
<b><u>Office Trip Caps</u></b>	1,830 vehicle trips	1,820 vehicle trips

### **FORMATION OF TMA**

The purpose of the Transportation Management Association (TMA) is to coordinate sitewide TDM measures, collect fees from members to finance site-wide measures and monitoring activities, conduct TMA administration activities, and coordinate with members to add measures as needed to meet the office trip caps.

The TMA for the Specific Plan Area shall be established using a legal arrangement approved by the City. The TMA shall hire a qualified Transportation Coordinator. The fees paid by each member shall be determined as part of TMA formation documentation. All commercial property owners and tenants, apartment management companies, hotel operators, and home owners associations shall be required to be members, unless an enhanced TDM program covers all office uses in the Plan Area, in which case there may be a separate TMA for offices uses. However, the office TMA is still required to be a member of the sitewide TMA and coordinate activities and monitoring with the sitewide TMA.

### **TDM PROGRAM STRUCTURE**

The TDM program would include the formation of a TMA to help implement TDM strategies sitewide and coordinate the office trip cap requirements. The TMA shall include an on-site transportation coordinator that would help implement TDM strategies. TDM strategies that are highly encouraged include, but are not limited to:

- Maximum parking requirements per the Specific Plan
- Concierge services for all employees, residents, guests, and patrons, to provide information on transit connections, opportunities for alternative modes of transit and transportation services.
- Free transit passes for residents and retail employees
- Ride-share marketing and promotion

- Evaluation, identification, and implementation of bikeshare program for travel within, to, and from the site
- On-site availability of carshare
- Guaranteed ride home programs

Other TDM strategies that could be considered include:

- Unbundling parking,
- Other a transit incentive programs
- Safe routes to school support programs,
- Transit subsidy for employees,
- Vanpool subsidy for employees,
- Workplace parking pricing,
- Employee parking cash-out,
- Alternative work schedules and telecommute programs, and,
- Shuttle services for employees

Additional details about possible TDM measures are included in Table 28 in Appendix H. The Final TDM program for future development shall be prepared to the satisfaction of the City's Director of Public Works prior to approval of any occupancy permits.

The TMA would submit an annual report to the City to report on TDM measures implemented and assess effectiveness of TDM program in terms of non-SOV mode split for the office uses. Additional TDM measures may be required by the City if the TDM measures are not effective as determined by a regular monitoring program. The following lays out the TDM Program and Monitoring Plan in more detail.

## **MONITORING PLAN**

Annual TDM program monitoring consists of two main elements: (1) Summary of Implemented TDM Measures to be provided by the Vallco Specific Plan Area TMA, and (2) office driveway counts and TDM Monitoring Report for office uses to be prepared by an independent city-approved transportation planning/engineering firm. Each of these components is described below.

### **Summary of Implemented TDM Measures**

The TMA (including the office TMA, if any) shall submit a report to the City by December 31<sup>st</sup> each year describing the specific TDM measures that are being implemented by the TMA and by their members (including the office TMA, if any) and the amount of occupied space for each land use (i.e., office/commercial/hotel rooms/dwelling units).

To assess the effectiveness of the TDM program in increasing non-SOV trips, the TMA (including the office TMA, if any) may also be required to collect the following data and provide it in a report to the City:

- Private Shuttle Ridership - Counted electronically on vehicles and visually verified at the transit hub
- Public Transit Ridership - Counted at area VTA stops
- Cycling/Walking Volumes - Counted via bike/pedestrian entrances to office facilities
- Office Carpool Volumes - Counted at entrances to office parking facilities

### **Driveway Counts and TDM Monitoring Report**

An independent city-approved transportation planning/engineering firm shall be retained by the City to collect vehicle counts and present the results in a written report. Vehicle counts shall be conducted at all entrances/exits to parking facilities for the office space. The numbers of vehicles entering and exiting each location shall be counted in 15-minute increments from 7:00AM to 10:00AM and from 3:00PM to 7:00PM on a Tuesday, Wednesday, and Thursday over a two-week period. Counts shall be performed between mid-September and mid-November. Counts shall avoid school holidays, as well as days immediately before or after holidays or long weekends, and shall not be performed on days with inclement weather.

The count data for the driveways to the office parking facilities shall be analyzed using standard traffic engineering practice to derive office-generated AM and PM peak hour traffic volumes. The results shall be compared to the office trip caps.

The data collection methodology, raw data, data analysis procedures, and resulting AM and PM peak hour vehicle trips for the office uses shall be written up in a report and submitted to the City of Cupertino Department of Public Works.

### **TDM Program Compliance**

If the AM and PM peak hour vehicle trip generation of the office uses is less than the office trip caps (1,830 AM peak hour trips and 1,820 PM peak hour trips at full buildout of revised project), the TDM program is in compliance and no additional TDM measures shall be required. As the Specific Plan develops, annual trip caps for the office uses will be established based building square footage rate of 1.05 for the AM peak hour and 1.04 for the PM peak hour.

### **Actions if TDM Program Compliance is Not Achieved**

The City would notify the Vallco Specific Plan Area TMA (including the office TMA, if any) if the trip caps are exceeded. The TMA (including the office TMA, if any) shall be required to meet with the City to identify new TDM measures to be implemented to achieve the trip caps.

Once the TMA (including the office TMA, if any) and the City agree on new TDM measures, the TMA (including the office TMA, if any) shall implement them within 60 days of the notification date, unless new TDM measures cannot reasonably be implemented within 60 days, then within a later date that can reasonably be achieved, acceptable to the City. Follow-up counts shall be conducted by an independent City-approved transportation planning/engineering firm 60 days after the new measures are implemented to evaluate the effectiveness of the new TDM program. If the peak hour trip caps are still exceeded, the TMA (including the office TMA, if any) would pay a fee of \$3 per day per extra vehicle trip (adjusted annually starting in 2018 per the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose area) for ninety days. The funds from these fees shall be used to provide for City-wide implementation of TDM measures and improvement of bicycle and pedestrian facilities. Payments of these penalties are due to the City within 30

days of issuance of an invoice with reasonable supporting documentation. After ninety days, the TMA (including the office TMA, if any) shall be required to meet with the City to identify additional City-approved TDM measures to be added. If the Plan is still unable to meet the trip caps during the next annual monitoring period, penalties would continue to be levied, until the peak trip caps are met.

If the TMA (including the office TMA, if any) does not agree to implement the City approved new TDM measures after the initial meeting, then the TMA shall be assessed a \$5 per day per extra vehicle trip penalty (adjusted annually starting in 2018 per the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose area) through the end of the calendar year. Payments of these penalties are due to the City within 30 days of issuance of an invoice with reasonable supporting documentation. The funds from these penalties shall be used at the City's discretion.

### **Monitoring Program Funding**

The TMA (including the office TMA, if any) shall pay the City for the annual monitoring costs including City staff time to review the annual monitoring reports.

### **Monitoring Program Duration**

Annual monitoring shall be conducted starting the fall (mid-September through mid-November) after six months of 50 percent occupancy of total approved buildout and continuing annually for 10 years. The annual trip caps for the office uses will be established based building square footage rate of 1.05 for the AM peak hour and 1.04 for the PM peak hour. The trip cap will be proportionally adjusted based on the occupancy of the sitewide office use to determine the trip cap applicable to that monitoring cycle up to full occupancy. In no event shall the trip cap exceed 1,830 AM peak hour trips and 1,820 PM peak hour trips. If the monitoring reveals that the peak trip counts have not been exceeded in the last three years of the first 10 years of annual monitoring, the TDM monitoring shall be reduced to once every two years (i.e., year 12, 14, etc.). However, if any biennial report reveals that the peak trip counts have been exceeded, the monitoring shall revert to annual monitoring until such time that the peak trip counts have not been exceeded for three consecutive annual reports.

- Electricity for future development would be provided by Silicon Valley Clean Energy (SVCE) or another provider that sources electricity from 100 percent carbon free sources.
- Future development would meet the state Density Bonus Law criteria to be granted a residential density bonus of 35 percent.



City of Cupertino

- General Plan Amendments
- Rezoning
- Adoption of a Specific Plan
- Tentative Map
- Development Permits
- Architectural and Site Approvals
- Tree Removal Permits
- Development Agreement (DA-2015-02, which was applied for in 2015 and reactivated in 2017 by Sand Hill Property Company)
- Encroachment permits

In 2014, the City of Cupertino certified the *General Plan Amendment, Housing Element Update, and Associated Rezoning Draft EIR* (General Plan EIR).<sup>23</sup> The General Plan EIR evaluated land use alternatives for citywide development allocations (as well as building heights and densities for Special Areas along major transportation corridors, where Gateway/Nodes have been identified, seven Study Areas, and other Special Areas), an updated Housing Element, and changes to the General Plan Land Use Map, Zoning Ordinance, and Zoning map. The General Plan EIR analyzed the development of up to 600,000 square feet of commercial uses, 2.0 million square feet of office uses, 339 hotel rooms, and 800 residential dwelling units within the Vallco Special Area.

Pursuant to CEQA Section 21093 and CEQA Guidelines Section 15152, this EIR tiers from the City’s certified 2014 General Plan EIR. CEQA Section 21093(b) states that environmental impact reports shall be tiered whenever feasible, as determined by the lead agency. “Tiering” refers to using the analysis of general matters contained in a broader EIR (such as one prepared for a general plan or policy statement) in subsequent EIRs or Initial Studies/negative declarations on narrower projects; and concentrating the later environmental review on the issues specific to the later project (CEQA Guidelines 15152[a]).

The certified General Plan EIR evaluated, at a program-level and limited project-level, the environmental impacts of developing the proposed project.

---

<sup>23</sup> City of Cupertino. *General Plan Amendment, Housing Element Update, and Associated Rezoning Draft EIR*. SCH# 2014032007. June 18, 2014.

Construction exhaust emissions were modeled assuming the project (and project alternatives) would be built out over 10 years and would include excavation of approximately 2.0 million cubic yards of soil. Refer to Appendix B for modeling details, data inputs, and assumptions. Table 3.3-4 summarizes the average daily construction emissions (both with and without MM AQ-2.1 and ~~MM AQ-2.2~~) of ROG, NO<sub>x</sub>, PM<sub>10</sub> exhaust, and PM<sub>2.5</sub> exhaust during construction of the project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) as compared to BAAQMD thresholds.

Pages 62-64 MM AQ-2.1: **REVISE** mitigation measure MM AQ-2.1 as follows:

**MM AQ-2.1:** Future development under the proposed project (and General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative) shall implement the following BAAQMD-recommended measures to control dust, particulate matter, and diesel exhaust emissions during construction:

*Basic Measures*

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
4. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to five two minutes ~~(as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR])~~ unless subject to state law exemptions (e.g., safety issues). Clear signage shall be provided for construction workers at all access points.
7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
8. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

### *Applicable Enhanced Control Measures*

9. All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.
10. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph and visible dust extends beyond site boundaries.
11. Wind breaks (e.g., trees, fences) shall be installed on the windward side(s) of actively disturbed areas of construction adjacent to sensitive receptors. Wind breaks should have at maximum 50 percent air porosity.
12. Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.
13. The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.
14. Avoid tracking of visible soil material on to public roadways by employing the following measures if necessary: (1) Site accesses to a distance of 100 feet from public paved roads shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel and (2) washing truck tires and construction equipment of prior to leaving the site.
15. Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.
16. Minimizing the idling time of diesel powered construction equipment to two minutes unless subject to state law exemptions (e.g., safety issues).

### *Exhaust Control Measures*

17. The project shall develop a plan demonstrating that the off-road equipment (more than 25 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a minimum project wide fleet-average 25 percent NO<sub>x</sub> reduction and 65 percent PM (particulate matter) exhaust reduction compared to the CalEEMod modeled average used in this report. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available. The following are feasible methods:
  - All construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet EPA Tier 4 emission standards for NO<sub>x</sub> and PM, where feasible.
  - If Tier 4 equipment is not feasible, ~~All~~ construction equipment larger than 25 horsepower used at the site for more than two

continuous days or 20 hours total shall meet EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve an 85 percent reduction in particulate matter exhaust.

- Use of alternatively-fueled equipment with lower NO<sub>x</sub> emissions that meet the NO<sub>x</sub> and PM reduction requirements above.
- Diesel engines, whether for off-road equipment or on-road vehicles, shall not be left idling for more than two minutes, except as provided in exceptions to the applicable state regulations (e.g., traffic conditions, safe operating conditions). The construction sites shall have posted legible and visible signs in designated queuing areas and at the construction site to clearly notify operators of idling limit.
- All on-road heavy-duty diesel trucks with a gross vehicle weight rating of 33,000 pounds or greater (EMFAC Category HDDT) used at the project site (such as haul trucks, water trucks, dump trucks, and concrete trucks) shall be model year 2010 or newer.
- Develop a Transportation Demand Management program for construction worker travel that includes transit and carpool subsidies in order to reduce worker trips ~~by 10 percent~~.
- Provide line power to the site during the early phases of construction to minimize the use of diesel powered stationary equipment, such as generators.
- ~~Enforce idling limit of two minutes unless subject to state law exemptions (e.g., safety issues).~~

18. A project-specific construction management plan describing the measures to minimize construction emissions shall be required of future development. As part of the construction management plan, the on-site Construction Manager shall ensure and regularly document that equipment, trucks, and architectural coatings meet the above mitigation requirements. The documentation shall be submitted regularly to the City for review and compliance.

Impact AQ-6: **REVISE** the text under Project, General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative as follows:

### **Project**

The exposure of nearby sensitive receptors to construction-related dust and diesel exhaust emissions is discussed under Impact AQ-2 and would be reduced (but not to a less than significant level) with the implementation of mitigation measures MM AQ-2.1 ~~and 2.2~~.

#### **Mitigation Measure:**

**MM AQ-6.1:** Implement MM AQ-2.1 ~~and 2.2~~

**(Significant and Unavoidable Impact with Mitigation Incorporated)**

#### **General Plan Buildout with Maximum Residential Alternative**

The exposure of nearby sensitive receptors to construction-related dust and diesel exhaust emissions is discussed under Impact AQ-2 and would be reduced (but not to a less than significant level) with the implementation of mitigation measures MM AQ-2.1 ~~and 2.2~~. As shown in Table 3.3-4, the General Plan Buildout with Maximum Residential Alternative would result in slightly greater NO<sub>x</sub> emissions than the proposed project. **(Significant and Unavoidable Impact with Mitigation Incorporated)**

#### **Retail and Residential Alternative**

The exposure of nearby sensitive receptors to construction-related dust and diesel exhaust emissions is discussed under Impact AQ-2 and would be reduced (but not to a less than significant level) with the implementation of mitigation measures MM AQ-2.1 ~~and 2.2~~. As shown in Table 3.3-4, the Retail Residential Alternative would result in fewer NO<sub>x</sub> emissions than the proposed project. **(Significant and Unavoidable Impact with Mitigation Incorporated)**

Exposure of Sensitive Receptors from Project Construction Activity; **REVISE** the first paragraph after MM AQ-7.1 as follows:

With the implementation of the above mitigation measure, the maximum cancer risk from the project construction (and General Plan Buildout with Maximum Residential Alternative, and Retail and Residential Alternative) would be 3.14-4 in one million or less, which is below the BAAQMD threshold of greater than 10 per one million for cancer risk. **(Less than Significant with Mitigation Incorporated)**



Exposure of On-Site Sensitive Receptors to Toxic Air Contaminants – Planning Consideration: **REVISE** the first bulleted paragraph as follows:

- Interstate 280 – The predicted maximum increased cancer risk at the project site from traffic on I-280 was calculated to be 4.0 in one million, which is below than the BAAQMD threshold of significance of 10 in one million. Impacts from PM<sub>2.5</sub> emissions from I-280 would occur at the project site along portions of the site closest to the freeway. BAAQMD adopted a significance threshold of an annual average PM<sub>2.5</sub> concentration greater than 0.3 µg/m<sup>3</sup>. ~~Figure 3.3-3 Appendix B~~ shows contour lines on the site where PM<sub>2.5</sub> concentrations would occur at or above the BAAQMD threshold of significance of 0.3 µg/m<sup>3</sup>. For distances within about 530 feet from I-280 on the project site west of North Wolfe Road and within about 620 feet from I-280 on the project site east of North Wolfe Road, PM<sub>2.5</sub> concentrations would be significant. The Hazard Index (HI) is estimated to be 0.0006, which is below the BAAQMD threshold of significance of 1.0.

Impact AQ-8; Project and All Project Alternatives: **ADD** the following text to the last paragraph on the page:

The proposed project (and all project alternatives) could allow the development of uses that have the potential to produce odorous emissions during operation; however, significant sources of odors (e.g., wastewater treatment, food processing facilities, and chemical plants) are not proposed as part of the project or any of the alternatives. Other sources, such as restaurants, that could be associated with future development typically result in only localized sources of odors that would not impact a large number of people. Thus, the impact would be less than significant. In addition, it is the City's standard practice to require restaurants to install carbon air filtration systems which help minimize odors. **(Less than Significant Impact)**

Pages 81-82 Impact AQ-9; Cumulative Air Pollutant Emissions: **DELETE** the following text under General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative:

#### General Plan Buildout with Maximum Residential Alternative

The General Plan Buildout with Maximum Residential Alternative would result in similar cumulative criteria air pollutant emissions as described above for the proposed project. ~~The General Plan Buildout with Maximum Residential Alternative would result in lesser (though still significant) cumulative criteria air pollutant emissions impacts than the proposed project because this alternative would not result in significant emissions of PM<sub>2.5</sub> (which the project did) (refer to Table 3.3-5 and Table 3.3-6). See Impact AQ-3 and AQ-9.~~ **(Significant and Unavoidable Cumulative Impact with Mitigation Incorporated)**

#### Retail and Residential Alternative

The Retail and Residential Alternative would result in similar cumulative criteria air pollutant emissions as described above for the proposed project. ~~The Retail and Residential Alternative would result in lesser (though still significant) cumulative criteria air pollutant emissions impacts than the~~

proposed project because this alternative would not result in significant emissions of PM<sub>2.5</sub> (which the project did) (refer to Table 3.3-5 and Table 3.3-6). See Impact AQ-3 and AQ-9. **(Significant and Unavoidable Cumulative Impact with Mitigation Incorporated)**

Page 104 Impacts to Archaeological Resources, Human Remains, and Tribal Cultural Resources: **ADD** the following text to MM CR-4 as follows:

**MM CR-4.1:** Implement mitigation measures MM CR-2.1 through -2.4.

Page 109 Gasoline for Motor Vehicles: **REVISE** the last sentence on the page as follows:

Assuming an average fuel economy of 35 mpg, existing uses require approximately ~~two million~~ 1,260 gallons of gasoline per year.

Page 110 Table 3.6-1: **REVISE** the estimated gasoline demand column as follows:

<b>Table 3.6-1: Summary of Project and Project Alternative Energy Demand</b>			
	<b>Estimated Electricity Demand*</b> (GWh per year)	<b>Estimated Natural Gas Demand*</b> (Btu per year)	<b>Estimated Gasoline Demand†</b> ( <del>million</del> gallons per year)
Existing	7	703 million	<del>21,260</del>
Proposed Project	70	64 billion	<del>129,435</del>
General Plan Buildout with Maximum Residential Alternative	60	63 billion	<del>108,411</del>
Retail and Residential Alternative	45	57 billion	<del>64,460</del>
Occupied/Re-Tenanted Mall Alternative	19	12 billion	<del>43,270</del>
Notes: * The net energy demand is identified for the proposed project and project alternatives. † The estimated gasoline demand was based on the estimated vehicle miles traveled discussed in Section 3.17 Transportation/Traffic and the average fuel economy of 35 mpg. Source: Illingworth & Rodkin, Inc. <i>Vallco Special Area Specific Plan Air Quality and Greenhouse Gas Emissions Assessment</i> . May 2018. Attachment 2.			

Page 111 Project; Operation: **REVISE** the first sentence in the second paragraph under the operation subheading as follows:

As shown in Table 3.6-1, operation of the project is estimated to result in an annual net energy demand of approximately 70 GWh of electricity, 64 billion Btu of natural gas, and ~~12 million~~ 9,435 gallons of gasoline compared to existing conditions.

Page 112      General Plan Buildout with Maximum Residential Alternative; Operation: **REVISE** the first sentence in the first paragraph under the operation subheading as follows:

As shown in Table 3.6-1, operation of the General Plan Buildout with Maximum Residential Alternative is estimated to result in an annual net energy demand of approximately 60 GWh of electricity, 63 billion Btu of natural gas, and ~~10-million~~8,411 gallons of gasoline compared to existing conditions.

Page 112      Retail and Residential Alternative; Operation: **REVISE** the second sentence in the first paragraph under the operation subheading as follows:

It is estimated that the operation of the Retail and Residential Alternative would result in a net increase in demand of approximately 45 GWh of electricity and 57 billion Btu of natural gas per year compared to existing conditions. Given this alternative's estimated vehicle miles traveled (refer to Section 3.17 Transportation/Traffic), it is estimated that vehicle trips associated with this alternative would use approximately ~~six-million~~4,460 gallons of gasoline per year (assuming an average fuel economy of 35 mpg).

Page 113      Occupied/Re-Tenanted Mall Alternative; Operation: **REVISE** the last sentence in the first paragraph under the operation subheading as follows:

Under this alternative, the mall is assumed to be occupied and re-tenanted. Compared to existing conditions where the mall is approximately 24 percent (or 284,059 square feet) occupied, the Occupied/Re-Tenanted Mall Alternative assumes all 1,207,774 square feet of the mall is occupied. As shown in Table 3.6-1, operation of the Occupied/Re-Tenanted Mall Alternative is estimated to result in an annual net energy demand of approximately 19 GWh of electricity, 12 billion Btu of natural gas, and ~~four-million~~3,270 gallons of gasoline compared to existing conditions.

Page 126      MM GHG-1.1: **DELETE** the following text from the first sentence of mitigation measure MM GHG-1.1:

**MM GHG-1.1:** Under the proposed project (and General Plan Buildout with Maximum Residential Alternative ~~and Retail and Residential Alternative~~), the project proponent shall prepare and implement a GHG Reduction Plan to offset the project (or General Plan Buildout with Maximum Residential Alternative)-related incremental increase of greenhouse gas emissions resulting in the exceedance of the significance threshold of 2.6 MTCO<sub>2</sub>e/year/service population.

Page 141 MM HAZ-1.1: **ADD** the following text to the last sentence of mitigation measure MM HAZ-1.1:

**MM HAZ-1.1:** A Site Management Plan (SMP) and Health and Safety Plan (HSP) shall be prepared and implemented for demolition and redevelopment activities under the revised project. The purpose of the SMP and HSP is to establish appropriate management practices for handling impacted soil, soil vapor, and groundwater or other materials that may potentially be encountered during construction activities, especially in areas of former hazardous materials storage and use, and the profiling of soil planned for off-site disposal and/or reuse on-site. The SMP shall document former and suspect UST locations, hazardous materials transfer lines, oil-water separators, neutralization chambers, and hydraulic lifts, etc. The SMP shall also identify the protocols for accepting imported fill materials, if needed. The SMP and HSP shall be submitted to SCCDEH for approval and the approved SMP and HSP shall be submitted to the City Building Division prior to commencement of construction (including demolition) activities.

Page 145 Impact HAZ-6: **ADD** the following text to the impact statement:

---

**Impact HAZ-6:** **The project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would not have a cumulatively considerable contribution to a significant cumulative hazardous materials impact. (Less than Significant Impact with Mitigation Incorporated)**

---

Page 195 Impact LU-4: **ADD** the following word to the impact statement:

---

**Impact LU-4:** **The project (and project alternatives) would not have a cumulatively considerable contribution to a significant cumulative land use impact. (Less than Significant Cumulative Impact)**

---

Page 207 Impact NOI-1: **DELETE** the following word in the impact statement:

---

**Impact NOI-1:** **The project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would ~~not~~ expose persons to or generation of noise levels in excess of standards established in the General Plan Municipal Code, or applicable standard of other agencies. (Significant and Unavoidable Impact with Mitigation Incorporated)**

---

**MM NOI-1.1:** Construction activities under the revised project shall be conducted in accordance with provisions of the City's Municipal Code which limit temporary construction work to daytime hours,<sup>24</sup> Monday through Friday. Construction is prohibited on weekends and all holidays pursuant to Municipal Code Section 10.48.053(B)(C)(D).<sup>25</sup> Further, the City requires that all equipment have high-quality noise mufflers and abatement devices installed and are in good condition. Additionally, the construction crew shall adhere to the following construction best management practices listed in MM NOI-1.2 below to reduce construction noise levels emanating from the site and minimize disruption and annoyance at existing noise-sensitive receptors in the project vicinity.

**MM NOI-1.2:** Future development shall prepare and submit a construction noise control plan to the City's Building Department and Code Enforcement for review and approval. The on-site Construction Manager shall implement thea construction noise control plan, which would includeing, but is not limited to, the following available controls:

- Construct temporary noise barriers, where feasible, to screen stationary noise-generating equipment. Temporary noise barrier fences would provide a five dBA noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receptor and if the barrier is constructed in a manner that eliminates any cracks or gaps.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Enforce Unnecessary idling limit of two minutes of internal combustion engines unless subject to state law exemptions (e.g., safety issues) shall be strictly prohibited.
- Locate stationary noise-generating equipment, such as air compressors or portable power generators, as far as possible from sensitive receptors as feasible. If they must be located near receptors, adequate muffling (with enclosures where feasible and appropriate) shall be used to reduce noise levels at the adjacent sensitive receptors. Any enclosure openings or venting shall face away from sensitive receptors.

---

<sup>24</sup> Per Municipal Code Section 10.48.010, daytime is defined as the period from 7:00 AM to 8:00 PM weekdays.

<sup>25</sup> Municipal Code Section 10.48.053(B): Notwithstanding Section 10.48.053A, it is a violation of this chapter to engage in any grading, street construction, demolition or underground utility work within seven hundred fifty feet of a residential area on Saturdays, Sundays and holidays, and during the nighttime period, except as provided in Section 10.48.030. Municipal Code Section 10.48.053(C): Construction, other than street construction, is prohibited on holidays, except as provided in Sections 10.48.029 and 10.48.030. Municipal Code Section 10.48.053(D): Construction, other than street construction, is prohibited during nighttime periods unless it meets the nighttime standards of Section 10.48.040.



- Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction.
- Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.
- Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
- If impact pile driving is proposed, temporary noise control blanket barriers shall shroud pile drivers or be erected in a manner to shield the adjacent land uses.
- If impact pile driving is proposed, foundation pile holes shall be pre-drilled to minimize the number of impacts required to seat the pile. Pre-drilling foundation pile holes is a standard construction noise control technique. Pre-drilling reduces the number of blows required to seat the pile. Notify all adjacent land uses of the construction schedule in writing.
- The contractor shall prepare a detailed construction schedule for major noise-generating construction activities and provide it to adjacent land uses. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
- Designate a “disturbance coordinator” who would be responsible for responding to any complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaint (e.g., bad muffler, etc.) and would require that reasonable measures be implemented to correct the problem. The telephone number for the disturbance coordinator shall be conspicuously posted at the construction site and included in the notice sent to neighbors regarding the construction schedule.

Page 219

Mitigation Measure: **REVISE** the second bullet in mitigation measure MM NOI-1.4 as follows:

- Implement a no idling policy at all locations that requires engines to be turned off after two~~five~~ minutes.

Page 222 Outdoor Activity Areas: **REPLACE** the two bullets on the page with the following:

- ~~Outdoor dining areas located on the green roof with direct line of sight to the existing residences to the west of the site, opposite Perimeter Road, and to the southeast of the site, opposite Vallec Parkway and North Wolfe road, shall be setback a minimum distance of 310 feet from the nearest residential property line to meet the nighttime threshold of 55 dBA. Alternately, outdoor dining areas shall be acoustically shielded by noise barriers or buildings.~~
- ~~Playgrounds proposed on the green roof shall be setback a minimum distance of 60 feet from the nearest residential property line or acoustically shielded by noise barriers.~~
- Outdoor dining areas and playgrounds shall demonstrate that appropriate design and noise attenuation measures including, but not limited to, setbacks and/or noise barriers have been incorporated to meet the daytime threshold of 65 dBA and the nighttime threshold of 55 dBA in the City's Municipal Code at the existing, adjacent residences.

Page 232 Impact NOI-6; Occupied/Re-Tenanted Mall Alternative: **DELETE** the following text in the first paragraph:

### **Occupied/Re-Tenanted Mall Alternative**

The Occupied/Re-Tenanted Mall Alternative would ~~General Plan Buildout with Maximum Residential Alternative would~~ result in the same significant cumulative traffic noise impact as described above for the proposed project. See Impact NOI-6.

Page 251 Project: **REVISE** the two paragraphs under Table 3.15-4 as follows:

Additionally, if the topography of park land is not acceptable, the project (and project alternatives) shall ~~fund park improvements and~~ dedicate land through compliance with Municipal Code Chapter ~~14.05~~13.08 and Title 18, which help ensure the provision of parklands in compliance with the City standard of a minimum of three acres per 1,000 residents. In addition, impacts to County and Midpeninsula Regional Open Space District facilities would be mitigated through the property taxes levied on the property.

**Standard Permit Condition:** Future development under the proposed project (or General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative) shall ~~fund park improvements and~~ dedicate land through compliance with Municipal Code Chapter ~~14.05~~13.08 and Title 18, which help ensure the provision of parklands in compliance with the City standard of a minimum of three acres per 1,000 residents.

Page 255 Park Facilities; Project: **REVISE** the third sentence of the paragraph under the project subheading as follows:

The geographic area for cumulative park facility impacts is the City boundaries. The buildout of the General Plan and cumulative projects (including the proposed project and project alternatives) would incrementally increase the demand for park facilities but would also create new public open space. The cumulative projects within the City of Cupertino would be required to ~~fund park improvements and dedicate land through compliance with Municipal Code Chapter 14.05~~13.08 and Title 18, which help ensure the provision of parklands in compliance with the City standard of a minimum of three acres per 1,000 residents.

Page 261 Project: **REVISE** the second and third paragraph under the project subheading as follows:

**Standard Permit Condition:** Future development under the proposed project (or General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative) shall dedicate land through compliance with Municipal Code Chapter 13.08 and Title 18 to ensure the provision of parklands in compliance with the City standard of a minimum of three acres per 1,000 residents.~~pay the applicable park maintenance fees, as stated in Chapter 14.05 of the City Municipal Code.~~

~~The proposed project would be required to fund park improvements and dedicate land through compliance with Municipal Code Chapter 14.05 and Title 18, which help ensure that City recreational facilities are maintained. Therefore, f~~Future development under the proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative), with the implementation of the above standard permit condition, would not result in significant impacts to recreational facilities. **(Less than Significant Impact)**

Page 263 Project: **REVISE** the third sentence under the project subheading as follows:

The geographic area for cumulative recreational impacts is the City boundaries. Buildout of the General Plan and cumulative projects (including the proposed project and project alternatives) would incrementally increase the demand for recreational facilities. The cumulative projects within the City of Cupertino would be required to ~~fund park improvements and dedicate land through compliance with Municipal Code Chapter 14.05~~13.08 and Title 18, which help ensure the provision of parklands in compliance with the City standard of a minimum of three acres per 1,000 residents.

Page 273 Study Intersections: **REVISE** the text of intersection 46 and 50 as follows:

46. Stevens Creek Boulevard/Lawrence Expressway Ramps (west)\* – City of Santa Clara County
47. Lawrence Expressway/El Camino Real\* – Santa Clara County
48. Lawrence Expressway/Homestead Road\* – Santa Clara County
49. Lawrence Expressway/Pruneridge Avenue\* – Santa Clara County
50. Stevens Creek Boulevard/ Lawrence Expressway Ramps (east)\* – City of Santa Clara County

Page 279 Existing Transit Network and Service; Existing VTA Bus Service: **REVISE** the second paragraph on the page as follows:

In 2017, VTA finalized a redesign of its transit network, referred to as the Next Network, which strives for a better balance between service frequency and coverage in VTA’s service area. Currently, VTA’s Next Network Transit Plan is scheduled to be implemented in ~~mid to late~~ 2018/2019 when BART is extended to the Berryessa Station in San José.

Page 282 Table 3.17-4: **REVISE** the text of the table as follows:

<b>Table 3.17-4: Summary of Bus Routes that Serve the Project Site</b>	
<b>Bus Route</b>	<b>Brief Description</b>
23	Bus Route 23 <del>will</del> operates on Stevens Creek Boulevard and provides service between De Anza College and the Alum Rock Transit Center. <del>Route 23 will serve bus stops at Stevens Creek Boulevard/Wolfe Road-Miller Avenue intersection</del> A bus stop for Route 23 is located at <del>the Stevens Creek Boulevard/Wolfe Road-Miller Avenue intersection</del> with connections to Routes 53, 56, 101, and 523. Route 23 <del>will be</del> augmented by limited stop service (Route <del>3523</del> ) between Lockheed Martin Transit Center and the Berryessa BART Station.
53	Bus Route 53 <del>will</del> provides service between the Santa Clara Transit Center and the Sunnyvale Transit Center. Near the project site, Route 53 <del>will</del> operates on Homestead Road, Wolfe Road, Stevens Creek Boulevard, and Tantau Avenue. The closest bus stops <del>this route will serve will be located at</del> <del>is located at</del> the Stevens Creek Boulevard/Wolfe Road-Miller Avenue intersection, which <del>will</del> provides connections to Route 23, 56, 101 and <del>3523</del> .
56	Bus Route 56 <del>will</del> provides service between the Lockheed Martin Transit Center and Tamien Station <del>and will operate</del> ing on Wolfe Road near the project site. <del>This route will serve stops along Wolfe Road near the project site</del> The closest bus stops are located on Wolfe Road.
101	Bus Route 101 is an <del>existing</del> express bus route that operates on I-280 and Stevens Creek Boulevard <del>and will remain unchanged in the Next Network</del> ; it connects the Park & Ride lot at the Camden Avenue/SR 85 interchange to Palo Alto. This route has a bus stop at the Stevens Creek Boulevard/Wolfe Road-Miller Avenue intersection, which <del>will</del> provides connections to Routes 23, 53, 56, and 323.
182	Bus Route 182 is an <del>existing</del> express bus route that operates on I-280, Wolfe Road, Vallco Parkway, and Stevens Creek Boulevard <del>and will remain unchanged in the Next Network</del> ; it connects the Park & Ride lot at El Camino Real and Page Mill Road in Palo Alto with the IBM Santa Teresa Facility at Bailey Avenue. This route has a bus stop at the project site at Wolfe Road/Vallco Parkway.
323	Bus Route <del>523</del> will replace the existing <del>Limited Bus Route 323</del> and will travel along <del>323 is a limited stop bus route on</del> Stevens Creek Boulevard serving Lockheed Martin Transit Center, Downtown Sunnyvale, De Anza College, Valley Fair, Santana Row, Downtown San José, Mexican Heritage Plaza, and the Berryessa BART Station. The closest bus stops <del>this route will serve</del> are located at Stevens Creek Boulevard/Wolfe Road-Miller Avenue, <del>which will have</del> with connections to Routes 23, 53, 56, and 101.

Page 289 Table 3.17-5: **REVISE** the text of intersections 46 and 50 as follows:

46.	Stevens Creek Boulevard/Lawrence Expressway Ramps (west)* – <del>City of Santa Clara County</del>	E	AM	28.9	C
			PM	25.4	C
47.	Lawrence Expressway/El Camino Real* – Santa Clara County	E	AM	34.6	C-
			PM	27.1	C
48.	Lawrence Expressway/Homestead Road* – Santa Clara County	E	AM	71.5	E
			PM	66.3	E
49.	Lawrence Expressway/Pruneridge Avenue* – Santa Clara County	E	AM	44.0	D
			PM	44.5	D
50.	Stevens Creek Boulevard/ Lawrence Expressway Ramps (east)* – <del>City of Santa Clara County</del>	E	AM	31.6	C
			PM	28.0	C

Page 308 Table 3.17-9: **REVISE** the first column of the table for intersections 46 and 50 as follows:

46.	Stevens Creek Boulevard/Lawrence Expressway Ramps (west)* – <del>City of Santa Clara County</del>
47.	Lawrence Expressway/El Camino Real* – Santa Clara County
48.	Lawrence Expressway/Homestead Road* – Santa Clara County
49.	Lawrence Expressway/Pruneridge Avenue* – Santa Clara County
50.	Stevens Creek Boulevard/ Lawrence Expressway Ramps (east)* – <del>City of Santa Clara County</del>

Page 354 Table 3.17-19: **REVISE** the first two columns as follows:



**Table 5.3-1: Existing, Background, and Cumulative with Project and Project Alternative Added Transit Delay**

VTA Transit Route		Study Corridor Length (miles)	Peak Hour	Project		General Plan Buildout with Maximum Residential Alternative		Retail and Residential Alternative		Occupied/Re-Tenanted Mall Alternative	
						(seconds)					
				NB/EB	SB/WB	NB/EB	SB/WB	NB/EB	SB/WB	NB/EB	SB/WB
<b>Existing with Project and Project Alternative Added Transit Delay</b>											
Route 23	De Anza College to Alum Rock Transit Center	3.9	AM PM	NC 96	76 13	NC 63	44 11	NC 36	15 10	NC 56	8 13
Route 53	West Valley College to Sunnyvale Transit Center	0.02	AM PM	NC NC	NC NC	NC NC	NC NC	NC NC	NC NC	NC NC	NC NC
Express 101	Lockheed Martin Transit Center to Winchester LRT Station	1.6	AM PM	55 NS	NS 104	33 NS	NS 66	17 NS	NS 38	9 NS	NS 55
Express 182	Camden & Highway 85 to Palo Alto	1.5	AM PM	NS 20	12 NS	NS 15	13 NS	NS 12	9 NS	NS 9	NC NS
Rapid 323/523	<del>Palo Alto to IBM/Bailey Ave</del> Downtown San José to De Anza College	3.6	AM PM	NC 99	77 15	NC 65	45 12	7 37	15 10	NC 57	8 13
<b>Background with Project and Project Alternative Added Transit Delay</b>											
Route 23	De Anza College to Alum Rock Transit Center	3.9	AM PM	NC 226	222 35	NC 161	147 31	NC 105	61 28	NC 140	20 31
Route 53	West Valley College to Sunnyvale Transit Center	2.9	AM PM	43 64	68 57	46 52	59 42	12 48	35 33	NC 62	6 33
Route 56	Lockheed Martin Transit Center to Winchester LRT Station	3.6	AM PM	26 48	NC 28	28 28	NC 23	23 16	NC 25	NC 16	NC 32
Express 101	Camden & Highway 85 to Palo Alto	1.6	AM PM	219 NS	NS 223	160 NS	NS 147	61 NS	NS 84	17 NS	NS 124
Express 182	Palo Alto to IBM/Bailey Ave	1.5	AM PM	NS 52	16 NS	NS 37	17 NS	NS 28	14 NS	NS 26	NC NS
Rapid 323/523	Downtown San Jose to De Anza College	3.6	AM PM	NC 237	223 39	NC 169	150 34	9 110	65 29	NC 145	20 36
<b>Cumulative with Project and Project Alternative Added Transit Delay</b>											

**Table 5.3-1: Existing, Background, and Cumulative with Project and Project Alternative Added Transit Delay**

VTA Transit Route		Study Corridor Length (miles)	Peak Hour	Project	General Plan Buildout with Maximum Residential Alternative		Retail and Residential Alternative		Occupied/Re-Tenanted Mall Alternative		
					(seconds)						
					NB/EB	SB/WB	NB/EB	SB/WB	NB/EB	SB/WB	NB/EB
Route 23	De Anza College to Alum Rock Transit Center	3.9	AM	NC	281	10	208	10	79	NC	23
			PM	263	58	193	49	130	42	170	46
Route 53	West Valley College to Sunnyvale Transit Center	2.9	AM	56	89	63	65	20	28	NC	8
			PM	90	69	61	52	48	42	70	46
Route 56	Lockheed Martin Transit Center to Winchester LRT Station	3.6	AM	42	8	38	NC	22	NC	6	NC
			PM	71	54	45	40	31	38	37	52
Express 101	Camden & Highway 85 to Palo Alto	1.6	AM	241	NS	166	NS	51	NS	19	NS
			PM	NS	243	NS	155	NS	88	NS	135
Express 182	Palo Alto to IBM/Bailey Ave	1.5	AM	NS	19	NS	18	NS	15	NS	NC
			PM	51	NS	34	NS	24	NS	24	NS
Rapid 323/523	Downtown San Jose to De Anza College	3.6	AM	8	282	17	212	18	83	NC	25
			PM	278	58	202	49	134	41	174	48

Notes: NS = service only provided in the peak direction of travel. NC = The project was considered to have no change if the increase in travel time was less than five seconds or the travel time improved slightly (due to changes in signal timing, critical movement changes, etc.). The impacts of the Occupied/Re-Tenanted Mall Alternative is described in this EIR for informational purposes only.

MM TRN-1.1: **REPLACE** the first two paragraph of mitigation measure MM TRN-1.1 with the following:

**MM TRN-1.1:** ~~Develop and implement a TDM Program for office uses that achieves a 25 to 35 percent reduction in office vehicle trips. The required TDM reduction would vary depending on the amount of office development constructed and whether the office development has a single tenant or multiple tenants. Generally, the larger the office development, the greater the TDM reduction that can be achieved. Similarly, single tenants office buildings can generally implement more effective TDM programs than multiple tenant office buildings. The percentage reduction required shall be based on the characteristics of the office development (size, number of tenants, etc.) and shall be calculated based on Institute of Transportation Engineer's Office (ITE Land Use 710) average trip generation rates.~~

As part of the TDM Program, the City shall require future development to implement the Specific Plan's TDM Monitoring Program to ensure that the TDM reduction goals are achieved. If future development is not able to meet the identified TDM goal, then the City would collect penalties, as specified the Specific Plan's TDM Monitoring Program. Develop and implement a TDM Program which includes a trip cap that is based on a 34 percent non-SOV rate for the office uses. The TDM Program includes the creation of a Transportation Management Association that would:

- Provide concierge services to residents and retail owners (for their employees);
- Coordinate with the office component; and
- Oversee the overall TDM program among property owners and tenants to achieve the office trip caps

As part of the TDM Program, the City shall require future development to implement the Specific Plan's TDM Monitoring Program to ensure that the TDM reduction goals are achieved. The TDM Monitoring Program shall require a robust Monitoring Program to ensure that this TDM program mitigation measure is implemented and that the required trip caps are achieved. The Monitoring Program shall be subject to review and approval by the City of Cupertino and would include driveway monitoring for all office uses during the AM and PM peak hours. The TDM Monitoring Program would occur in the fall (mid-September through mid-November) after six months occupancy of 50 percent of the total approved buildout. The TDM Monitoring Program shall be conducted annually for the first 10 years. If the monitoring reveals that the peak trip counts have not been exceeded in the last three years of the first 10 years of annual monitoring, the TDM monitoring shall be reduced to once every two years (i.e., year 10, 12, 14, etc.). However, if any biennial report reveals that the peak trip counts have been exceeded, the monitoring shall revert to annual monitoring until such time that the peak trip counts have not been exceeded for three consecutive annual reports. If future development is not able to

meet the identified TDM goal, then the City would collect penalties (assigned proportionately between the uses that do not meet the trip cap), as specified in the Specific Plan's TDM Monitoring Program. Penalties collected from the TDM Monitoring Program will be used to improve multimodal access around the site and throughout the City of Cupertino.

The TDM program is expected to reduce the severity of intersection and freeway impacts, although not necessarily to a less than significant level. **(Significant and Unavoidable Impact with Mitigation Incorporated)**

Page 323      Vehicle Miles Travelled: **ADD** the following text at the top of the page, before the Vehicle Miles Travelled subheading:

### **Left-Turn Queuing Analysis**

#### **Project**

The addition of project (or project alternative) traffic along the roadway network could add vehicles to left-turn movements and has the potential to cause left-turn queues to exceed the turn pocket storage lengths. Queues that exceed the turn pocket storage length have the potential to impede adjacent through traffic movements. Based on the analysis completed in Appendix H, several turn pocket lengths are anticipated to be exceeded under existing and background conditions with project traffic. The left-turn deficiencies would not result in significant level of service impacts, however. The City shall require future development under the project, General Plan Buildout with Maximum Residential Alternative, and Retail and Residential Alternative implement the below conditions of approval to address left-turn storage deficiencies. (Less than Significant Impact)

#### **Conditions of Approval:**

- For left-turn storage deficiencies at Intersections #11 (De Anza Boulevard/Stevens Creek Boulevard), #31 (Wolfe Road/Vallco Parkway), #41 (Tantau Avenue/Vallco Parkway), #42 (Stevens Creek Boulevard/Tantau Avenue), contribute one payment of \$100,000 to citywide ITS improvements (such as adoptive signal control, advanced signal loop detectors or video image detectors) to improve signal operations and queuing.
- Intersection #21 – Stevens Creek Boulevard / Perimeter Road: Reconfigure the median on Stevens Creek Boulevard to reduce the westbound left-turn lane to Portal Avenue to accommodate an additional 80 feet of capacity for the eastbound left turn from Stevens Creek Boulevard to Perimeter Road.
- Intersection #31 – Wolfe Road / Vallco Parkway: Reconfigure the median on Vallco Parkway between Wolfe Road and Perimeter Road to provide a continuous median with a 325-foot westbound left-turn lane at Wolfe Road and a 220-foot eastbound left-turn lane at Perimeter Road.
- Intersection #32 – Wolfe Road-Miller Avenue / Stevens Creek Boulevard: Extend the inner eastbound left-turn lane from Stevens Creek Boulevard to Wolfe Road to the same length as the outer left-turn lane to provide approximately 260 feet of additional capacity.

- Intersection #53 – Lawrence Expressway / Bollinger Road: Coordinate with the County of Santa Clara and pay fair share to reduce the median width on the northbound approach of Lawrence Expressway to provide for approximately 325 feet of additional capacity.
- Intersection #56 – Lawrence Expressway / Saratoga Avenue: Coordinate with the County of Santa Clara and pay fair share of additional funding needed to reduce the median width on the eastbound approach of Saratoga Avenue to maximize the left-turn queuing capacity.

#### General Plan Buildout with Maximum Residential Alternative

The General Plan Buildout with Maximum Residential Alternative would result in similar left-turn storage deficiencies as determined in Appendix H for the proposed project. Implementation of the General Plan Buildout with Maximum Residential Alternative, with the implementation of the above conditions of approval, would not result in left-turn queuing deficiencies. (Less than Significant Impact)

#### Retail and Residential Alternative

The Retail and Residential Alternative would result in similar left-turn storage deficiencies as determined in Appendix H for the proposed project. The left-turn storage deficiencies would not result in significant level of service impacts. Implementation of the Retail and Residential Alternative, with the implementation of the above conditions of approval, would not result in left-turn queuing deficiencies. (Less than Significant Impact)

#### Occupied/Re-Tenanted Mall Alternative

The Occupied/Re-Tenanted Mall Alternative would result in similar left-turn storage deficiencies as determined in Appendix H for the proposed project. This alternative is a permitted land use, can be implemented without further approvals from the City, and is not subject to further CEQA. No mitigation measures or conditions of approval can be required. (Less than Significant Impact: Not a CEQA Impact)

Page 324      Vehicle Miles Travelled; Project and All Project Alternatives: **REVISE** the first paragraph on the page as follows:

The regional average VMT per service population from the MTC and ABAG regional model for the Year 2020 and 2040 are 21.8 and 20.3, respectively. The MTC/ABAG regional mode is an activity-based/tour-based model rather than a trip-based model as utilized by some other jurisdictions. Current draft guidance for SB 743 recommends a VMT threshold of 15 percent below the regional average as a threshold of significance for CEQA purposes. This translates to thresholds of ~~185.5~~ 18.5 (21.8 x 85%) and 17.3 (20.3 x 85%) for the years 2020 and 2040, respectively. The City of Cupertino has not adopted these regional thresholds, and may adopt different thresholds that would yield different results regarding VMT assessment.



Page 326 Traffic and Parking Intrusion; Project; Condition of Approval; **REVISE** the text to the second to last paragraph on the page as follows:

**Condition of Approval:** To ensure neighborhood cut-through traffic and parking intrusion are minimized, future development under the proposed project (or General Plan Buildout with Maximum Residential Alternative, or Retail and Residential Alternative) shall fund neighborhood cut-through traffic monitoring studies and provide fees in the amount of \$500,000 to the City of Cupertino, \$150,000 to the City of Santa Clara, and \$125,000 to the City of Sunnyvale to monitor and implement traffic calming improvements and a residential parking permit program to minimize neighborhood cut-through traffic and parking intrusion, if determined to be needed by the respective City's Public Works Department. The details of the neighborhood parking and traffic intrusion monitoring program shall be determined when the conditions of approval for project development are established. The monitoring program shall include the following components: (1) identifying the monitoring areas (roadways where the monitoring would occur), (2) setting baseline conditions (number of parked vehicles and traffic volumes on the roadways), (3) determining thresholds for parking and traffic volume increases requiring action, (4) establishing the monitoring schedule, and (5) creating reporting protocols. The baseline conditions shall be established prior to but within one year of initial occupancy. Monitoring shall then occur annually for five years.

Page 329 Transit Network and Service: **REVISE** the first bullet as follows:

- VTA will replace the Limited 323 with Rapid 523 bus service on the Stevens Creek corridor in ~~mid-2019~~ to improve travel time, enhance passenger waiting areas, and to accommodate projected increases in ridership demand along the corridor. The service will connect the new Berryessa BART Station with the Lockheed Martin Transit Center.

Pages 339-340 Table 3.17-15: **REVISE** the first column of the table for intersections 46 and 50 as follows:

46. Stevens Creek Boulevard/Lawrence Expressway Ramps (west)\* – City of Santa Clara County
47. Lawrence Expressway/El Camino Real\* – Santa Clara County
48. Lawrence Expressway/Homestead Road\* – Santa Clara County
49. Lawrence Expressway/Pruneridge Avenue\* – Santa Clara County
50. Stevens Creek Boulevard/ Lawrence Expressway Ramps (east)\* – City of Santa Clara County

Page 361 Impact TRN-7; Cumulative and Cumulative with Project and Project Alternative Intersection Levels of Service: **REVISE** the second and third paragraphs as follows:

Based on applicable municipal and CMP significance criteria, 186 intersections would be significantly impacted by the project and/or project alternatives under cumulative with project conditions. These significant cumulative project and project alternative impacts are summarized in Table 3.17-21.

### Project

As summarized in Table 3.17-21, implementation of the proposed project would result in significant intersection level of service impacts under cumulative with project conditions at the following 187 intersections:

Page 363 MM TRN-7.5: **REVISE** the first paragraph of mitigation measure MM TRN-7.5 as follows:

**MM TRN-7.5:** Intersection 23, Wolfe Road/Fremont Avenue: Provide a dedicated southbound right-turn lane from Wolfe Road onto westbound Fremont Avenue. ~~This would improve operations to LOS D and reduce the project impact to a less than significant level under the proposed project and General Plan Buildout with Maximum Residential Alternative.~~ The intersection would continue to operate at unacceptable LOS E under the proposed project, General Plan Buildout with Maximum Residential Alternative, and Retail and Residential Alternative, but the delay would be reduced to a level lower than cumulative conditions. Thus, the impact would be mitigated to a less than significant level.

Page 386 Section 3.18.1.2 Existing Conditions; Wastewater Treatment/Sanitary Sewer System: **REVISE** the last sentence in the third paragraph as follows:

The project site has an existing estimated average daily sewage generation rate of approximately ~~0.280.12~~ mgd (Source: City of Cupertino. *Sewer Capacity Calculation (Vallco Specific Plan)*. August 13, 2018.).<sup>127</sup>

The existing sewer system has capacity allocated to accommodate flows from the existing mall at full occupancy. The net increase in sewage generated from the project and project alternatives compared to the sewage generation of the fully occupied mall is shown in Table 3.18-1. The project and project alternatives are estimated to generate a net increase of ~~0.720.26~~ to ~~1.040.58~~ mgd of sewage.<sup>26</sup> The General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative are estimated to generate more sewage than the proposed project. ~~The Occupied/Re-Tenanted Mall Alternative would not result in an increase in sewage generation since it is the fully occupancy of the mall.~~

<b>Table 3.18-1: Estimated Net Sewage Generation</b>	
	<b>Estimated Net Average Sewage Generation (mgd)</b>
Project	<del>0.720.40</del>
General Plan Buildout with Maximum Residential Alternative	<del>0.940.53</del>
Retail and Residential Alternative	<del>1.040.58</del>
Occupied/Re-Tenanted Alternative	<del>00.26</del>
Note: The sewage generation identified is the net increase in sewage generation anticipated under the proposed project and project alternatives compared to existing conditions. Source: City of Cupertino. <i>Sewer Capacity Calculation (Vallco Specific Plan)</i> . August 13, 2018.	

The contractual agreement between CuSD and the City of Santa Clara is 13.8 mgd during peak wet weather flows. The existing CuSD peak wet weather flow into the Santa Clara system is modeled at 10.7 mgd.<sup>27</sup> Therefore, there is an available capacity of approximately 3.1 mgd during peak wet weather flows for the CuSD service area (including the project). A peak wet weather flow multiplier of four (4) times the average dry weather flow was used to establish the available sewer generation capacity for average sewer flows for the project. A four (4) times multiplier is generally considered a conservative figure. Therefore, 3.1 mgd of capacity during peak wet weather flows equates to approximately 0.775 mgd of available capacity for average dry weather sewer flow. Incorporating estimated sewer generation rates from the project and from other potential projects as established by

<sup>26</sup> This estimated amount does not include flows from future underground parking garages. Drainage for underground parking garages are required to connect to the sanitary sewer system. Because underground parking areas are not typically exposed to a significant amount of rain, this flow would be relatively minor and would be confirmed at the final design stage. During the design phase of the project, the City would work to limit the amount of exposed areas that would drain towards the underground parking areas.

<sup>27</sup> Mark Thomas and Associates. Email communication with Cupertino Public Works. July 19, 2018.

the General Plan, the total capacity needed to serve these projects is approximately 0.749 mgd.<sup>28</sup> Because the needed capacity is less than the total available capacity, there is adequate sewer capacity in the contractual agreement between CuSD and the City of Santa Clara to serve the project and the General Plan Buildout.

If additional hydraulic modeling is performed on the CuSD system and the model indicates that the 13.8 mgd contractual limit through the City of Santa Clara would be surpassed by the project, the future developer(s) would not be permitted to occupy any structures or units that result in the contractual limit being exceeded until additional capacity is available through the City of Santa Clara's sewer system; improvements are made to the CuSD sewer system that reduce the peak wet weather flows that enter the City of Santa Clara system; improvements are made on the project site that ensure the contractual limit is not exceed; or the completion of any combination of these approaches that adequately addresses potential capacity issues.

Page 390 Mitigation Measures: **REVISE** the text of mitigation measures MM UTIL-2.1 through -2.3 and the subsequent paragraph as follows:

**MM UTIL-2.1:** Future development under the proposed project (or General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative) shall replace the existing 12- and 15-inch sewer mains in Wolfe Road with new mains of an adequate size as determined by CuSD, ~~and~~ shall install an 18- to 21-inch parallel pipe to the existing 12- and 15-inch mains to accommodate existing and project flows.

**MM UTIL-2.2:** Future development under the proposed project (or General Plan Buildout with Maximum Residential Alternative or Retail and Residential Alternative) shall replace the existing 27-inch sewer main in Wolfe Road and Homestead Road with new mains of an adequate size determined by the CuSD, or install a parallel pipe of an adequate size to the existing 27-inch sewer main as determined by CuSD.

**MM UTIL-2.3:** ~~Developer shall complete improvements as designated in the City of Santa Clara's Sanitary Sewer Management Plan to allow for adequate downstream sewer capacity through the City of Santa Clara sewer system. No occupancies can occur on the project site that would exceed the current contractual permitted sewer flows through the City of Santa Clara until the contractual agreement between CuSD and the City of Santa Clara is amended to recognize and authorize this increased flow. No certificates of occupancy shall be issued by the City for structures or units that would result in the permitted peak wet weather flow capacity of 13.8 mgd through the Santa Clara sanitary sewer system being exceeded. The estimated sewage generation by the project shall be calculated using the sewer generation rates used by the San Jose - Santa Clara Water~~

---

<sup>28</sup> Sewage coefficients use to calculate the sewer generation rates for the various uses in the project and the General Plan buildout were taken from the San Jose - Santa Clara Water Pollution Control Plant Specific Use Code & Sewer Coefficient table and from the City of Santa Clara Sanitary Sewer Capacity Assessment, May 2007.

Pollution Control Plant Specific Use Code & Sewer Coefficient table, and from the City of Santa Clara Sanitary Sewer Capacity Assessment, May 2007,<sup>29</sup> unless alternative (i.e., lower) sewer generation rates achieved by future development are substantiated by the developer based on evidence to the satisfaction of the CuSD.

Implementation of mitigation measures MM UTIL-2.1 through -2.3 would mitigate the project (or General Plan Buildout with Maximum Residential or Retail and Residential Alternative) impact to the sewer system by making improvements to the sewer system in order to adequately convey flows from future development. The above sewer improvements would occur within existing right-of-way and the construction impacts related to installing new sewer lines are discussed in the EIR sections dealing with construction impacts including Sections 3.3 Air Quality, 3.4 Biological Resources, 3.5 Cultural Resources, 3.13 Noise and Vibration, and 3.17 Transportation/Traffic. If future on-site sewage treatment is proposed, subsequent environmental review would be required at the time when the specifications of the on-site treatment facility (e.g., size, operation, and location) are known. **(Less than Significant Impact with Mitigation Incorporated)**

Page 391 UTL-3; Project and All Project Alternatives: **REVISE** the first paragraph as follows:

Given the CuSD's treatment allocation of 7.85 mgd of sewage at the RWF, CuSD's current generation rate of 4.25 mgd of sewage, the remaining available treatment allocation of 3.5 mgd, and the net increase sewage from the project, General Plan Buildout with Maximum Residential Alternative, and Retail and Residential Alternative (~~0.72-1.04~~0.26-0.58 mgd), it is anticipated there is sufficient treatment capacity at the RWF to serve the project or project alternatives. **(Less than Significant Impact)**

Page 395 Recycled Water Infrastructure and Supply; Project; Infrastructure: **REVISE** the first paragraph as follows:

The proposed project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) may includes the extension of recycled water infrastructure to the project site. Recycled water ~~w~~ould be used on-site for landscape irrigation.

---

<sup>29</sup> The average dry weather sewerage generation rates used by the San Jose - Santa Clara Water Pollution Control Plant Specific Use Code & Sewer Coefficient table, and the City of Santa Clara Sanitary Sewer Capacity Assessment, May 2007, for the different uses within the project are as follows: High Density Residential = 121 gpd/unit; Commercial/Retail = 0.076 gpd/SF; Commercial/Restaurant = 1.04 gpd/SF; Office = 0.1 gpd/SF; Hotel = 100 gpd/Room; Civic Space (office) = 0.21 gpd/SF; Adult Education = 15 gpd/Person; and Civic Space (Auditorium) = 0.11 gpd/SF.



Page 396      Impact UTL-5; Recycled Water Infrastructure and Supply: **DELETE** the following text under General Plan Buildout with Maximum Residential Alternative and Occupied Re-Tenanted Mall Alternative as follows:

General Plan Buildout with Maximum Residential Alternative

The General Plan Buildout with Maximum Residential Alternative would result in the same recycled water impact as described above for the proposed project. ~~Extension of the recycled water infrastructure would require independent environmental review when the design of the extension is finalized.~~ **(Less than Significant Impact)**

Retail and Residential Alternative

The Retail and Residential Alternative would result in a similar recycled water impact as described above for the proposed project. The Retail and Residential Alternative would have a lesser impact on recycled water supply than the proposed project as it does not include a 30-acre green roof that would be irrigated with recycled water. ~~Extension of the recycled water infrastructure would require independent environmental review when the design of the extension is finalized.~~ **(Less than Significant Impact)**

Page 406      Section 6.0 Significant and Unavoidable Impacts: **DELETE** the following word from Impact NOI-1:

- **Impact NOI-1:** The project (and General Plan Buildout with Maximum Residential Alternative and Retail and Residential Alternative) would ~~not~~ expose persons to or generation of noise levels in excess of standards established in the General Plan Municipal Code, or applicable standard of other agencies. **(Significant and Unavoidable Impact with Mitigation Incorporated)**

Appendix B      Add the following pages to the end of Appendix B.

**ILLINGWORTH & RODKIN, INC.**  
Acoustics • Air Quality

1 Willowbrook Court, Suite 120  
Petaluma, California 94954

Tel: 707-794-0400  
www.illingworthrodkin.com

Fax: 707-794-0405  
illro@illingworthrodkin.com

---

## MEMO

**Date:** July 23, 2018

**To:** **Kristy Weis**  
David J. Powers and Associates

**From:** James A. Reyff  
Illingworth & Rodkin, Inc.  
1 Willowbrook Court, Suite 120  
Petaluma, CA 94954

**RE:** Vallco Special Area Specific Plan Air Quality and Greenhouse Gas Emissions  
Assessment - Cupertino, CA

**SUBJECT:** I-280 Freeway Modeling Correction Job#18-004

The May 21, 2018 air quality analysis incorrectly used 60 mph as the Eastbound traffic speed on I-280 for the peak-hour periods, while using 25 mph for the westbound period. The PM peak speed from the VTA data is 32 mph but the 60-mph value for the HOV lane was used in error. The emissions for the 2-hour peak PM period eastbound traffic should have been based on EMFAC 30 mph emissions data (since EMFAC only has 5 mph speed bins, 30 mph would be the speed to use to represent 32 mph) instead of 60 mph.

The effect of using 60 mph instead of 30 mph for the peak PM period was evaluated. In terms of emissions, the PM<sub>2.5</sub> exhaust emission rate would go from 0.01941 g/VMT at 60 mph to 0.01992 g/VMT at 30 mph, or a 2.6% increase for exhaust. This directly effects cancer risk calculations. The tire & brake wear and fugitive dust emissions would not change because they are not speed dependent emission factors. This increase in emissions would only affect the emissions during hours 17 and 18 (begin hours) for the eastbound traffic. From a modeling perspective the emissions change only affects 2 out of 48 hours of emissions data since the 24 hours of hourly emissions data for the westbound traffic would remain unchanged and only 2 hours of the eastbound hourly emissions would increase.

To see how the change might affect the dispersion modeling, impacts at the maximum exposed individual (MEI) receptor at the location adjacent to I-280 were considered. For cancer risk, the

risk would increase from 3.97 to 4.03 in one million, or from 4.0 to 4.0 in one million. For PM2.5 at the MEI location, the vehicle PM2.5 (exhaust + tire & brake wear) concentration would increase from 0.69212 ug/m<sup>3</sup> at 60 mph to 0.69335 ug/m<sup>3</sup> at 30 mph. The fugitive PM2.5 remains the same. So, the total PM2.5 goes from 1.04477 ug/m<sup>3</sup> when using 60 mph to 1.0460 ug/m<sup>3</sup>, or from 1.0 to 1.0 ug/m<sup>3</sup>.

The effect on concentrations at other locations would be proportional to these effects at the MEI. So, there would be negligible effects for other areas and there would be no significant changes to the reported impacts.

**Attachment: Updated I-280 Emissions Calculations**

Vallco Specific Plan, Cupertino, CA

I-280

DPM Modeling - Roadway Links, Traffic Volumes, and DPM Emissions

Year = 2029

Road Link	Description	Direction	No. Lanes	Link Length (m)	Link Width (ft)	Link Width (m)	Release Height (m)	Diesel ADT	Average Speed (mph)
EB I-280	Eastbound I-280	E	4	1138	68	20.6	3.4	2,390	variable
WB I-280	Westbound I-280	W	4	1137	68	20.6	3.4	2,390	variable

**2029 Hourly Diesel Traffic Volumes Per Direction and DPM Emissions - EB I-280**

Hour	% Per Hour	VPH	g/mile	Hour	% Per Hour	VPH	g/mile	Hour	% Per Hour	VPH	g/mile
1	2.52%	60	0.0041	9	6.37%	152	0.0032	17	5.87%	140	0.0046
2	1.56%	37	0.0046	10	7.01%	168	0.0032	18	4.19%	100	0.0043
3	1.64%	39	0.0050	11	6.34%	151	0.0032	19	3.61%	86	0.0028
4	2.13%	51	0.0038	12	6.75%	161	0.0032	20	2.79%	67	0.0023
5	1.30%	31	0.0041	13	6.35%	152	0.0031	21	4.19%	100	0.0028
6	2.20%	53	0.0037	14	6.25%	149	0.0031	22	5.00%	119	0.0029
7	6.28%	150	0.0030	15	5.59%	134	0.0030	23	1.63%	39	0.0041
8	5.15%	123	0.0029	16	4.75%	114	0.0029	24	0.52%	12	0.0042
Total										2,390	

**2029 Hourly Diesel Traffic Volumes Per Direction and DPM Emissions - WB I-280**

Hour	% Per Hour	VPH	g/mile	Hour	% Per Hour	VPH	g/mile	Hour	% Per Hour	VPH	g/mile
1	2.52%	60	0.0041	9	6.37%	152	0.0055	17	5.87%	140	0.0031
2	1.56%	37	0.0046	10	7.01%	168	0.0032	18	4.19%	100	0.0030
3	1.64%	39	0.0050	11	6.34%	151	0.0032	19	3.61%	86	0.0028
4	2.13%	51	0.0038	12	6.75%	161	0.0032	20	2.79%	67	0.0023
5	1.30%	31	0.0041	13	6.35%	152	0.0031	21	4.19%	100	0.0028
6	2.20%	53	0.0037	14	6.25%	149	0.0031	22	5.00%	119	0.0029
7	6.28%	150	0.0030	15	5.59%	134	0.0030	23	1.63%	39	0.0041
8	5.15%	123	0.0049	16	4.75%	114	0.0029	24	0.52%	12	0.0042
Total										2,390	

**Vallico Specific Plan, Cupertino, CA**

**I-280**

**PM2.5 & TOG Modeling - Roadway Links, Traffic Volumes, and PM2.5 Emissions**

Year = 2029

Group Link	Description	Direction	No. Lanes	Link Length (m)	Link Width (ft)	Link Width (m)	Release Height (m)	ADT	Average Speed (mph)	Average Vehicles per Hour
EB I-280	Eastbound I-280	E	4	1138	68	20.6	1.3	91,530	variable	3,814
WB I-280	Westbound I-280	W	4	1137	68	20.6	1.3	91,530	variable	3,814

**2029 Hourly Traffic Volumes Per Direction and PM2.5 Emissions - EB I-280**

Hour	% Per Hour	VPH	g/mile	Hour	% Per Hour	VPH	g/mile	Hour	% Per Hour	VPH	g/mile
1	1.10%	1006	0.0206	9	7.08%	6481	0.0196	17	7.38%	6757	0.0198
2	0.37%	335	0.0214	10	4.29%	3924	0.0201	18	8.27%	7573	0.0196
3	0.30%	272	0.0218	11	4.61%	4216	0.0198	19	5.79%	5296	0.0192
4	0.20%	184	0.0274	12	5.85%	5357	0.0197	20	4.35%	3986	0.0192
5	0.46%	418	0.0210	13	6.17%	5650	0.0195	21	3.28%	3004	0.0194
6	0.83%	764	0.0216	14	6.03%	5522	0.0196	22	3.31%	3033	0.0196
7	3.78%	3460	0.0199	15	7.08%	6477	0.0194	23	2.47%	2263	0.0195
8	7.89%	7224	0.0193	16	7.21%	6602	0.0193	24	1.89%	1727	0.0192
Total										91,530	

**2029 Hourly Traffic Volumes Per Direction and PM2.5 Emissions - WB I-280**

Hour	% Per Hour	VPH	g/mile	Hour	% Per Hour	VPH	g/mile	Hour	% Per Hour	VPH	g/mile
1	1.10%	1006	0.0206	9	7.08%	6481	0.0205	17	7.38%	6757	0.0194
2	0.37%	335	0.0214	10	4.29%	3924	0.0201	18	8.27%	7573	0.0192
3	0.30%	272	0.0218	11	4.61%	4216	0.0198	19	5.79%	5296	0.0192
4	0.20%	184	0.0274	12	5.85%	5357	0.0197	20	4.35%	3986	0.0192
5	0.46%	418	0.0210	13	6.17%	5650	0.0195	21	3.28%	3004	0.0194
6	0.83%	764	0.0216	14	6.03%	5522	0.0196	22	3.31%	3033	0.0196
7	3.78%	3460	0.0199	15	7.08%	6477	0.0194	23	2.47%	2263	0.0195
8	7.89%	7224	0.0201	16	7.21%	6602	0.0193	24	1.89%	1727	0.0192
Total										91,530	



**Vallco Specific Plan, Cupertino, CA**

**I-280**

**Entrained PM2.5 Road Dust Modeling - Roadway Links, Traffic Volumes, and PM2.5 Emissions**

**Year = 2029**

Group Link	Description	Direction	No. Lanes	Link Length (m)	Link Width (ft)	Link Width (m)	Release Height (m)	ADT	Average Speed (mph)
EB I-280	Eastbound I-280	E	4	1138	68	20.6	1.3	91,530	variable
WB I-280	Westbound I-280	W	4	1137	68	20.6	1.3	91,530	variable

**2029 Hourly Traffic Volumes Per Direction and Road Dust PM2.5 Emissions - EB I-280**

Hour	% Per Hour	VPH	g/mile	Hour	% Per Hour	VPH	g/mile	Hour	% Per Hour	VPH	g/mile
1	1.10%	1006	0.0100	9	7.08%	6481	0.0100	17	7.38%	6757	0.0100
2	0.37%	335	0.0100	10	4.29%	3924	0.0100	18	8.27%	7573	0.0100
3	0.30%	272	0.0100	11	4.61%	4216	0.0100	19	5.79%	5296	0.0100
4	0.20%	184	0.0100	12	5.85%	5357	0.0100	20	4.35%	3986	0.0100
5	0.46%	418	0.0100	13	6.17%	5650	0.0100	21	3.28%	3004	0.0100
6	0.83%	764	0.0100	14	6.03%	5522	0.0100	22	3.31%	3033	0.0100
7	3.78%	3460	0.0100	15	7.08%	6477	0.0100	23	2.47%	2263	0.0100
8	7.89%	7224	0.0100	16	7.21%	6602	0.0100	24	1.89%	1727	0.0100
Total										91,530	

**2029 Hourly Traffic Volumes Per Direction and Road Dust PM2.5 Emissions - WB I-280**

Hour	% Per Hour	VPH	g/mile	Hour	% Per Hour	VPH	g/mile	Hour	% Per Hour	VPH	g/mile
1	1.10%	1006	0.0100	9	7.08%	6481	0.0100	17	7.38%	6757	0.0100
2	0.37%	335	0.0100	10	4.29%	3924	0.0100	18	8.27%	7573	0.0100
3	0.30%	272	0.0100	11	4.61%	4216	0.0100	19	5.79%	5296	0.0100
4	0.20%	184	0.0100	12	5.85%	5357	0.0100	20	4.35%	3986	0.0100
5	0.46%	418	0.0100	13	6.17%	5650	0.0100	21	3.28%	3004	0.0100
6	0.83%	764	0.0100	14	6.03%	5522	0.0100	22	3.31%	3033	0.0100
7	3.78%	3460	0.0100	15	7.08%	6477	0.0100	23	2.47%	2263	0.0100
8	7.89%	7224	0.0100	16	7.21%	6602	0.0100	24	1.89%	1727	0.0100
Total										91,530	

**Vallco Specific Plan, Cupertino, CA**  
**I-280 Traffic Data and PM2.5 & TOG Emission Factors - 63 mph**

Analysis Year = 2029

Vehicle Type	2016 Caltrans Number Vehicles (veh/day)	2029 Number Vehicles (veh/day)	2029 Percent Diesel	Number Diesel Vehicles (veh/day)	Vehicle Speed (mph)	Emission Factors				
						Diesel Vehicles DPM (g/VMT)	All Vehicles		Gas Vehicles	
							Total PM2.5 (g/VMT)	Exhaust PM2.5 (g/VMT)	Exhaust TOG (g/VMT)	Running TOG (g/VMT)
LDA	112,843	127,512	1.30%	1,658	65	0.0018	0.0189	0.0012	0.0078	0.037
LDT	44,038	49,763	0.19%	96	65	0.0037	0.0190	0.0012	0.0111	0.066
MDT	2,466	2,786	11.24%	313	60	0.0064	0.0220	0.0015	0.0165	0.156
HDT	2,654	2,999	90.45%	2,713	60	0.0037	0.0527	0.0033	0.0264	0.070
<b>Total</b>	<b>162,001</b>	<b>183,061</b>	<b>-</b>	<b>4,780</b>	<b>62.5</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Mix Avg Emission Factor</b>						<b>0.00318</b>	<b>0.01955</b>	<b>0.00123</b>	<b>0.00883</b>	<b>0.04671</b>

Increase From 2016 1.13  
Vehicles/Direction 91,530 2,390  
Avg Vehicles/Hour/Direction 3,814 100

Traffic Data Year = 2016

Caltrans Truck AADT	Total	Total Truck	Truck by Axle			
			2	3	4	5
I-280 B Saratoga,Sunnyvale/De Anza E	162,000	5,119	2,466	505	138	2,011
			48.17%	9.86%	2.70%	39.28%

Percent of Total Vehicles 3.16% 1.52% 0.31% 0.09% 1.24%  
Traffic Increase per Year (%) = 1.00%

**Vallco Specific Plan, Cupertino, CA**  
**I-280 Traffic Data and PM2.5 & TOG Emission Factors - 30 mph**

Analysis Year = 2029

Vehicle Type	2016 Caltrans Number Vehicles (veh/day)	2029 Number Vehicles (veh/day)	2029 Percent Diesel	Number Diesel Vehicles (veh/day)	Vehicle Speed (mph)	Emission Factors				
						Diesel Vehicles DPM (g/VMT)	All Vehicles		Gas Vehicles	
							Total PM2.5 (g/VMT)	Exhaust PM2.5 (g/VMT)	Exhaust TOG (g/VMT)	Running TOG (g/VMT)
LDA	112,843	127,512	1.30%	1,658	30	0.0024	0.0193	0.0015	0.0100	0.037
LDT	44,038	49,763	0.19%	96	30	0.0052	0.0193	0.0016	0.0144	0.066
MDT	2,466	2,786	11.24%	313	30	0.0088	0.0226	0.0020	0.0244	0.156
HDT	2,654	2,999	90.45%	2,713	30	0.0057	0.0546	0.0053	0.0639	0.070
<b>Total</b>	<b>162,001</b>	<b>183,061</b>	<b>-</b>	<b>4,780</b>	<b>30</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>
<b>Mix Avg Emission Factor</b>						<b>0.00479</b>	<b>0.01992</b>	<b>0.00161</b>	<b>0.01155</b>	<b>0.04671</b>

Increase From 2016 1.13  
Vehicles/Direction 91,530 2,390  
Avg Vehicles/Hour/Direction 3,814 100

Traffic Data Year = 2016

Caltrans Truck AADT	Total	Total* Truck	Truck by Axle			
			2	3	4	5
I-280 B Saratoga,Sunnyvale/De Anza E	162,000	5,119	2,466	505	138	2,011
			48.17%	9.86%	2.70%	39.28%

Percent of Total Vehicles 3.16% 1.52% 0.31% 0.09% 1.24%

I-280 Traffic Data and PM2.5 & TOG Emission Factors - 25 mph

Analysis Year = 2029

Vehicle Type	2016 Caltrans Number Vehicles (veh/day)	2029 Number Vehicles (veh/day)	2029 Percent Diesel	Number Diesel Vehicles (veh/day)	Vehicle Speed (mph)	Emission Factors				
						Diesel Vehicles DPM (g/VMT)	All Vehicles		Gas Vehicles	
							Total PM2.5 (g/VMT)	Exhaust PM2.5 (g/VMT)	Exhaust TOG (g/VMT)	Running TOG (g/VMT)
LDA	112,843	127,512	1.30%	1,658	25	0.0028	0.0197	0.0020	0.0129	0.037
LDT	44,038	49,763	0.19%	96	25	0.0059	0.0197	0.0020	0.0184	0.066
MDT	2,466	2,786	11.24%	313	25	0.0137	0.0257	0.0052	0.0315	0.156
HDT	2,654	2,999	90.45%	2,713	25	0.0061	0.0549	0.0055	0.0663	0.070
Total	162,001	183,061	-	4,780	25	-	-	-	-	-
<b>Mix Avg Emission Factor</b>						<b>0.00546</b>	<b>0.02038</b>	<b>0.00207</b>	<b>0.01475</b>	<b>0.04671</b>

Increase From 2016 1.13  
Vehicles/Direction 91,530 2,390  
Avg Vehicles/Hour/Direction 3,814 100

Traffic Data Year = 2016

Caltrans Truck AADT	Total	Total Truck	Truck by Axle			
			2	3	4	5
I-280 B Saratoga,Sunnyvale/De Anza B	162,000	5,119	2,466	505	138	2,011
			48.17%	9.86%	2.70%	39.28%

Percent of Total Vehicles 3.16% 1.52% 0.31% 0.09% 1.24%

Traffic Increase per Year (%) = 1.00%

Vallco Specific Plan, Cupertino, CA  
I-280 Traffic Data and Entrained PM2.5 Road Dust Emission Factors

$$E_{2.5} = [k(sL)^{0.91} \times (W)^{1.02} \times (1-P/4N) \times 453.59]$$

where:

$E_{2.5}$  = PM<sub>2.5</sub> emission factor (g/VMT)

k = particle size multiplier (g/VMT) [ $k_{PM2.5} = k_{PM10} \times (0.0686/0.4572) = 1.0 \times 0.15 = 0.15$  g/VMT]<sup>a</sup>

sL = roadway specific silt loading (g/m<sup>2</sup>)

W = average weight of vehicles on road (Bay Area default = 2.4 tons)<sup>a</sup>

P = number of days with at least 0.01 inch of precipitation in the annual averaging period

N = number of days in the annual averaging period (default = 365)

Notes: <sup>a</sup> CARB 2014, Miscellaneous Process Methodology 7.9, Entrained Road Travel, Paved Road Dust (Revised and updated, April 2014)

Road Type	Silt Loading (g/m <sup>2</sup> )	Average Weight (tons)	County	No. Days ppt > 0.01"	PM <sub>2.5</sub> Emission Factor (g/VMT)
Freeway	0.02	2.4	Santa Clara	64	0.00996

SFBAAB<sup>a</sup>

Road Type	Silt Loading (g/m <sup>2</sup> )
Collector	0.032
Freeway	0.02
Local	0.32
Major	0.032

SFBAAB<sup>a</sup>

County	>0.01 inch precipitation
Alameda	61
Contra Costa	60
Marin	66
Napa	68
San Francisco	67
San Mateo	60
Santa Clara	64
Solano	54
Sonoma	69

Appendix E: **ADD** the following pages at the end of Appendix E:

September 1, 1994

Mr. Bob Arneson  
J.C.Penney  
6131 Orangethorpe Avenue  
Buena Park, CA 90620

Dear Mr. Arneson:

Subject: Underground Storage Tank (UST) Case Closure—J.C.Penney Store No. 47, 10150 North Wolfe Road, Cupertino, CA; Case No. 27H

This letter confirms the completion of site investigation and remedial action for the underground storage tanks formerly located at the above-described location.

Based upon the available information and with the provision that the information provided to this agency was accurate and representative of site conditions, no further action related to the underground storage tank release is required.

This notice is issued pursuant to a regulation contained in Title 23, California Code of Regulations, Division 3, Chapter 16, Section 2721 (e).

The information in our files indicate that there are four groundwater monitoring wells at the site. A copy of the Santa Clara Valley Water District Ordinance No. 90-1, regulating the classification, construction, and destruction of wells and deep excavations in Santa Clara County, is enclosed. This ordinance explains that well owners are responsible for the maintenance and destruction of their wells. This ordinance requires that wells installed for the purpose of investigation and remediation of the underground tank release be properly destroyed when they are no longer used.

Please contact Ms. Belinda Allen at the Camden Office, (408) 927-0710, extension 2644, if you have any questions in this matter.

Sincerely,

*ORIGINAL SIGNED BY*

David J. Chesterman  
Principal Engineer  
Groundwater Quality Branch

Enclosure(s)

cc: (w/enc—if LOP case)  
Ms. Lola Barba-Arroyo  
State Water Resources Control Board  
Division of Clean Water Programs  
P.O. Box 944212  
Sacramento, CA 94244-2120

Mr. John West  
Regional Water Quality Control Board  
San Francisco Bay Region  
2101 Webster Street, Suite 500  
Oakland, CA 94612

Mr. David Ghilarducci  
Central Fire Protection District  
14700 Winchester Boulevard  
Los Gatos, CA 95030-1818

D. Chesterman, B. Allen, T. Hemmeter (w/enc), C. Tulloch (w/original enc), Database (w/enc),  
Read

CT:cdh:FL9482ad



**CASE CLOSURE SUMMARY  
LEAKING UNDERGROUND FUEL STORAGE TANK PROGRAM**

**I. AGENCY INFORMATION**

Date: January 19, 1994

Agency Name: Santa Clara Valley Water District	Address: 5750 Almaden Expressway
City/State/Zip: San Jose, CA 95118	Phone: (408) 265-2600
Responsible Staff Person: Christine A. Tulloch	Title: Water Quality Specialist

**II. CASE INFORMATION**

Site Facility Name: J.C. Penney Store No. 427				
Site Facility Address: 10150 North Wolfe Road, Cupertino, CA 95014				
RB LUSTIS Case No.:		Local Case No.: 0751W18B01f		LOP Case No.: 27H
URF Filing Date:		SWEEPS No.:		
<b>Responsible Parties</b>		<b>Addresses</b>		<b>Phone Numbers</b>
J.C. Penney		6131 Orangethorpe Avenue Buena Vista, CA 90620		(714) 523-6853
<b>Tank No.</b>	<b>Size in Gallons</b>	<b>Contents</b>	<b>Closed In—Place/Removed?</b>	<b>Date</b>
2	350	Diesel	Removed	11/15/89
1	350	Waste oil	Removed	11/15/89
1	750 sump	Waste oil/water	Closed In-Place	01/21/94

**III. RELEASE AND SITE CHARACTERIZATION INFORMATION**

Cause and Type of Release: Holes were observed in the diesel tanks.		
Site characterization complete? Yes		Date Approved By Oversight Agency: 12/16/92
Monitoring wells installed? Yes		Number: 4      Proper screened interval? Yes
Highest GW Depth Below Ground Surface: 122		Lowest Depth: 137      Flow Direction: West
Most Sensitive Current Use: Potential drinking water		
Are drinking water wells affected? None reported		Aquifer Name: Santa Clara Valley Groundwater Basin
Is surface water affected? No		Nearest/Affected SW Name: Calabazas Creek
Off-Site Beneficial Use Impacts (Addresses/Locations): None reported.		
Report(s) on file? Yes		Where is report(s) filed? Santa Clara Valley Water District

TREATMENT AND DISPOSAL OF AFFECTED MATERIAL			
Material	Amount (Include Units)	Action (Treatment or Disposal w/Destination)	Date
Tank	2 - 350 gallons 1 - 500 gallons	Transported offsite by H&H Shipping Service	11/15/89
Piping	Not reported.	Not reported.	Not reported.
Free Product	None	NA	NA
Soil	303 tons	Disposal at Chemical Waste Management	Not reported.
Groundwater	200 gallons	Petroleum Recycling Corp.	12/17/93
Barrels	None	NA	NA

MAXIMUM DOCUMENTED CONTAMINANT CONCENTRATIONS—BEFORE AND AFTER CLEANUP									
Contaminant	Soil (ppm)		Water (ppb)		Contaminant	Soil (ppm)		Water (ppb)	
	Before	After	Before	After		Before	After	Before	After
TPH (Gas)	4	4	ND	ND	Xylene	0.75	ND	ND	ND
TPH (Diesel)	6,600	14	1,700	ND	Ethylbenzene	ND	ND	0.0038	ND
Benzene	ND	ND	0.0039	ND	Oil & Grease	1,400	3,800	ND	ND
Toluene	0.12	0.12	ND	ND	Heavy Metals	87.6(Ni)	87.6(Ni)	3.6 <sup>3</sup> 0.73 <sup>4</sup>	NA
Chlorinated Hydrocarbons	ND	ND	0.5 <sup>1</sup> 1.6 <sup>2</sup>	ND	Other	NA	NA	NA	NA

<sup>1</sup> Bromodichloromethane

<sup>2</sup> Chlorform

<sup>3</sup> Chromium

<sup>4</sup> Lead

Comments (Depth of Remediation, etc.): Overexcavation of contaminated soil at the diesel tank was performed to 12 feet and soil at the waste oil tank was excavated to 14 feet. Remediation of groundwater was not performed. "After" concentrations represent verification monitoring results.
---

#### IV. CLOSURE

Does completed corrective action protect existing beneficial uses per the Regional Board Basin Plan? Yes		
Does completed corrective action protect potential beneficial uses per the Regional Board Basin Plan? Yes		
Does corrective action protect public health for current land use? Yes		
Site Management Requirements: None		
Should corrective action be reviewed if land use changes? No		
Monitoring Wells Decommissioned: No	Number Decommissioned: -0-	Number Retained: 4
List Enforcement Actions Taken: None		
List Enforcement Actions Rescinded: None		

V. LOCAL AGENCY REPRESENTATIVE DATA

Name: David J. Chesterman	Title: Principal Engineer
Signature: <i>[Handwritten Signature]</i>	Date: 8/2/94

VI. REGIONAL BOARD NOTIFICATION

Date Submitted to RB: August 17, 1994	RB Response: CONCUR -	<i>BASED SOLELY UPON INFORMATION PROVIDED IN THIS SUMMARY &amp; THE ATTACHED RECOMMENDATION MEMORANDUM.</i>
Regional Board Staff Name: JOHN R. WEST	Title: E.S. II	Date: August 17, 1994

VII. ADDITIONAL COMMENTS, DATA, ETC.

See attached closure recommendation for additional data and discussions.
--

This document and the related CASE CLOSURE LETTER, shall be retained by the lead agency as part of the official site file.

December 6, 1999

Mr. Scott DeMuth  
Department 824C  
Sears Roebuck & Company  
3333 Beverley Road  
Hoffman Estates, IL 60179

Dear Mr. DeMuth:

Subject: Fuel Leak Site Case Closure—Sears Automotive Center, 10101 North Wolfe Road, Cupertino, CA 95014; Case No. 14-486

This letter transmits the enclosed underground storage tank (UST) case closure letter in accordance with Chapter 6.75 (Article 4, Section 25299.37[h]). The State Water Resources Control Board adopted this letter on February 20, 1997. As of March 1, 1997, the Santa Clara Valley Water District is required to use this case closure letter for all UST leak sites. We are also transmitting to you the enclosed case closure summary. These documents confirm the completion of the investigation and cleanup of the reported release at the subject site. The subject fuel leak case is closed.

#### SITE INVESTIGATION AND CLEANUP SUMMARY

Please be advised that the following conditions exist at the site:

- Residual contamination exists at the site; however, concentration levels are below regulatory concern.

If you have any questions, please call Ms. Rita Chan at (408) 265-2607, extension 2643. Thank you.

Sincerely,

*ORIGINAL SIGNED BY*

James S. Crowley, P.E.  
Engineering Unit Manager  
Leaking Underground Storage Tank Oversight Program

Enclosures:

1. Case Closure Letter
2. Case Closure Summary

cc: Mr. Chuck Headlee (w/enc)  
Regional Water Quality Control Board  
San Francisco Bay Region  
1515 Clay Street, Suite 1400  
Oakland, CA 94612

Mr. Steve Gubber  
Santa Clara County Fire Department  
14700 Winchester Boulevard  
Los Gatos, CA 95030-1818

Ms. Nancy Commoncho  
Division of Clean Water Programs  
Underground Storage Tank Cleanup Fund  
State Water Resources Control Board  
P.O. Box 944212  
Sacramento, CA 94244-2120

R. Chan (w/orig enc), Database (w/enc)

RC:fd:FL9482ccl

December 6, 1999

Mr. Scott DeMuth  
Department 824C  
Sears Roebuck & Company  
3333 Beverley Road  
Hoffman Estates, IL 60179

Dear Mr. DeMuth:

Subject: Fuel Leak Site Case Closure—Sears Automotive Center, 10101 North Wolfe Road,  
Cupertino, CA 95014; Case No. 14-486

This letter confirms the completion of a site investigation and remedial action for the underground storage tank(s) formerly located at the above-described location. Thank you for your cooperation throughout this investigation. Your willingness and promptness in responding to our inquiries concerning the former underground storage tank(s) are greatly appreciated.

Based on information in the above-referenced file and with the provision that the information provided to this agency was accurate and representative of site conditions, no further action related to the underground tank release is required.

This notice is issued pursuant to a regulation contained in Section 2721(e) of Title 23 of the California Code of Regulations.

Please contact our office if you have any questions regarding this matter.

Sincerely,

*ORIGINAL SIGNED BY*

James S. Crowley, P.E.  
Engineering Unit Manager  
Leaking Underground Storage Tank Oversight Program



**CASE CLOSURE SUMMARY  
LEAKING UNDERGROUND FUEL STORAGE TANK PROGRAM**

**I. AGENCY INFORMATION**

Date: November 29, 1999

Agency Name: Santa Clara Valley Water District	Address: 5750 Almaden Expressway
City/State/Zip: San Jose, CA 95118	Phone: (408) 265-2600
Responsible Staff Person: Rita S. Chan, P.E.	Title: Assistant Civil Engineer

**II. CASE INFORMATION**

Site Facility Name: Sears Automotive Center		
Site Facility Address: 10101 North Wolfe Road, Cupertino, CA 95014		
RB LUSTIS Case No.: —	Local Case No.: 07S1W18G01f	LOP Case No.: 14-486
URF Filing Date: 11/02/94	SWEEPS No.: —	APN: 316-20-080
<b>Responsible Parties</b>	<b>Addresses</b>	<b>Phone Number</b>
Mr. Scott DeMuth Sears Roebuck & Company	Department 824C 3333 Beverley Road Hoffman Estates, IL 60179	(847) 286-5530

Tank I.D. No	Size in Gallons	Contents	Closed In Place/Removed?	Date
—	12,000	Gasoline	Removed	03/85
—	12,000	Gasoline	Removed	03/85
—	5,000	Gasoline	Removed	03/85
—	5,000	Gasoline	Removed	03/85
—	550	Oil	Removed	03/85
—	550	Oil	Removed	03/85
Piping			Removed	Between 10/17/94 and 10/20/94

**III. RELEASE AND SITE CHARACTERIZATION INFORMATION**

Cause and Type of Release: Unknown		
Site characterization complete? Yes	Date Approved By Oversight Agency: —	
Monitoring wells installed? No	Number: —	Proper screened interval? —
Highest GW Depth Below Ground Surface: *	Lowest Depth: *	Flow Direction: —
Most Sensitive Current Use: Potential drinking water		

\*Groundwater was not encountered during any of the investigations performed at the site.

Summary of Production Wells in Vicinity: Two production wells are found within ¼ mile of this site. Both wells are reported to be abandoned. Based upon the level of residual contamination at the site and the proximity of these wells to the subject site, the wells identified as part of this survey are not likely to be affected by the reported release.

Are drinking water wells affected? No

Aquifer Name: Santa Clara Valley Groundwater Basin

Is surface water affected? No

Nearest SW Name: Calabazas Creek (~970 feet east-southeast of site)

Off-Site Beneficial Use Impacts (Addresses/Locations): None known

Reports on file? Yes

Where are reports filed? Santa Clara Valley Water District

TREATMENT AND DISPOSAL OF AFFECTED MATERIAL

Material	Amount (Include Units)	Action (Treatment or Disposal w/Destination)	Date
Tank	Two at 12,000 gallons Two at 5,000 gallons Two at 550 gallons	None reported	03/85
Piping	Unknown	None reported	10/94
Free Product	—	—	—
Soil	10 cubic yards	Transported by Southwest Soil Remediation, Inc.	05/31/95
Groundwater	—	—	—
Barrels	—	—	—

MAXIMUM DOCUMENTED CONTAMINANT CONCENTRATIONS

Contaminant	Soil (ppm)		Water (ppb)		Contaminant	Soil (ppm)		Water (ppb)	
	Before	After	Before	After <sup>1</sup>		Before	After	Before	After <sup>1</sup>
TPH (Gas)	3,000	ND	—	—	Xylene	150	0.55	—	—
TPH (Diesel)	ND	—	—	—	Ethylbenzene	23	0.0061	—	—
Benzene	2.4	ND	—	—	Oil & Grease	—	—	—	—
Toluene	16	ND	—	—	Lead	11	20	—	—
Other (8240/8270)	—	—	—	—	MTBE	—	ND <sup>2</sup>	—	—

Description of Interim Remediation Activities:

March 1985—Four underground storage tanks (UST) containing gasoline (two at 12,000 gallons and two at 5,000 gallons), two 550-gallon USTs containing oil, and product dispensers were removed.

October 1994—The dispenser islands and product lines were removed.

November 1994—Additional soil was excavated. Soil sampling was performed at the east end of the product-line trench south of Dispenser Island A and at the former oil UST product lines.

July 1999—A verification assessment was conducted to verify the hydrocarbon concentrations in soil and groundwater. Soil samples were collected from seven boring locations (GP-1 through GP-7) using direct-push technology. GP-1 was advanced to a depth of 44 feet below ground surface (bgs), while GP-2 through GP-7 were drilled to a depth of 24 feet bgs. Soil samples were collected at 4-foot intervals. Volatile organic compounds were monitored in the field using a photoionization detector. The bottom samples from each boring were analyzed. Groundwater was not encountered in any of the borings; therefore, no water samples were collected or analyzed.

ND = Not detected

<sup>1</sup>Groundwater was not encountered in any of the seven borings. GP-2 through GP-7 were advanced to a depth of 24 feet bgs; GP-1 was advanced to a depth of 44 feet bgs.

<sup>2</sup>Detection limit of 0.05 parts per million (ppm).


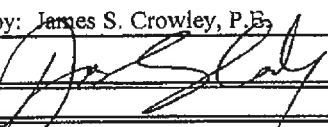
**IV. CLOSURE**

Does completed corrective action protect existing beneficial uses per the Regional Board Basin Plan? Yes		
Does completed corrective action protect potential beneficial uses per the Regional Board Basin Plan? Yes		
Does corrective action protect public health for current land use? Santa Clara Valley Water District staff does not make specific determinations concerning public health risk. However, it does not appear that the release would present a risk to human health.		
Site Management Requirements: None		
Should corrective action be reviewed if land use changes? No		
Monitoring Wells Decommissioned: No	Number Decommissioned: 0	Number Retained: 0
List Enforcement Actions Taken: None		
List Enforcement Actions Rescinded: None		

**V. ADDITIONAL COMMENTS, DATA, ETC.**

<p>Considerations and/or Variances:</p> <ul style="list-style-type: none"> <li>The disposal destinations of the removed USTs and piping were not reported.</li> <li>The majority of pollution associated with the UST release was overexcavated.</li> <li>Analytical results for verification soil samples did not indicate the presence of petroleum compounds with the exception of Ethylbenzene (0.0061 ppm) and Xylenes (0.55 ppm).</li> <li>No fuel oxygenates including Methyl tert-Butyl Ether, Di-Isopropyl Ether, Ethyl tert-Butyl Ether, tert-Butyl Alcohol, and tert-Amyl Methyl Ether were detected in the verification soil samples. In addition, analytical results did not indicate the detection of ethanol, 1,2-dibromoethane, and 1,2 dichloroethane.</li> </ul> <p>Conclusion: Based on soil sampling results obtained from the verification assessment at the site, residual contamination in the subsurface from the former USTs are minimal. In addition, due to the location of deep groundwater, Santa Clara Valley Water District staff does not believe that the residual contamination at the site would pose a significant risk to the groundwater beneath the site. Therefore, no further corrective action is required at this time.</p>
--

**VI. LOCAL AGENCY REPRESENTATIVE DATA**

Prepared by: Rita S. Chan, P.E.	Title: Assistant Civil Engineer
Signature: 	Date: 12/2/99
Approved by: James S. Crowley, P.E.	Title: Engineering Unit Manager
Signature: 	Date: 12/2/99

This closure approval is based upon the available information and with the provision that the information provided to this agency was accurate and representative of site conditions.
---

VII. REGIONAL BOARD NOTIFICATION

Regional Board Staff Name: Chuck Headlee	Title: Engineering Geologist
RB Response: Concur, based solely upon information contained in this case closure summary.	Date Submitted to RB:
Signature: <i>See attached sheet for signature</i>	Date: <i>12/6/99</i>

**Attachments:**

1. Site Vicinity Map
2. Site Plan
3. Analytical results for soil samples collected in October and November 1994 and sample locations
4. Analytical results for soil samples collected in July 1999 and sample locations.

This document and the related CASE CLOSURE LETTER, shall be retained by the lead agency as part of the official site file

Dec-02-99 01:50P

P.06

VII. REGIONAL BOARD NOTIFICATION

Regional Board Staff Name: <b>Chuck Headlee</b>	Title: <b>Engineering Geologist</b>
RB Response: <b>Concur, based solely upon information contained in this case closure summary.</b>	Date Submitted to RB: <b>12/2/99</b>
Signature: <i>Chuck Headlee</i>	Date: <b>12/3/99</b>

Attachments:

1. Site Vicinity Map
2. Site Plan
3. Analytical results for soil samples collected in October and November 1994 and sample locations
4. Analytical results for soil samples collected in July 1990 and sample locations.

This document and the related CASE OF SOURCE LITTER, shall be retained by the lead agency as part of the official site file.

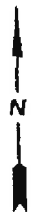
Post-it* Fax Note	7671	Date	# of pages <b>1/1</b>
To <i>Rita Chan</i>		From <i>Chuck Headlee</i>	
Co./Dept.		Co.	
Phone #		Phone #	
Fax <i>(408) 267-5057</i>		Fax #	





**ITT CORPORATION**

SOURCE: U.S.G.S. 7.5' QUAD SHEET  
CUPERTINO, CALIFORNIA  
PHOTOREVISED 1991



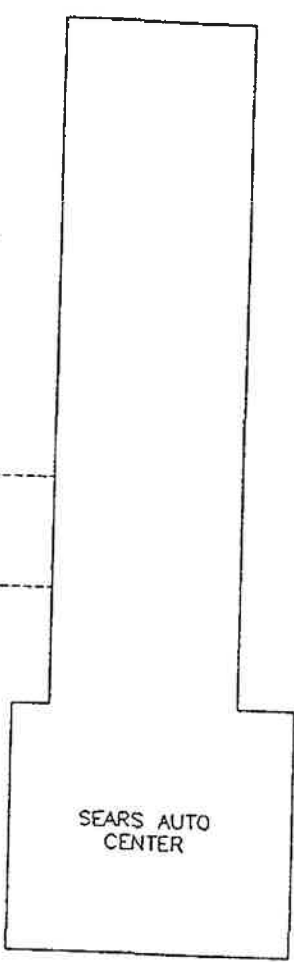
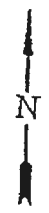
**SITE LOCATION MAP**

CLIENT: SEARS ROEBUCK, & COMPANY  
STORE NO. 1468

DATE: 11/20/98

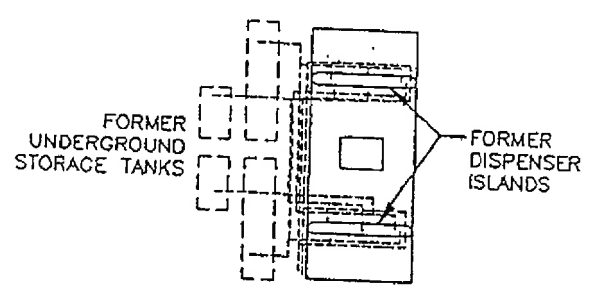
LOCATION: 10101 WOLFE ROAD  
CUPERTINO, CALIFORNIA

FIGURE: 1



FORMER USED OIL TANK

FORMER MOTOR OIL TANK



STEVENS CREEK BOULEVARD

NOTES:

1. MAP ADAPTED FROM SITE UTILITY PLAN, CHARLES LUCKMAN ASSOCIATES, 04/30/69.



**FLUOR DANIEL GTI**



**SITE PLAN**

CLIENT: SEARS MERCHANDISE GROUP STORE No. 1468	FILE: 0023SM (1:600)	PROJECT NO.: 02020023	PM	PE/RC
	REV.			
LOCATION: 10101 WOLFE ROAD CUPERTINO, CA	DES. PM	DET. PJWH	DATE: 12/16/94	FIGURE: 2

**TABLE 1**  
Former Dispenser Island Soil Sample Analytical Results

Sears Store 1468, Cupertino, California  
Sampled October 19, 20, and November 3, 1994

Sample ID	Depth Feet	Date	TPH-g	B	T	E	X	Total Lead
<b>Island A Soil Samples</b>								
ISL A-1	2	10/20/94	<1.0	<0.005	<0.005	<0.005	<0.015	<5
ISL A-2	3	10/20/94	<1.0	<0.005	<0.005	<0.005	<0.015	<5
ISL A-3	2	10/20/94	<1.0	<0.005	<0.005	<0.005	<0.015	<5
<b>Island A, North Trench, Soil Samples</b>								
1ANT/3	3	10/19/94	<1.0	<0.005	<0.005	<0.005	<0.015	6
AST 3/3	3	10/20/94	<1.0	0.009	<0.005	<0.005	<0.015	<5
2ANT/3	3	10/19/94	48	0.08	1.1	0.71	5.0	6
<b>Island A, South Trench, Soil Samples</b>								
1AST/5	5	10/19/94	<1.0	<0.005	<0.005	<0.005	<0.015	6
2AST/6	6	10/19/94	3,000	2.4	16	23	150	11
ASTP-5.5	5.5	11/03/94	<1.0	<0.005	<0.005	<0.005	<0.015	6
<b>Island B Soil Samples</b>								
ISL B-1	2	10/20/94	<1.0	<0.005	<0.005	<0.005	<0.015	<5
ISL B-2	2	10/20/94	<1.0	<0.005	<0.005	<0.005	<0.015	<5
ISL B-3	3	10/20/94	<1.0	<0.005	<0.005	<0.005	<0.015	<5
<b>Island B, North Trench, Soil Samples</b>								
1BNT/6	6	10/19/94	25	0.06	1.2	0.54	3.8	<5
2BNT/2	2	10/19/94	<1.0	<0.005	<0.005	<0.005	<0.015	5
<b>Island B, South Trench, Soil Samples</b>								
1BST/6.5	6.5	10/19/94	<1.0	<0.005	<0.005	<0.005	<0.015	6
2BST/2	2	10/19/94	<1.0	<0.005	<0.005	<0.005	<0.015	<5
BST 3-3	3	10/20/94	<1.0	<0.005	<0.005	<0.005	<0.015	<5
<b>West Trench Soil Samples</b>								
1WT/6	6	10/19/94	<1.0	<0.005	<0.005	<0.005	<0.015	<5
2WT/3	3	10/19/94	<1.0	<0.005	<0.005	<0.005	<0.015	6
3WT/6	6	10/19/94	<1.0	0.006	0.02	<0.005	<0.015	7

**Notes:**

- 1) All results expressed in milligrams per kilogram
- 2) Total lead analyzed using EPA Method 6010

TPH-g = total petroleum hydrocarbons as gasoline, B = benzene, T = toluene, E = ethylbenzene, X = total xylenes; analyzed using EPA Method 8020  
 < Number = below reported detection limits



**TABLE 2**  
Former New and Used Oil Product Line Soil Sample Analytical Results

Sears Store 1468, Cupertino, California  
Sampled October 20 and November 3, 1994

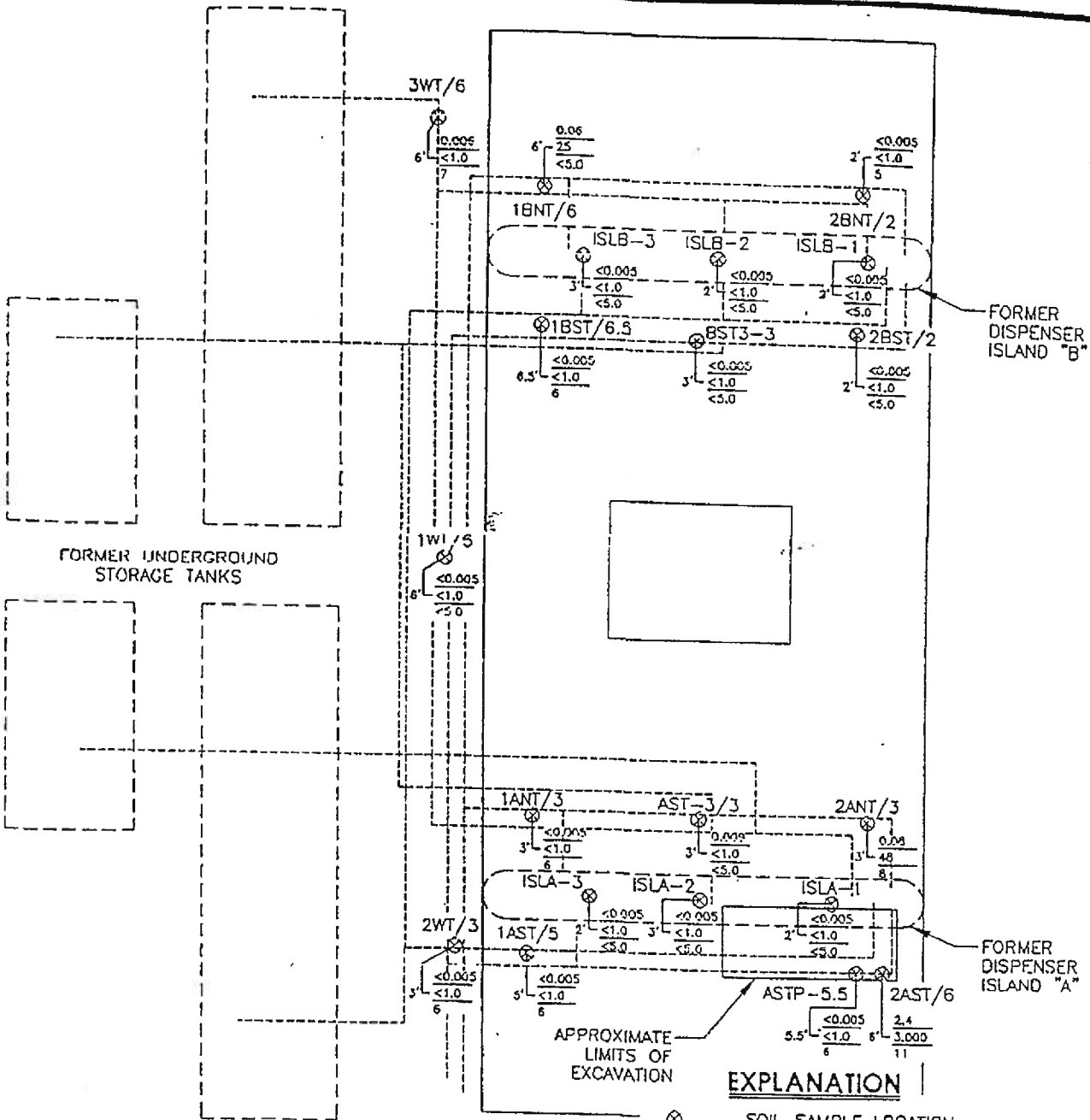
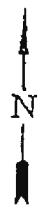
Sample ID	Date	TPH-g	B	T	E	X	TRPH	TPH-d
VO1	10/20/94	<1.0	<0.005	<0.005	<0.005	<0.015	7	<10
VO2	10/20/94	<1.0	<0.005	<0.005	<0.005	<0.015	1,300	<10
WO1	10/20/94	<1.0	<0.005	<0.005	<0.005	<0.015	80	<10
VO1-6.5	11/03/94	<1.0	<0.005	<0.005	<0.005	<0.015	<5	<10
WO1-6.0	11/03/94	<1.0	<0.005	<0.005	<0.005	<0.015	600	<10

Notes:

1) All results expressed in milligrams per kilogram

- TPH-g = total petroleum hydrocarbons as gasoline, B = benzene, T = toluene, E = ethylbenzene, X = total xylenes; analyzed using EPA Method 8020  
 TRPH = total recoverable petroleum hydrocarbons; analyzed using EPA Method 3550 (Modified)/EPA 418.1  
 TPH-d = total petroleum hydrocarbons as diesel; analyzed using EPA Method Modified 8015  
 < Number = below reported detection limits





FORMER DISPENSER ISLAND "B"

FORMER DISPENSER ISLAND "A"

APPROXIMATE LIMITS OF EXCAVATION

**EXPLANATION**

⊗	SOIL SAMPLE LOCATION
2' - $\frac{0.08}{18}$	BENZENE (mg/kg)
8' - $\frac{1.0}{8}$	TPH AS GASOLINE (mg/kg)
	TOTAL LEAD (mg/kg)
3' - $\frac{0.005}{1.0}$	BENZENE DETECTION LIMIT (mg/kg)
	TPH AS GASOLINE DETECTION LIMIT (mg/kg)
	TOTAL LEAD DETECTION LIMIT (mg/kg)

SAMPLED ON: 10/19/94, 10/20/94, AND 11/03/94

NOTES:  
1. EXCAVATION AND SAMPLE LOCATIONS PER FIELD MEASUREMENTS, CII, 10/94.



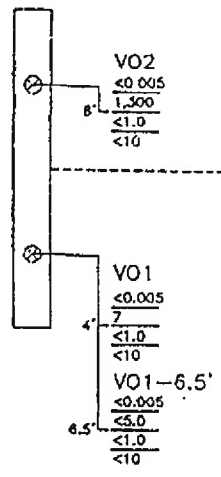
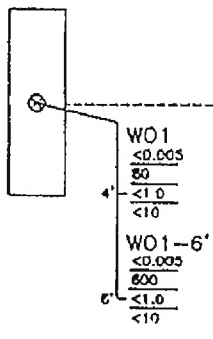
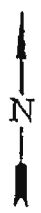
**FLUOR DANIEL GTI**



**SOIL ANALYTICAL RESULTS AT FORMER DISPENSER ISLANDS**

CLIENT: SEARS MERCHANDISE GROUP STORE No. 1468		FILE: 0023SRDI (1:120)	PROJECT NO.:	02020147	PM	PE/RG
LOCATION: 10101 WOLFE ROAD CUPERTINO, CA		REV.	DES. DATE:		FIGURE:	
		JM	CCG	06/04/96	3	





SEARS AUTO CENTER

### EXPLANATION

⊗	SOIL SAMPLE LOCATION
	<0.005 BENZENE (mg/kg)
	<5.0 TRPH (mg/kg)
	<1.0 TPH AS GASOLINE (mg/kg)
	<10 TPH AS DIESEL (mg/kg)
	<0.005 BENZENE DETECTION LIMIT (mg/kg)
	<5.0 TRPH DETECTION LIMIT (mg/kg)
	<1.0 TPH AS GASOLINE DETECTION LIMIT (mg/kg)
	<10 TPH AS DIESEL DETECTION LIMIT (mg/kg)

**NOTES:**

1. EXCAVATION AND SAMPLE LOCATIONS PER FIELD MEASUREMENTS. GTI, 10/94.

SAMPLED ON: 10/19/94, 10/20/94, AND 11/03/94



**FLUOR DANIEL GTI**



## SOIL ANALYTICAL RESULTS AT FORMER NEW & USED OIL USTs

CLIENT: SEARS MERCHANDISE GROUP STORE No. 1468	FILE: 0023SRWO (1:120)	PROJECT NO.: 02020147	PM	PE/RG
	REV.			
LOCATION: 10101 WOLFE ROAD CUPERTINO, CA	DES. JM	DET. CCG	DATE: 06/04/96	FIGURE 4

**TABLE 1**  
Laboratory Results for Soil (mg/kg)

Sears Auto Center 1468/8951  
Cupertino, California

Sample ID	Date	Depth (ft)	Benzene		Toluene	Ethylbenzene	Xylenes	TPH-g (8015M)	MTBE/Oxygenates	Lead 6010
			(8020)	(8020)	(8020)	(8020)				
GP-1, S11	07/12/99	44	<0.005	<0.005	<0.005	<0.005	<0.005	<1	<0.05/ND	—
GP-2, S6	07/12/99	22	<0.005	<0.005	<0.005	<0.005	<0.005	<1	<0.05/ND	—
GP-3, S6	07/12/99	22	<0.005	<0.005	<0.005	<0.005	<0.005	<1	<0.05/ND	—
GP-4, S6	07/12/99	22	<0.005	<0.005	<0.005	<0.005	<0.005	<1	<0.05/ND	—
GP-5, S7	07/12/99	22	<0.005	<0.005	0.0061	0.55	<0.005	<1	<0.05/ND	20
GP-6, S7	07/12/99	22	<0.005	<0.005	<0.005	<0.005	<0.005	<1	<0.05/ND	—
GP-7, S8	07/12/99	22	<0.005	<0.005	<0.005	<0.005	<0.005	<1	<0.05/ND	—

Note: Boring GP-1 was advanced to 44 feet below grade to determine if groundwater would be encountered.

Groundwater was not encountered; therefore, the deepest sample from each boring was submitted for analysis.

MTBE was analyzed by both EPA methods 8020 and 8260; oxygenates include MTBE, DIPE, ETBE, TAME, 1,2-DBA, 1,2-DCA (all detection limits = 0.10 mg/kg), ethanol (detection limit = 25 mg/kg) and t-butanol (detection limit = 5 mg/kg).

Lead was analyzed for the sample with the highest hydrocarbon concentrations.

ND = below detection limits

SEARS RETAIL STORE



GP-2 S6(22')

B	ND
T	ND
E	ND
X	ND
TPHg	ND
MTBE	ND

GP-2  
 FORMER USED OIL TANK

GP-3  
 FORMER MOTOR OIL TANK

GP-1 S11(44')

B	ND
T	ND
E	ND
X	ND
TPHg	ND
MTBE	ND



GP-5 S6(22')

B	ND
T	ND
E	0.0061
X	0.55
TPHg	ND
MTBE	ND
LEAD	20

FORMER UNDERGROUND STORAGE TANKS

GP-4 S6(22')

B	ND
T	ND
E	ND
X	ND
TPHg	ND
MTBE	ND

FORMER DISPENSER ISLANDS

GP-3 S6(22')

B	ND
T	ND
E	ND
X	ND
TPHg	ND
MTBE	ND

GP-7 S8(22')

B	ND
T	ND
E	ND
X	ND
TPHg	ND
MTBE	ND

GP-6 S7(22')

B	ND
T	ND
E	ND
X	ND
TPHg	ND
MTBE	ND

LEGEND

- B BENZENE
- T TOLUENE
- E ETHYLBENZENE
- X XYLENES
- TPHg TOTAL PETROLEUM HYDROCARBONS IN GASOLINE
- MTBE METHYL TERTIARY BUTYL ETHER

ND BELOW DETECTION LIMITS

NOTES:

DETECTIONS LIMITS FOR BTEX = 0.005 mg/ly;  
 TPHg=1.0 mg/ly; LEAD = 1.0 mg/ly; MTBE = 0.05 mg/ly.

◆ BORING LOCATION

STEVENS CREEK BOULEVARD



ITT CORPORATION



HYDROCARBON CONCENTRATIONS  
 IN SOIL  
 (JULY 12, 1999)

CLIENT: SEARS  
 STORE NO. 1468

FILE: HCS-799

PROJECT NO:  
 781469

PM *MS* RG/PE *EW*

LOCATION: 10101 WOLFE ROAD  
 CUPERTINO, CALIFORNIA

REV: X

DES: MG DET: TRS DATE: 8/11/99

FIGURE: 3

Table ES-3: Intersection Impact and Mitigation Summary

ID	Impacted Intersection	Existing Conditions			Background Conditions			Cumulative Conditions			Physical Mitigating Measure	Impact Status with Physical Mitigation under Plus Project Scenario <sup>2</sup>				
		Proposed Project	General Plan Buildout with Maximum Residential	Retail and Residential	Occupied/Retenanted <sup>1</sup>	Proposed Project	General Plan Buildout with Maximum Residential	Retail and Residential	Occupied/Retenanted <sup>1</sup>	Proposed Project		General Plan Buildout with Maximum Residential	Retail and Residential	Occupied/Retenanted <sup>1</sup>	Existing Conditions	Background Conditions
51	Lawrence Exwy / Calvert Drive-I-280 SB Ramp	No Impact	No Impact	No Impact	No Impact	No Impact	No Impact	No Impact	No Impact	No Impact	No Impact	No Impact	Signal Coordination and ITS Upgrades Provide four northbound through lanes	n/a	SU <sup>3</sup>	SU <sup>3</sup>

The widening of the I-280 Wolfe Road interchange would be funded through VTA Measure B funds<sup>30</sup> and is included in the analysis of the Cumulative scenarios. However, the City is required to fund 10% of the cost of the construction of the interchange. The Project Applicant will be required to pay a fair share contribution toward the City’s share for the cost of the construction of the interchange.

Senate Bill (SB) 743 was adopted in 2013 and requires lead agencies to use vehicle miles traveled (VMT) instead of LOS for evaluating transportation impacts. Since the adoption of SB 743, the Office of Planning and Research (OPR) has been working on guidelines and regulations to implement SB 743. In November 2017, OPR released proposed new regulations (amendments to the State CEQA Guidelines ). In January 2018, the California Natural Resources Agency released the proposed CEQA Guidelines rulemaking materials for section 15064.3 (Determining the Significance of Transportation Impacts). ~~Pending expected adoption in mid 2018, the~~ The proposed new CEQA Guidelines are currently scheduled to apply statewide on July 1, ~~2019~~2020.

<sup>30</sup> A lawsuit challenging the validity of 2016 Measure B was filed in early 2017. The judge ruled in favor of VTA in the trial court, and, the plaintiff filed an appeal at the end of August 2017. As the appeal works its way through the appeal process, funds continue to be collected and held in escrow until the lawsuit is resolved and 2016 Measure B funds can be distributed.

Appendix H

Page 25 Chapter 3. Analysis Methods and Thresholds of Significance; Intersection Impact Criteria Section: **REVISE** the following text to the third paragraph as follows:

The City of Sunnyvale has established a minimum acceptable operation level of LOS D for local streets and LOS E for regionally significant roadways, including Saratoga-Sunnyvale Road within the study area (City of Sunnyvale General Plan, 2011). The City of Sunnyvale defers to VTA and applies LOS E threshold to CMP intersections. Significant impacts at signalized City of ~~Santa Clara~~Sunnyvale intersections would occur when the addition of project traffic causes one of the following:

Appendix H

Page 52 Chapter 4. Existing Conditions; VTA Next Network Section: **REVISE** the following text to the second paragraph as follows:

In 2017 VTA finalized its redesign of its transit network, referred to as the Next Network, which strives for a better balance between service frequency and coverage in VTA's service area. Currently, VTA's Next Network Transit Plan is scheduled to be implemented in ~~mid-to-late-2018~~2019 when BART is extended to the Berryessa Station in San José.

Appendix H

Page 53 Chapter 4. Existing Conditions; VTA Next Network Section: **ADD** the following text in title of Table 9 as follows:

Table 9: Existing Next Network Transit Service Summary

Appendix H

Page 56 Chapter 4. Existing Conditions; Stevens Creek Corridor Upgrade Section: **REVISE** the following text to the first sentence of the last paragraph as follows:

Stevens Creek Corridor Upgrade

VTA will replace the Limited 323 with Rapid 523 bus service on the Stevens Creek corridor in 2019 ~~mid-2018~~ to improve travel time, enhance passenger waiting areas, and to accommodate projected increases in ridership demand along the corridor.



#### Next Network VTA Local Bus Service

*Bus Route 23* ~~will operate~~operates on Stevens Creek Boulevard and ~~provide~~provides service between De Anza College and the Alum Rock Transit Center. Route 23 will serve bus stops at Stevens Creek Boulevard/Wolfe Road-Miller Avenue intersection~~A bus stop for Route 23 is provided at the Stevens Creek Boulevard/Wolfe Road-Miller Avenue intersection~~ with connections to Routes 53, 56, 101, and 523. Route 23 ~~is~~will be augmented by limited stop service (Route ~~5323~~) between Lockheed Martin Transit Center and the Berryessa BART Station. This route is described in the next section.

*Bus Route 53* ~~will provide~~provides service between the Santa Clara Transit Center and the Sunnyvale Transit Center. Near the project site, Route 53 ~~will operate~~operates on Homestead Road, Wolfe Road, Stevens Creek Boulevard, and Tantau Avenue. The closest bus stops this route will serve will be located at the ~~is located at the~~ Stevens Creek Boulevard/Wolfe Road-Miller Avenue intersection, which ~~will provide~~provides connections to Route 23, 56, 101 and ~~323~~523.

*Bus Route 56* ~~will provide~~provides service between the Lockheed Martin Transit Center and Tamien Station ~~and will operate~~operating on Wolfe Road near the project site. This route will serve stops along Wolfe Road near the project site~~The closest bus stops are located on Wolfe Road.~~

#### Next Network VTA Express Bus Service and Limited Stop Bus Service

As part of the Next Network,~~The~~ VTA will also runs several express bus routes and limited stop bus routes in the project area.

*Bus Route 101* is an existing express bus route that operates on I-280 and Stevens Creek Boulevard and will remain unchanged in the Next Network; it connects the Park & Ride lot at the Camden Avenue/SR 85 interchange to Palo Alto. This route has a bus stop at the Stevens Creek Boulevard/Wolfe Road-Miller Avenue intersection, which ~~will provide~~provides connections to Routes 23, 53, 56, and 323.

*Bus Route 182* is an existing express bus route that operates on I-280, Wolfe Road, Vallco Parkway, and Stevens Creek Boulevard and will remain unchanged in the Next Network; it connects the Park & Ride lot at El Camino Real and Page Mill Road in Palo Alto with the IBM Santa Teresa Facility at Bailey Avenue. This route has a bus stop at the project site at Wolfe Road/ Vallco Parkway.

*Bus Route* ~~323~~523 will replace the existing Limited Bus Route 323 as described in the next section and will travel along~~is a limited stop bus route on~~ Stevens Creek Boulevard serving Lockheed Martin Transit Center, Downtown Sunnyvale, De Anza College, Valley Fair, Santana Row, Downtown San José, Mexican Heritage Plaza, and the Berryessa BART Station. The closest bus stops this route will serve ~~are~~ located at Stevens Creek Boulevard/Wolfe Road-Miller Avenue, which will have~~with~~ connections to Routes 23, 53, 56, and 101.

## Next Network Stevens Creek Corridor Upgrade

VTA will replace the Limited 323 with Rapid 523 bus service on the Stevens Creek corridor in 2019 to improve travel time, enhance passenger waiting areas, and to accommodate projected increases in ridership demand along the corridor. The service will connect the new Berryessa BART Station with the Lockheed Martin Transit Center. This upgrade lays a foundation for VTA and partnership agencies' plan to transform the Stevens Creek corridor into a multi-modal corridor with enhanced safety, improved transit experience and high-quality walking and biking environment.

### Appendix H

Page 67 Chapter 5. Project Traffic Estimates; Section Vehicle Trips for Proposed Uses: **ADD** the following text to the first sentence of the second paragraph as follows:

Trip generation rates can be obtained from the Institute of Transportation Engineers (ITE) *Trip Generation Manual (10th Edition)*, a compendium of trip generation surveys conducted for numerous land use types and varying site contexts throughout the United States or from local trip generation surveys.

### Appendix H

Pages 71-72 Chapter 5. Project Traffic Estimates; Table 11: **REVISE** the following text to the table as follows:

**Table 5.3-2: Vehicle Trip Generation Estimates**

Land Use	ITE Code	Quantity	Units <sup>1</sup>	Daily	AM Peak Hour	PM Peak Hour
<b>General Plan Buildout with Residential Allocation (Proposed Project)</b>						
Office	SV	2,000	ksf	24,700	2,580	2,400
Shopping Center	820	600	ksf	20,331	452	2,046
Hotel <sup>2</sup>	310	339	Rooms	2,834	159	204
Multifamily Housing (Mid-Rise)	221	800	Units	4,352	288	352
Green Roof	411	30	acres	567	135	105
Civic Uses	730 and 495	55	ksf	1,305	168	100
STEM Lab	540	10	ksf	140	34	22
Subtotal (A):				54,229	3,816	5,229
MXD Reduction %				17%	23%	24%
MXD Trip Reduction (B):				9218	876	1255
Transit Hub <sup>34</sup> (C)				808	175	193
External Vehicle Trips (D=A-B+C):				45,819	3,113	4,167
<i>Existing to be Removed</i>						
Existing Vallco Mall Uses (E) <sup>42</sup>				-8,813	-485	-949
<b>Proposed Project Net New Project Trips (F=D-E):</b>				<b>37,006</b>	<b>2,628</b>	<b>3,218</b>
<b>General Plan Buildout with Maximum Residential</b>						
Office	SV	1,000	ksf	12,350	1,290	1,200
Shopping Center	820	600	ksf	20,331	452	2,046
Hotel <sup>2</sup>	310	339	Rooms	2,834	159	204
Multifamily Housing (Mid-Rise)	221	2,640	Units	14,362	950	1,162
Green Roof	411	30	acres	567	135	105
Civic Uses	730 and 495	55	ksf	1,305	168	100
STEM Lab	540	10	ksf	140	34	22
Subtotal (A):				51,889	3,188	4,840
MXD Reduction (%)				20%	25%	30%
MXD Trip Reduction (B):				10,377	797	1452
Transit Hub <sup>34</sup> (C)				808	175	193
External Vehicle Trips (D=A-B+C):				42,320	2,566	3,581
<i>Existing to be Removed</i>						
Credit for Existing Vallco Mall Uses (E) <sup>42</sup>				8,813	485	949
<b>General Plan Buildout with Maximum Residential Net New Project Trips (F=D-E):</b>				<b>33,507</b>	<b>2,082</b>	<b>2,632</b>

**Table 5.3-2: Vehicle Trip Generation Estimates**

Land Use	ITE Code	Quantity	Units <sup>1</sup>	Daily	AM Peak Hour	PM Peak Hour
<b>Retail and Residential</b>						
Shopping Center	820	600	ksf	20,331	452	2,046
Hotel <sup>2</sup>	310	339	Rooms	2,834	159	204
Multifamily Housing (Mid-Rise)	221	4000	Units	21,760	1,440	1,760
Subtotal (A):				44,925	2,051	4,010
MXD Reduction (%)				20%	20%	25%
MXD Trip Reduction (B):				8,985	411	1,003
Transit Hub <sup>34</sup> (C)				808	175	193
External Vehicle Trips (D=A-B+C):				36,748	1,815	3,200
<b>Existing to be Removed</b>						
Credit for Existing Vallco Mall Uses (E) <sup>42</sup>				8,813	485	949
<b>Retail and Residential Net New Project Trips (F=D-E):</b>				<b>27,935</b>	<b>1,330</b>	<b>2,251</b>
<b>Occupied/Re-tenanted Mall</b>						
Shopping Center	820	1,208	ksf	32,717	756	3,434
Hotel <sup>2</sup>	310	148	rooms	1,209	78	89
Subtotal (A):				33,926	834	3,523
Transit Reduction (5%) (B)				1,696	42	176
External Vehicle Trips (C=A-B):				32,230	792	3,347
<b>Existing to be Removed</b>						
Credit for Existing Vallco Mall Uses (D) <sup>42</sup>				8,813	485	949
<b>Occupied/Re-tenanted Mall Net New Project Trips (E=C-D):</b>				<b>23,417</b>	<b>307</b>	<b>2,398</b>

Notes:

1. ksf = 1,000 square feet, DU = dwelling units

24. The Hyatt Place Hotel, that includes 148 rooms, is currently under construction and will be accounted for under the “Without Project” scenarios for Background and Cumulative conditions for the Proposed Project, General Plan Buildout with Maximum Residential, Retail and Residential, and Occupied/Re-tenanted Mall Alternatives.

3. Transit hub vehicle trips are based on driveway counts and observations collected in January 2018.

42. Existing Vallco Mall Uses are based on existing driveway counts collected in January 2018. The existing uses account for the two restaurants, theater, ice skating rink, bowling alley, fitness center, auto dealership storage, and park and ride use of the site.

Source: Hyatt House Hotel TIA, August 2014; ITE Trip Generation Manual, 10th edition, 2017; Fehr & Peers, January 2018.

Appendix H

Page 165

Chapter 9. Intersection Impacts and Mitigation Measures, Transportation Demand Management (TDM) Program: **REPLACE** the following text to the first paragraph as follows:

TDM Plans typically focus on reducing the number of commute trips generated by employees at employment locations. TDM strategies targeted at employees have been shown to be very effective in reducing peak period vehicle traffic, because commute trips are generally made during these time periods and follow a regular pattern of travel. Both the Proposed Project and General Plan Buildout with Maximum Residential Alternative include office uses; therefore, they have the greatest potential for additional vehicle trip reductions beyond those already included in the trip generation estimates

~~(Table 11). Also, office developments with a single tenant generally have been shown to have greater TDM reductions than developments with multiple tenants. The Specific Plan does not include a specific development application, however, and it is not known at this time whether the office buildings would be occupied by single or multiple tenants. For the Proposed Project and the General Plan Buildout with Maximum Residential Alternative, the Specific Plan will require a TDM reduction requirement between 25 and 35 percent for the office land uses. The reduction will be based on ITE's Office (ITE Land Use 710) average trip generation rates. The TDM reductions are taken from ITE rates rather than the Silicon Valley specific rates applied to the trip generation estimates in Table 11 because, as discussed in Chapter 5, the Silicon Valley rates already have a basic level of TDM participation included in their rates.~~

Trip caps for the office uses were developed assuming full buildout of the office uses for the revised project. The office trip cap is designed to reduce single-occupancy vehicle trips from office uses. Specifically, the office trips caps assume that at a minimum 34 percent of office trips would be by non-single-occupancy vehicle (non-SOV) modes (i.e., the percentage of employees traveling to the site via walking, bicycling, riding in private shuttle or public transit vehicles, or ridesharing).

A target of 34 percent non-SOV has been identified as a reasonable target because it is considered aggressive but achievable for office developments in suburban locations greater than one-half (1/2) mile from a rail station. While higher alternative mode share rates have been established for a few corporate campuses in the Bay Area, such rates have generally been in areas more urban than Cupertino with proximity to mass transit facilities.

As the Specific Plan develops, annual trip caps for the office uses will be established based building square footage rate of 1.05 for the AM peak hour and 1.04 for the PM peak hour. Peak hours are defined as the time periods on the adjacent streets with the highest hourly volumes occurring during the morning and evening commute periods. At full buildout, the office uses in the revised project shall be required to meet the AM peak hour trip cap of 1,830 vehicle trips and the PM peak hour trip cap of 1820 vehicle trips.

## Appendix H

Page 195 Chapter 9. Intersection Impacts and Mitigation Measures, Transportation Demand Management (TDM) Program: **ADD** the following text after Table 28 as follows:

### **Formation of TMA**

The purpose of the TMA is to coordinate sitewide TDM measures, collect fees from members to finance site-wide measures and monitoring activities, conduct TMA administration activities, and coordinate with members to add measures as needed to meet the office trip caps.

The TMA for the Plan Area shall be established using a legal arrangement approved by the City. The TMA shall hire a qualified Transportation Coordinator. The fees paid by each member shall be determined as part of TMA formation documentation. All commercial property owners and tenants, apartment management companies, hotel operators, and home owners associations shall be required to be members, unless an enhanced TDM program covers all office uses in the Plan Area, in which case there may be a separate TMA for offices uses. However, the office TMA is still required to be a member of the sitewide TMA and coordinate activities and monitoring with the sitewide TMA.



## **TDM Program Structure**

The TDM program would include the formation of a Transportation Management Association (TMA) to help implement TDM strategies sitewide and coordinate the office trip cap requirements. The TMA shall include an on-site transportation coordinator that would help implement TDM strategies. TDM strategies that are highly encouraged include, but are not limited to:

- Maximum parking requirements per the Specific Plan
- Concierge services for all employees, residents, guests, and patrons, to provide information on transit connections, opportunities for alternative modes of transit and transportation services.
- Free transit passes for residents and retail employees
- Ride-share marketing and promotion
- Evaluation, identification, and implementation of bikeshare program for travel within, to, and from the site
- On-site availability of carshare
- Guaranteed ride home programs

Other TDM strategies that could be considered include:

- Unbundling parking,
- Other a transit incentive programs
- Safe routes to school support programs,
- Transit subsidy for employees,
- Vanpool subsidy for employees,
- Workplace parking pricing,
- Employee parking cash-out,
- Alternative work schedules and telecommute programs, and,
- Shuttle services for employees

Additional details about possible TDM measures are included in Table 28 in Appendix H. The Final TDM program for future development shall be prepared to the satisfaction of the City's Director of Public Works prior to approval of any occupancy permits.

The TMA would submit an annual report to the City to report on TDM measures implemented and assess effectiveness of TDM program in terms of non-SOV mode split for the office uses. Additional TDM measures may be required by the City if the TDM measures are not effective as determined by a regular monitoring program. The following lays out the TDM Program and Monitoring Plan in more detail.

### **Monitoring Plan**

Annual TDM program monitoring consists of two main elements: (1) Summary of Implemented TDM Measures to be provided by the Vallco Specific Plan Area TMA, and (2) office driveway counts and TDM Monitoring Report for office uses to be prepared by an independent city-approved transportation planning/engineering firm. Each of these components is described below.

### **Summary of Implemented TDM Measures**

The TMA (including the office TMA, if any) shall submit a report to the City by December 31<sup>st</sup> each year describing the specific TDM measures that are being implemented by the TMA and by their members (including the office TMA, if any) and the amount of occupied space for each land use (i.e., office/commercial/hotel rooms/dwelling units).

To assess the effectiveness of the TDM program in increasing non-SOV trips, the TMA (including the office TMA, if any) may also be required to collect the following data and provide it in a report to the City:

- Private Shuttle Ridership - Counted electronically on vehicles and visually verified at the transit hub
- Public Transit Ridership - Counted at area VTA stops
- Cycling/Walking Volumes - Counted via bike/pedestrian entrances to office facilities
- Office Carpool Volumes - Counted at entrances to office parking facilities

### **Driveway Counts and TDM Monitoring Report**

An independent city-approved transportation planning/engineering firm shall be retained by the City to collect vehicle counts and present the results in a written report. Vehicle counts shall be conducted at all entrances/exits to parking facilities for the office space. The numbers of vehicles entering and exiting each location shall be counted in 15-minute increments from 7:00 am to 10:00 am and from 3:00 pm to 7:00 pm on a Tuesday, Wednesday, and Thursday over a 2-week period. Counts shall be performed between mid-September and mid-November. Counts shall avoid school holidays, as well as days immediately before or after holidays or long weekends, and shall not be performed on days with inclement weather.

The count data for the driveways to the office parking facilities shall be analyzed using standard traffic engineering practice to derive office-generated AM and PM peak hour traffic volumes. The results shall be compared to the office trip caps.

The data collection methodology, raw data, data analysis procedures, and resulting AM and PM peak hour vehicle trips for the office uses shall be written up in a report and submitted to the City of Cupertino Department of Public Works.

### **TDM Program Compliance**

If the AM and PM peak hour vehicle trip generation of the office uses is less than the office trip caps (1,830 AM peak hour trips and 1,820 PM peak hour trips at full buildout of revised project), the TDM program is in compliance and no additional TDM measures shall be required. As the Specific Plan develops, annual trip caps for the office uses will be established based building square footage rate of 1.05 for the AM peak hour and 1.04 for the PM peak hour.

### **Actions if TDM Program Compliance is Not Achieved**

The City would notify the Vallco Specific Plan Area TMA (including the office TMA, if any) if the trip caps are exceeded. The TMA (including the office TMA, if any) shall be required to meet with the City to identify new TDM measures to be implemented to achieve the trip caps.

Once the TMA (including the office TMA, if any) and the City agree on new TDM measures, the TMA (including the office TMA, if any) shall implement them within 60 days of the notification date, unless new TDM measures cannot reasonably be implemented within 60 days, then within a later date that can reasonably be achieved, acceptable to the City. Follow-up counts shall be conducted by an independent City-approved transportation planning/engineering firm 60 days after the new measures are implemented to evaluate the effectiveness of the new TDM program. If the peak hour trip caps are still exceeded, the TMA (including the office TMA, if any) would pay a fee of \$3 per day per extra vehicle trip (adjusted annually starting in 2018 per the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose area) for ninety days. The funds from these fees shall be used to provide for City-wide implementation of TDM measures and improvement of bicycle and pedestrian facilities. Payments of these penalties are due to the City within 30 days of issuance of an invoice with reasonable supporting documentation. After ninety days, the TMA (including the office TMA, if any) shall be required to meet with the City to identify additional City-approved TDM measures to be added. If the Plan is still unable to meet the trip caps during the next annual monitoring period, penalties would continue to be levied, until the peak trip caps are met.

If the TMA (including the office TMA, if any) does not agree to implement the City approved new TDM measures after the initial meeting, then the TMA shall be assessed a \$5 per day per extra vehicle trip penalty (adjusted annually starting in 2018 per the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose area) through the end of the calendar year. Payments of these penalties are due to the City within 30 days of issuance of an invoice with reasonable supporting documentation. The funds from these penalties shall be used at the City's discretion.

### **Monitoring Program Funding**

The TMA (including the office TMA, if any) shall pay the City for the annual monitoring costs including City staff time to review the annual monitoring reports.

### **Monitoring Program Duration**

Annual monitoring shall be conducted starting in the fall (mid-September through mid-November) after six months of 50% occupancy of total approved buildout and continuing annually for ten years. The annual trip caps for the office uses will be established based building square footage rate of 1.05 for the AM peak hour and 1.04 for the PM peak hour. The trip cap will be proportionally adjusted based on the occupancy of the sitewide office use to determine the trip cap applicable to that monitoring cycle up to full occupancy. In no event shall the trip cap exceed 1,830 AM peak hour trips and 1,820 PM peak hour trips. If the monitoring reveals that the peak trip counts have not been exceeded in the last three years of the first ten years of annual monitoring, the TDM monitoring shall be reduced to once every two years (i.e. year 12, 14, etc.). However, if any biennial report reveals that the peak trip counts have been exceeded, the monitoring shall revert to annual monitoring until such time that the peak trip counts have not been exceeded for three consecutive annual reports.

**Transportation Demand Management (TDM) Monitoring Program.** The Proposed Project and General Plan with Maximum Residential Alternative have several intersection and freeway impacts that cannot be reduced to less-than-significant levels through implementation of physical roadway improvements. **(S: Proposed Project and General Plan with Maximum Residential Alternative)**

As a mitigation measure and condition of approval, To reduce the severity of impacts, the Proposed Project and General Plan Buildout with Maximum Residential Alternative will be required to have a TDM program to reduce the severity of impacts. for office uses, by including a trip cap that is based on a 34% non-SOV rate for the office uses. The TDM Program includes the creation of a Transportation Management Association that would:

- Provide concierge services to residents and retail owners (for their employees);
- Coordinate with the office component; and
- Oversee the overall TDM program among property owners and tenants to achieve the office trip caps

As part of the TDM Program, the City shall require future development to implement the Specific Plan's TDM Monitoring Program to ensure that the TDM reduction goals are achieved. The TDM Monitoring Program shall require a robust Monitoring Program to ensure that this TDM program mitigation measure is implemented and that the required trip caps are achieved. The Monitoring Program shall be subject to review and approval by the City of Cupertino and would include driveway monitoring for all office uses during the AM and PM peak hours. The TDM Monitoring Program would occur in the fall (mid-September through mid-November) after six months occupancy of 50% of the total approved buildout. The TDM Monitoring Program shall be conducted annually for the first ten years. If the monitoring reveals that the peak trip counts have not been exceeded in the last three years of the first ten years of annual monitoring, the TDM monitoring shall be reduced to once every two years (i.e. year 10, 12, 14, etc). However, if any biennial report reveals that the peak trip counts have been exceeded, the monitoring shall revert to annual monitoring until such time that the peak trip counts have not been exceeded for three consecutive annual reports. If future development is not able to meet the identified TDM goal, then the City would collect penalties (assigned proportionately between the uses that do not meet the trip cap), as specified in the Specific Plan's TDM Monitoring Program. Penalties collected from the TDM Monitoring Program will be used to improve multimodal access around the site and throughout the City of Cupertino that achieves a 25 to 35 percent reduction in office vehicle trips. The required TDM reduction will vary depending on the amount of office development constructed and whether the office development has a single tenant or multiple tenants. Generally, the larger the office development, the greater the TDM reduction that can be achieved. Similarly, single tenants

~~office buildings can generally implement more effective TDM programs than multiple tenant office buildings. The percentage reduction required will be based on the characteristics of the office development (size, number of tenants, etc.) and will be calculated based on ITE's Office (ITE Land Use 710) average trip generation rates.~~

~~As part of the TDM Program, the City will require future development to implement the Specific Plan's TDM Monitoring Program to ensure that the TDM reduction goals are achieved. If future development is not able to meet the identified TDM goal, then the City would collect penalties, as specified the Specific Plan's TDM Monitoring Program.~~

The TDM program is expected to reduce the severity of impacts, although not necessarily to a less-than-significant level; therefore, the identified significant and unavoidable intersection and freeway impacts would remain significant and unavoidable. **SU With Mitigation: Proposed Project and General Plan with Maximum Residential Alternative)**

## Appendix H

Page 214 Chapter 10. Freeway Segment Impacts and Mitigation Measures: **ADD** the following text to the last paragraph as follows:

For these reasons, the Proposed Project and Project Alternative's freeway impacts would remain significant and unavoidable. Nonetheless, future development in the Specific Plan shall be required to pay its fair-share to VTP ID H1, H11, H13, H15, H35, and H45. In addition, implementation of the VTP projects is outside of the City of Cupertino's jurisdiction and the City cannot guarantee that it would be constructed. (SU: The Proposed Project and the General Plan Buildout with Maximum Residential and Retail and Residential alternatives).



Appendix H

Page 218 Table 49; **REVISE** the following text in the first two columns of Table 49 as follows:

VTA Transit Route	
Route 23	De Anza College to Alum Rock Transit Center
Route 53	West Valley College to Sunnyvale Transit Center
Express 101	<del>Camden &amp; Highway 85 to Palo Alto Lockheed Martin to Winchester LRT Station</del>
Express 182	<del>Palo Alto to IBM/Bailey Ave Camden &amp; Highway 85 to Palo Alto</del>
Rapid 323/523	<del>Downtown San Jose to De Anza College Palo Alto to IBM/Bailey Ave</del>

Appendix H

Page 219 Table 50: **REVISE** the following text in the first two columns of Table 50 as follows:

VTA Transit Route	
Route 23	De Anza College to Alum Rock Transit Center
Route 53	West Valley College to Sunnyvale Transit Center

VTA Transit Route	
Route 56	Lockheed Martin to Winchester LRT Station
Express 101	Camden & Highway 85 to Palo Alto
Express 182	Palo Alto to IBM/Bailey Ave
Rapid 523/323	<u>Lockheed Martin Transit Center to Berryessa BART Station</u> <del>Down to San Jose to De Anza College</del>

Appendix H

Page 220 Table 51: **REVISE** the following text in the first two columns of Table 51 as follows:

VTA Transit Route	
Route 23	De Anza College to Alum Rock Transit Center
Route 53	West Valley College to Sunnyvale Transit Center
Route 56	Lockheed Martin to Winchester LRT Station
Express 101	Camden & Highway 85 to Palo Alto
Express 182	Palo Alto to IBM/Bailey Ave

VTA Transit Route	
Rapid 523/323	Lockheed Martin Transit Center to Berryessa BART Station Downtown San Jose to De Anza College

Appendix H

Page 221 Chapter 5. Project Traffic Estimates; Transit Capacity Analysis Section: **REVISE** the following text to the third sentence of the last paragraph as follows:

Transit capacity is evaluated for the PM peak hour trips for Project alternatives since PM peak hour trip generation is higher than in AM peak hour. The PM peak hour public transit trips were estimated based on MXD+ transit trip mode share and assigned to the bus routes serving the Specific Plan area. The transit trips for the Proposed Project and Project Alternative were added to each route's ~~existing~~ existing peak hour load to produce the peak load with Project. The peak load factor was compared to the peak vehicle load factor standards provided by VTA. The results are shown in **Table 52**. All bus routes meet the peak load factor standard established by VTA. Thus, the Project would have **less-than-significant** impacts on the transit vehicle capacity of the routes that serve the Specific Plan area.

Appendix H

Page 225 Chapter 12. Other Transportation Evaluations, Left-Turn Queuing Analysis; **ADD** the following text to the last paragraph as follows:

As part of the Conditions of Approval the City will require the following to address identified left-turn storage deficiencies:

- For left-turn storage deficiencies at Intersections #11 (De Anza Boulevard/Stevens Creek Boulevard), #31 (Wolfe Road/Vallco Parkway), #41 (Tantau Avenue/Vallco Parkway), #42 (Stevens Creek Boulevard/Tantau Avenue), contribute one payment of \$100,000 to citywide ITS improvements (such as adoptive signal control, advanced signal loop detectors or video image detectors) to improve signal operations and queuing.
- Intersection #21 – Stevens Creek Boulevard / Perimeter Road: Reconfigure the median on Stevens Creek Boulevard to reduce the westbound left-turn lane to Portal Avenue to accommodate an additional 80 feet of capacity for the eastbound left turn from Stevens Creek Boulevard to Perimeter Road.
- Intersection #31 – Wolfe Road / Vallco Parkway: Reconfigure the median on Vallco Parkway between Wolfe Road and Perimeter Road to provide a continuous median with a

325-foot westbound left-turn lane at Wolfe Road and a 220-foot eastbound left-turn lane at Perimeter Road.

- Intersection #32 – Wolfe Road-Miller Avenue / Stevens Creek Boulevard: Extend the inner eastbound left-turn lane from Stevens Creek Boulevard to Wolfe Road to the same length as the outer left-turn lane to provide approximately 260 feet of additional capacity.
- Intersection #53 – Lawrence Expressway / Bollinger Road: Coordinate with the County of Santa Clara and pay fair share to reduce the median width on the northbound approach of Lawrence Expressway to provide for approximately 325 feet of additional capacity.
- Intersection #56 – Lawrence Expressway / Saratoga Avenue: Coordinate with the County of Santa Clara and pay fair share of additional funding needed to reduce the median width on the eastbound approach of Saratoga Avenue to maximize the left-turn queuing capacity.

## Appendix H

Page 234

Chapter 12. Other Transportation Evaluations, Evaluation of Potential Neighborhood Intrusion, Conclusion; **REPLACE** the following text to the first paragraph as follows:

While not required as mitigation for the Project, the City ~~will require the following should consider adopting the following~~ Conditions of Approval to ensure that neighborhood cut-through traffic and parking intrusion are minimized:

- Future development in the Specific Plan shall fund neighborhood traffic and parking monitoring studies and provide fees in the amount ~~\$500,000~~ ~~350,000~~ to the City of Cupertino ~~and \$150,000,~~ \$250,000 to the City of Sunnyvale, and \$150,000 to the City of Santa Clara to monitor and implement traffic calming improvements and a residential parking permit program, if needed.
- The details of the neighborhood parking and traffic intrusion monitoring program will be determined when the Conditions of Approval are established. The monitoring program shall include the following items: (1) identifying the monitoring areas (roadways where the monitoring will occur), (2) setting baseline conditions (number of parked vehicles and traffic volumes on the roadways), (3) determining thresholds for parking and traffic volume increases requiring action, (4) establishing the monitoring schedule, and (5) creating reporting protocols. The baseline conditions shall be established prior to but within a year of initial occupancy. Monitoring will then occur annually for five years.

Section: **REVISE** the following text to the third paragraph as follows:

The regional average VMT per service population from the Metropolitan Transportation Commission (MTC) and the Association of Bay Area Governments (ABAG) regional model for the Year 2020 and 2040 are 21.8 and 20.3<sup>31</sup>, respectively. The MTC/ABAG regional model is an activity-based/tour-based model rather than a trip-based model used by other jurisdictions, including VTA. Current draft guidance for SB 743 recommends a VMT threshold of 15 percent below the regional average as a threshold of significance for CEQA purposes. This translates to thresholds of ~~15.5~~<sup>18.5</sup> (21.8 x 85%) and 17.3 (20.3 x 85%) for the years 2020 and 2040, respectively. The City of Cupertino has not adopted these regional thresholds and may adopt different thresholds that would yield different results regarding VMT assessment.

---

<sup>31</sup> MTC Model results at [analytics.mtc.ca.gov/foswiki/Main/PlanBayAreaVmtPerWorker](http://analytics.mtc.ca.gov/foswiki/Main/PlanBayAreaVmtPerWorker) and accessed in April 2018.



## SECTION 7.0 DRAFT EIR AMENDMENT REVISIONS

---

This section contains revisions to the text of the Vallco Special Area Specific Plan Draft EIR Amendment dated July 2018. Revised or new language is underlined. All deletions are shown with ~~a line through the text~~.

Page 1 Section 1.2 Housing Rich Alternative: **ADD** the following text to the second paragraph as follows:

Since the beginning of the public comment period for the Draft EIR described above in Section 1.1, a fifth, “Housing Rich,” alternative was identified in response to community and City interest in having a greater number of housing units with a greater than 15 percent below-market-rate housing component and the inclusion of substantial community amenities such as a performing arts center, civic space, educational space, etc., and enough office development on the site to support the additional community amenities and the higher blow-market rate component. Compared to the proposed project, the Housing Rich Alternative would result in a better citywide jobs/housing balance.

Page 15 Section 3.1.2.3: **REVISE** the subheading title and discussion in this section as follows:

### **2.4.4.3 *Transit Center and Transportation Demand Management Program***

The Specific Plan site is served by Santa Clara Valley Transportation Authority (VTA) bus routes and indirectly by Caltrain commuter rail service. The site acts as a transfer center for VTA bus routes and as a transit hub for private shuttles run by large employers (such as Google, Genentech, and Facebook). As part of the Specific Plan, the existing transit hub would be upgraded, and would include additional features such as an information center, drop-off point, and a bike sharing distribution point.

~~The Specific Plan would also include a Transportation Demand Management (TDM) program to reduce vehicle trips and vehicle miles traveled. The TDM program could include on-site transportation coordinator, ride share marketing and promotion, unbundling parking, a transit incentive program, safe routes to school support programs, transit subsidy for employees, vanpool subsidy for employees, workplace parking pricing, employee parking cash out, alternative work schedules and telecommute programs, and guaranteed ride home programs. Additional details about possible TDM measures are included in Table 28 in Appendix H. The TDM program for future development would be completed to the satisfaction of the City of Cupertino City’s Project Planner prior to approval of a development permit. Future development would submit an annual monitoring report to the Project Planner to measure the effectiveness of the TDM plan. Additional TDM measures may be required by the City if the TDM measures are not effective.~~

Page 15 Section 3.1.2.4: **REVISE** the last paragraph on the page as follows:

The Specific Plan would require connections to existing water, sanitary sewer, storm drain, communications, gas and electricity utility lines in the area. The Specific Plan may includes the

extension of existing Wolfe Road recycled water pipeline serving the Apple Park office campus (formerly called Apple Campus 2) approximately one mile from Homestead Road, under I-280, to the project site and possibly to Stevens Creek Boulevard. An additional pump to the existing booster pump station for the Wolfe Road recycled water pipeline may be required. Recycled water ~~may~~would be used on-site for landscape irrigation.

Page 16 Section 3.1.2.6: **ADD** the following text after the subheading as follows:

#### **2.4.4.6 Specific Plan Assumptions**

The EIR is based on the assumption that the below measures are proposed as part of, or conditions of approval for, future development implementing the Specific Plan.

Page 18 Section 3.1.2.6: **REPLACE** the second and third bullets on the page with the following:

- ~~• Outdoor dining areas located on the green roof with direct line of sight to the existing residences to the west of the site, opposite Perimeter Road, and to the southeast of the site, opposite Vallec Parkway and North Wolfe road, shall be setback a minimum distance of 310 feet from the nearest residential property line to meet the nighttime threshold of 55 dBA. Alternately, outdoor dining areas shall be acoustically shielded by noise barriers or buildings.~~
- ~~• Playgrounds proposed on the green roof shall be setback a minimum distance of 60 feet from the nearest residential property line or acoustically shielded by noise barriers.~~
- Outdoor dining areas and playgrounds shall demonstrate that appropriate design and noise attenuation measures including, but not limited to, setbacks and/or noise barriers have been incorporated to meet the daytime threshold of 65 dBA and the nighttime threshold of 55 dBA in the City's Municipal Code at the existing, adjacent residences.
- Future development shall pay its fair-share contribution towards the City's share for the cost of constructing the I-280/Wolfe Interchange project.

Page 18 Section 3.1.2.6: **ADD** the following text before the last two bullets on the page as follows:

In addition, the EIR analysis includes the following Specific Plan elements:

- The Specific Plan would include a Transportation Demand Management (TDM) program, which shall provide sitewide TDM support services to coordinate TDM efforts for all users and includes an office-specific trip cap to reduce vehicle trips and vehicle miles of travel. The non-office portion of the project is not subject to a trip cap. The office trips cap related to the TDM program of the project shall be measured at the peak commute hours, when roadways are most congested.

#### **OFFICE TRIP CAP**

Trip caps for the office uses were developed assuming full buildout of the office uses for the revised project. The office trip cap is designed to reduce single-occupancy vehicle trips from office uses. Specifically, the office trips caps assume that at a minimum 34 percent of office trips would be by non-single-occupancy vehicle (non-SOV) modes (i.e., the percentage of employees traveling to the site via walking, bicycling, riding in private shuttle or public transit vehicles, or ridesharing).

A target of 34 percent non-SOV has been identified as a reasonable target because it is considered aggressive but achievable for office developments in suburban locations greater than one-half (1/2) mile from a rail station. While higher alternative mode share rates have been established for a few corporate campuses in the Bay Area, such rates have generally been in areas more urban than Cupertino with proximity to mass transit facilities.

As the Specific Plan develops, annual trip caps for the office uses will be established based building square footage rate of 1.05 for the AM peak hour and 1.04 for the PM peak hour. Peak hours are defined as the time periods on the adjacent streets with the highest hourly volumes occurring during the morning and evening commute periods. At full buildout, the office uses in the revised project shall be required to meet the trip caps presented in the following table:

	<b><u>AM Peak Hour</u></b>	<b><u>PM Peak Hour</u></b>
<b><u>Office Trip Caps</u></b>	<b><u>1,830 vehicle trips</u></b>	<b><u>1,820 vehicle trips</u></b>

### **FORMATION OF TMA**

The purpose of the Transportation Management Association (TMA) is to coordinate sitewide TDM measures, collect fees from members to finance site-wide measures and monitoring activities, conduct TMA administration activities, and coordinate with members to add measures as needed to meet the office trip caps.

The TMA for the Specific Plan Area shall be established using a legal arrangement approved by the City. The TMA shall hire a qualified Transportation Coordinator. The fees paid by each member shall be determined as part of TMA formation documentation. All commercial property owners and tenants, apartment management companies, hotel operators, and home owners associations shall be required to be members, unless an enhanced TDM program covers all office uses in the Plan Area, in which case there may be a separate TMA for offices uses. However, the office TMA is still required to be a member of the sitewide TMA and coordinate activities and monitoring with the sitewide TMA.

### **TDM PROGRAM STRUCTURE**

The TDM program would include the formation of a TMA to help implement TDM strategies sitewide and coordinate the office trip cap requirements. The TMA shall include an on-site transportation coordinator that would help implement TDM strategies. TDM strategies that are highly encouraged include, but are not limited to:

- Maximum parking requirements per the Specific Plan

- Concierge services for all employees, residents, guests, and patrons, to provide information on transit connections, opportunities for alternative modes of transit and transportation services.
- Free transit passes for residents and retail employees
- Ride-share marketing and promotion
- Evaluation, identification, and implementation of bikeshare program for travel within, to, and from the site
- On-site availability of carshare
- Guaranteed ride home programs

Other TDM strategies that could be considered include:

- Unbundling parking.
- Other a transit incentive programs
- Safe routes to school support programs,
- Transit subsidy for employees,
- Vanpool subsidy for employees,
- Workplace parking pricing,
- Employee parking cash-out,
- Alternative work schedules and telecommute programs, and.
- Shuttle services for employees

Additional details about possible TDM measures are included in Table 28 in Appendix H of the Draft EIR. The Final TDM program for future development shall be prepared to the satisfaction of the City's Director of Public Works prior to approval of any occupancy permits.

The TMA would submit an annual report to the City to report on TDM measures implemented and assess effectiveness of TDM program in terms of non-SOV mode split for the office uses. Additional TDM measures may be required by the City if the TDM measures are not effective as determined by a regular monitoring program. The following lays out the TDM Program and Monitoring Plan in more detail.

## **MONITORING PLAN**

Annual TDM program monitoring consists of two main elements: (1) Summary of Implemented TDM Measures to be provided by the Vallco Specific Plan Area TMA, and (2) office driveway counts and TDM Monitoring Report for office uses to be prepared by an independent city-approved transportation planning/engineering firm. Each of these components is described below.

### **Summary of Implemented TDM Measures**

The TMA (including the office TMA, if any) shall submit a report to the City by December 31<sup>st</sup> each year describing the specific TDM measures that are being implemented by the TMA and by their members (including the office TMA, if any) and the amount of occupied space for each land use (i.e., office/commercial/hotel rooms/dwelling units).

To assess the effectiveness of the TDM program in increasing non-SOV trips, the TMA (including the office TMA, if any) may also be required to collect the following data and provide it in a report to the City:

- Private Shuttle Ridership - Counted electronically on vehicles and visually verified at the transit hub
- Public Transit Ridership - Counted at area VTA stops
- Cycling/Walking Volumes - Counted via bike/pedestrian entrances to office facilities
- Office Carpool Volumes - Counted at entrances to office parking facilities

### **Driveway Counts and TDM Monitoring Report**

An independent city-approved transportation planning/engineering firm shall be retained by the City to collect vehicle counts and present the results in a written report. Vehicle counts shall be conducted at all entrances/exits to parking facilities for the office space. The numbers of vehicles entering and exiting each location shall be counted in 15-minute increments from 7:00AM to 10:00AM and from 3:00PM to 7:00PM on a Tuesday, Wednesday, and Thursday over a two-week period. Counts shall be performed between mid-September and mid-November. Counts shall avoid school holidays, as well as days immediately before or after holidays or long weekends, and shall not be performed on days with inclement weather.

The count data for the driveways to the office parking facilities shall be analyzed using standard traffic engineering practice to derive office-generated AM and PM peak hour traffic volumes. The results shall be compared to the office trip caps.

The data collection methodology, raw data, data analysis procedures, and resulting AM and PM peak hour vehicle trips for the office uses shall be written up in a report and submitted to the City of Cupertino Department of Public Works.

### **TDM Program Compliance**

If the AM and PM peak hour vehicle trip generation of the office uses is less than the office trip caps (1,830 AM peak hour trips and 1,820 PM peak hour trips at full buildout of revised project), the TDM program is in compliance and no additional TDM measures shall be required. As the Specific Plan develops, annual trip caps for the office uses will be established based building square footage rate of 1.05 for the AM peak hour and 1.04 for the PM peak hour.

### **Actions if TDM Program Compliance is Not Achieved**

The City would notify the Vallco Specific Plan Area TMA (including the office TMA, if any) if the trip caps are exceeded. The TMA (including the office TMA, if any) shall be required to meet with the City to identify new TDM measures to be implemented to achieve the trip caps.

Once the TMA (including the office TMA, if any) and the City agree on new TDM measures, the TMA (including the office TMA, if any) shall implement them within 60 days of the



notification date, unless new TDM measures cannot reasonably be implemented within 60 days, then within a later date that can reasonably be achieved, acceptable to the City. Follow-up counts shall be conducted by an independent City-approved transportation planning/engineering firm 60 days after the new measures are implemented to evaluate the effectiveness of the new TDM program. If the peak hour trip caps are still exceeded, the TMA (including the office TMA, if any) would pay a fee of \$3 per day per extra vehicle trip (adjusted annually starting in 2018 per the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose area) for ninety days. The funds from these fees shall be used to provide for City-wide implementation of TDM measures and improvement of bicycle and pedestrian facilities. Payments of these penalties are due to the City within 30 days of issuance of an invoice with reasonable supporting documentation. After ninety days, the TMA (including the office TMA, if any) shall be required to meet with the City to identify additional City-approved TDM measures to be added. If the Plan is still unable to meet the trip caps during the next annual monitoring period, penalties would continue to be levied, until the peak trip caps are met.

If the TMA (including the office TMA, if any) does not agree to implement the City approved new TDM measures after the initial meeting, then the TMA shall be assessed a \$5 per day per extra vehicle trip penalty (adjusted annually starting in 2018 per the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose area) through the end of the calendar year. Payments of these penalties are due to the City within 30 days of issuance of an invoice with reasonable supporting documentation. The funds from these penalties shall be used at the City's discretion.

### **Monitoring Program Funding**

The TMA (including the office TMA, if any) shall pay the City for the annual monitoring costs including City staff time to review the annual monitoring reports.

### **Monitoring Program Duration**

Annual monitoring shall be conducted starting the fall (mid-September through mid-November) after six months of 50 percent occupancy of total approved buildout and continuing annually for 10 years. The annual trip caps for the office uses will be established based building square footage rate of 1.05 for the AM peak hour and 1.04 for the PM peak hour. The trip cap will be proportionally adjusted based on the occupancy of the sitewide office use to determine the trip cap applicable to that monitoring cycle up to full occupancy. In no event shall the trip cap exceed 1,830 AM peak hour trips and 1,820 PM peak hour trips. If the monitoring reveals that the peak trip counts have not been exceeded in the last three years of the first 10 years of annual monitoring, the TDM monitoring shall be reduced to once every two years (i.e., year 12, 14, etc.). However, if any biennial report reveals that the peak trip counts have been exceeded, the monitoring shall revert to annual monitoring until such time that the peak trip counts have not been exceeded for three consecutive annual reports.

- Electricity for future development would be provided by Silicon Valley Clean Energy (SVCE) or another provider that sources electricity from 100 percent carbon free sources.

- Future development would meet the state Density Bonus Law criteria to be granted a residential density bonus of 35 percent.

Page 31-34 MM AQ-2.1: **REVISE** mitigation measure MM AQ-2.1 as follows:

**MM AQ-2.1:** Future development under the proposed project (and General Plan Buildout with Maximum Residential Alternative, Retail and Residential Alternative, or Housing Rich Alternative) shall implement the following BAAQMD-recommended measures to control dust, particulate matter, and diesel exhaust emissions during construction:

*Basic Measures*

1. All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day.
2. All haul trucks transporting soil, sand, or other loose material off-site shall be covered.
3. All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
4. All vehicle speeds on unpaved roads shall be limited to 15 miles per hour (mph).
5. All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
6. Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to ~~five~~ two minutes ~~(as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR])~~ unless subject to state law exemptions (e.g., safety issues). Clear signage shall be provided for construction workers at all access points.
7. All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
8. Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

*Applicable Enhanced Control Measures*

9. All exposed surfaces shall be watered at a frequency adequate to maintain minimum soil moisture of 12 percent. Moisture content can be verified by lab samples or moisture probe.

10. All excavation, grading, and/or demolition activities shall be suspended when average wind speeds exceed 20 mph and visible dust extends beyond site boundaries.
11. Wind breaks (e.g., trees, fences) shall be installed on the windward side(s) of actively disturbed areas of construction adjacent to sensitive receptors. Wind breaks should have at maximum 50 percent air porosity.
12. Vegetative ground cover (e.g., fast-germinating native grass seed) shall be planted in disturbed areas as soon as possible and watered appropriately until vegetation is established.
13. The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.
14. Avoid tracking of visible soil material on to public roadways by employing the following measures if necessary: (1) Site accesses to a distance of 100 feet from public paved roads shall be treated with a 6 to 12 inch compacted layer of wood chips, mulch, or gravel and (2) washing truck tires and construction equipment of prior to leaving the site.
15. Sandbags or other erosion control measures shall be installed to prevent silt runoff to public roadways from sites with a slope greater than one percent.
16. Minimizing the idling time of diesel powered construction equipment to two minutes unless subject to state law exemptions (e.g., safety issues).

#### *Exhaust Control Measures*

17. The project shall develop a plan demonstrating that the off-road equipment (more than 25 horsepower) to be used in the construction project (i.e., owned, leased, and subcontractor vehicles) would achieve a minimum project wide fleet-average 25 percent NO<sub>x</sub> reduction and 65 percent PM (particulate matter) exhaust reduction compared to the CalEEMod modeled average used in this report. Acceptable options for reducing emissions include the use of late model engines, low-emission diesel products, alternative fuels, engine retrofit technology, after-treatment products, add-on devices such as particulate filters, and/or other options as such become available. The following are feasible methods:
  - All construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet EPA Tier 4 emission standards for NO<sub>x</sub> and PM, where feasible.
  - If Tier 4 equipment is not feasible, ~~All~~ construction equipment larger than 25 horsepower used at the site for more than two continuous days or 20 hours total shall meet EPA emission standards for Tier 3 engines and include particulate matter emissions control equivalent to CARB Level 3 verifiable diesel emission control devices that altogether achieve an 85 percent reduction in particulate matter exhaust.

- Use of alternatively-fueled equipment with lower NO<sub>x</sub> emissions that meet the NO<sub>x</sub> and PM reduction requirements above.
- Diesel engines, whether for off-road equipment or on-road vehicles, shall not be left idling for more than two minutes, except as provided in exceptions to the applicable state regulations (e.g., traffic conditions, safe operating conditions). The construction sites shall have posted legible and visible signs in designated queuing areas and at the construction site to clearly notify operators of idling limit.
- All on-road heavy-duty diesel trucks with a gross vehicle weight rating of 33,000 pounds or greater (EMFAC Category HDDT) used at the project site (such as haul trucks, water trucks, dump trucks, and concrete trucks) shall be model year 2010 or newer.
- Develop a Transportation Demand Management program for construction worker travel that includes transit and carpool subsidies in order to reduce worker trips ~~by 10 percent~~.
- Provide line power to the site during the early phases of construction to minimize the use of diesel powered stationary equipment, such as generators.
- ~~Enforce idling limit of two minutes unless subject to state law exemptions (e.g., safety issues).~~

18. A project-specific construction management plan describing the measures to minimize construction emissions shall be required of future development. As part of the construction management plan, the on-site Construction Manager shall ensure and regularly document that equipment, trucks, and architectural coatings meet the above mitigation requirements. The documentation shall be submitted regularly to the City for review and compliance.

Page 47      Impact AQ-8; Project: **ADD** the following text to the second paragraph under Impact AQ-8:

The proposed project (and all project alternatives) could allow the development of uses that have the potential to produce odorous emissions during operation; however, significant sources of odors (e.g., wastewater treatment, food processing facilities, and chemical plants) are not proposed as part of the project or any of the alternatives. Other sources, such as restaurants, that could be associated with future development typically result in only localized sources of odors that would not impact a large number of people. Thus, the impact would be less than significant. In addition, it is the City's standard practice to require restaurants to install carbon air filtration systems which help minimize odors. (Less than Significant Impact)

<b>Table 5.3-1: Summary of Project and Project Alternative Energy Demand</b>			
	<b>Estimated Electricity Demand*</b> (GWh per year)	<b>Estimated Natural Gas Demand*</b> (Btu per year)	<b>Estimated Gasoline Demand†</b> ( <del>million</del> -gallons per year)
Existing	7	703 million	<del>21,260</del>
Proposed Project	70	64 billion	<del>129,435</del>
General Plan Buildout with Maximum Residential Alternative	60	63 billion	<del>108,411</del>
Retail and Residential Alternative	45	57 billion	64,460
Occupied/Re-Tenanted Mall Alternative	19	12 billion	<del>43,270</del>
Housing Rich Alternative	71	76 billion	<del>1411,466</del>

Notes: \* The net energy demand is identified for the proposed project and project alternatives.  
 † The estimated gasoline demand was based on the estimated vehicle miles traveled discussed in Section 3.17 Transportation/Traffic and the average fuel economy of 35 mpg.  
 Sources: 1. Illingworth & Rodkin, Inc. *Vallco Special Area Specific Plan Air Quality and Greenhouse Gas Emissions Assessment*. May 2018. Attachment 2. And 2. Illingworth & Rodkin, Inc. *Housing Rich Alternative Air Quality Modeling*. June 2018. Attachment 1.

Project; Operation: **REVISE** the first sentence in the second paragraph under the operation subheading as follows:

As shown in Table 4.6-1, operation of the project is estimated to result in an annual net energy demand of approximately 70 gigawatt-hours (GWh) of electricity, 64 billion British thermal units (Btu) of natural gas, and ~~12 million~~9,435 gallons of gasoline compared to existing conditions.

Housing Rich Alternative; Operation: **REVISE** the first sentence under the operation subheading as follows:

As shown in Table 4.6-1, operation of the Housing Rich Alternative is estimated to result in an annual net energy demand of approximately 71 GWh of electricity, 76 billion Btu of natural gas, and ~~14 million~~11,466 gallons of gasoline compared to existing conditions.



MM HAZ-1.1: **ADD** the following text to the last sentence of mitigation measure MM HAZ-1.1:

**MM HAZ-1.1:** A Site Management Plan (SMP) and Health and Safety Plan (HSP) shall be prepared and implemented for demolition and redevelopment activities under the revised project. The purpose of the SMP and HSP is to establish appropriate management practices for handling impacted soil, soil vapor, and groundwater or other materials that may potentially be encountered during construction activities, especially in areas of former hazardous materials storage and use, and the profiling of soil planned for off-site disposal and/or reuse on-site. The SMP shall document former and suspect UST locations, hazardous materials transfer lines, oil-water separators, neutralization chambers, and hydraulic lifts, etc. The SMP shall also identify the protocols for accepting imported fill materials, if needed. The SMP and HSP shall be submitted to SCCDEH for approval and the approved SMP and HSP shall be submitted to the City Building Division prior to commencement of construction (including demolition) activities.

Pages 137-138 Mitigation Measure: **REVISE** mitigation measures MM NOI-1.1 and -1.2 as follows:

**MM NOI-1.1:** Construction activities under the revised project shall be conducted in accordance with provisions of the City's Municipal Code which limit temporary construction work to daytime hours,<sup>32</sup> Monday through Friday. Construction is prohibited on weekends and all holidays pursuant to Municipal Code Section 10.48.053(B)(C)(D).<sup>33</sup> Further, the City requires that all equipment have high-quality noise mufflers and abatement devices installed and are in good condition. Additionally, the construction crew shall adhere to the following construction best management practices listed in MM NOI-1.2 below to reduce construction noise levels emanating from the site and minimize disruption and annoyance at existing noise-sensitive receptors in the project vicinity.

**MM NOI-1.2:** Future development shall prepare and submit a construction noise control plan to the City's Building Department and Code Enforcement for review and approval. The on-site Construction Manager shall implement thea construction noise control plan, which would includeing, but is not limited to, the following available controls:

---

<sup>32</sup> Per Municipal Code Section 10.48.010, daytime is defined as the period from 7:00 AM to 8:00 PM weekdays.

<sup>33</sup> Municipal Code Section 10.48.053(B): Notwithstanding Section 10.48.053A, it is a violation of this chapter to engage in any grading, street construction, demolition or underground utility work within seven hundred fifty feet of a residential area on Saturdays, Sundays and holidays, and during the nighttime period, except as provided in Section 10.48.030. Municipal Code Section 10.48.053(C): Construction, other than street construction, is prohibited on holidays, except as provided in Sections 10.48.029 and 10.48.030. Municipal Code Section 10.48.053(D): Construction, other than street construction, is prohibited during nighttime periods unless it meets the nighttime standards of Section 10.48.040.

- Construct temporary noise barriers, where feasible, to screen stationary noise-generating equipment. Temporary noise barrier fences would provide a five dBA noise reduction if the noise barrier interrupts the line-of-sight between the noise source and receptor and if the barrier is constructed in a manner that eliminates any cracks or gaps.
- Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
- Enforce unnecessary idling limit of two minutes of internal combustion engines unless subject to state law exemptions (e.g., safety issues) shall be strictly prohibited.
- Locate stationary noise-generating equipment, such as air compressors or portable power generators, as far as possible from sensitive receptors as feasible. If they must be located near receptors, adequate muffling (with enclosures where feasible and appropriate) shall be used to reduce noise levels at the adjacent sensitive receptors. Any enclosure openings or venting shall face away from sensitive receptors.
- Utilize “quiet” air compressors and other stationary noise sources where technology exists.
- Construction staging areas shall be established at locations that would create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction.
- Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from residential receptors.
- Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
- If impact pile driving is proposed, temporary noise control blanket barriers shall shroud pile drivers or be erected in a manner to shield the adjacent land uses.
- If impact pile driving is proposed, foundation pile holes shall be pre-drilled to minimize the number of impacts required to seat the pile. Pre-drilling foundation pile holes is a standard construction noise control technique. Pre-drilling reduces the number of blows required to seat the pile. Notify all adjacent land uses of the construction schedule in writing.
- The contractor shall prepare a detailed construction schedule for major noise-generating construction activities and provide it to adjacent land uses. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
- Designate a “disturbance coordinator” who would be responsible for responding to any complaints about construction noise. The disturbance coordinator would determine the cause of the noise complaint (e.g., bad muffler, etc.) and would require that reasonable measures be implemented to correct the problem. The telephone number for the disturbance

coordinator shall be conspicuously posted at the construction site and included in the notice sent to neighbors regarding the construction schedule.

Page 140 Mitigation Measure: **REVISE** the second bullet in mitigation measure MM NOI-1.4 as follows:

- Implement a no idling policy at all locations that requires engines to be turned off after ~~two~~five minutes.

Page 163 Project: **REVISE** the two paragraphs under Table 4.15-3 as follows:

Additionally, if the topography of park land is not acceptable, the project (and project alternatives) shall ~~fund park improvements and~~ dedicate land through compliance with Municipal Code Chapter ~~14.05~~13.08 and Title 18, which help ensure the provision of parklands in compliance with the City standard of a minimum of three acres per 1,000 residents. In addition, impacts to County and Midpeninsula Regional Open Space District facilities would be mitigated through the property taxes levied on the property.

**Standard Permit Condition:** Future development under the proposed project (or General Plan Buildout with Maximum Residential Alternative, Retail and Residential Alternative, or Housing Rich Alternative) shall ~~fund park improvements and~~ dedicate land through compliance with Municipal Code Chapter ~~14.05~~13.08 and Title 18, which help ensure the provision of parklands in compliance with the City standard of a minimum of three acres per 1,000 residents.

Page 167 Park Facilities; Project: **REVISE** the third sentence under the project subheading as follows:

The geographic area for cumulative park facility impacts is the City boundaries. The buildout of the General Plan and cumulative projects (including the proposed project and project alternatives) would incrementally increase the demand for park facilities but would also create new public open space. The cumulative projects within the City of Cupertino would be required to ~~fund park improvements and~~ dedicate land through compliance with Municipal Code Chapter ~~14.05~~13.08 and Title 18, which help ensure the provision of parklands in compliance with the City standard of a minimum of three acres per 1,000 residents.

**Standard Permit Condition:** Future development under the proposed project (or General Plan Buildout with Maximum Residential Alternative, Retail and Residential Alternative, or Housing Rich Alternative) shall dedicate land through compliance with Municipal Code Chapter 13.08 and Title 18 to ensure the provision of parklands in compliance with the City standard of a minimum of three acres per 1,000 residents~~pay the applicable park maintenance fees, as stated in Chapter 14.05 of the City Municipal Code.~~

~~The proposed project would be required to fund park improvements and dedicate land through compliance with Municipal Code Chapter 14.05 and Title 18, which help ensure that City recreational facilities are maintained.~~ Therefore, future development under the proposed project (and General Plan Buildout with Maximum Residential Alternative, Retail and Residential Alternative, and Housing Rich Alternative), with the implementation of the above standard permit condition, would not result in significant impacts to recreational facilities. **(Less than Significant Impact)**

The geographic area for cumulative recreational impacts is the City boundaries. Buildout of the General Plan and cumulative projects (including the proposed project and project alternatives) would incrementally increase the demand for recreational facilities. The cumulative projects within the City of Cupertino would be required to ~~fund park improvements and~~ dedicate land through compliance with Municipal Code Chapter ~~14.05~~13.08 and Title 18, which help ensure the provision of parklands in compliance with the City standard of a minimum of three acres per 1,000 residents.

**MM TRN-1.1:** ~~Develop and implement a TDM Program which includes a trip cap that is based on the goal of achieving a districtwide mode split target of not more than 45 percent of employees driving alone. As part of the TDM Program, the City shall require future development to implement the Specific Plan's TDM Monitoring Program to ensure that the TDM reduction goal is achieved. If future development is not able to meet the identified TDM goal, then the City would collect penalties, as specified the Specific Plan's TDM Monitoring Program.~~ Develop and implement a TDM Program which includes a trip cap that is based on a 34 percent non-SOV rate for the office uses. The TDM Program includes the creation of a Transportation Management Association that would:

- Provide concierge services to residents and retail owners (for their employees);
- Coordinate with the office component; and
- Oversee the overall TDM program among property owners and tenants to achieve the office trip caps

As part of the TDM Program, the City shall require future development to implement the Specific Plan's TDM Monitoring Program to ensure that the TDM reduction goals are achieved. The TDM Monitoring Program shall require a robust Monitoring Program to ensure that this TDM program mitigation measure is implemented and that the required trip caps are achieved. The Monitoring Program shall be subject to review and approval by the City of Cupertino and would include driveway monitoring for all office uses during the AM and PM peak hours. The TDM Monitoring Program would occur in the fall (mid-September through mid-November) after six months occupancy of 50 percent of the total approved buildout. The TDM Monitoring Program shall be conducted annually for the first 10 years. If the monitoring reveals that the peak trip counts have not been exceeded in the last three years of the first 10 years of annual monitoring, the TDM monitoring shall be reduced to once every two years (i.e., year 10, 12, 14, etc.). However, if any biennial report reveals that the peak trip counts have been exceeded, the monitoring shall revert to annual monitoring until such time that the peak trip counts have not been exceeded for three consecutive annual reports. If future development is not able to meet the identified TDM goal, then the City would collect penalties (assigned proportionately between the uses that do not meet the trip cap), as specified in the Specific Plan's TDM Monitoring Program. Penalties collected from the TDM Monitoring Program will be used to improve multimodal access around the site and throughout the City of Cupertino.

The TDM program is expected to reduce the severity of intersection and freeway impacts, although not necessarily to a less than significant level. **(Significant and Unavoidable Impact with Mitigation Incorporated)**

Page 192      Vehicle Miles Travelled: **ADD** the following text before the Vehicle Miles Travelled subheading:

### **Left-Turn Queuing Analysis**

#### **Project**

The addition of project (or project alternative) traffic along the roadway network could add vehicles to left-turn movements and has the potential to cause left-turn queues to exceed the turn pocket storage lengths. Queues that exceed the turn pocket storage length have the potential to impede adjacent through traffic movements. Based on the analysis completed in Appendix C, several turn pocket lengths are anticipated to be exceeded under existing and background conditions with project traffic. The left-turn deficiencies would not result in significant level of service impacts, however. The City shall require future development under the project, General Plan Buildout with Maximum Residential Alternative, Retail and Residential Alternative, and Housing Rich Alternative implement the below conditions of approval to address left-turn storage deficiencies. **(Less than Significant Impact)**



## Conditions of Approval:

- For left-turn storage deficiencies at Intersections #11 (De Anza Boulevard/Stevens Creek Boulevard), #31 (Wolfe Road/Vallco Parkway), #41 (Tantau Avenue/Vallco Parkway), #42 (Stevens Creek Boulevard/Tantau Avenue), contribute one payment of \$100,000 to citywide ITS improvements (such as adoptive signal control, advanced signal loop detectors or video image detectors) to improve signal operations and queuing.
- Intersection #21 – Stevens Creek Boulevard / Perimeter Road: Reconfigure the median on Stevens Creek Boulevard to reduce the westbound left-turn lane to Portal Avenue to accommodate an additional 80 feet of capacity for the eastbound left turn from Stevens Creek Boulevard to Perimeter Road.
- Intersection #31 – Wolfe Road / Vallco Parkway: Reconfigure the median on Vallco Parkway between Wolfe Road and Perimeter Road to provide a continuous median with a 325-foot westbound left-turn lane at Wolfe Road and a 220-foot eastbound left-turn lane at Perimeter Road.
- Intersection #32 – Wolfe Road-Miller Avenue / Stevens Creek Boulevard: Extend the inner eastbound left-turn lane from Stevens Creek Boulevard to Wolfe Road to the same length as the outer left-turn lane to provide approximately 260 feet of additional capacity.
- Intersection #53 – Lawrence Expressway / Bollinger Road: Coordinate with the County of Santa Clara and pay fair share to reduce the median width on the northbound approach of Lawrence Expressway to provide for approximately 325 feet of additional capacity.
- Intersection #56 – Lawrence Expressway / Saratoga Avenue: Coordinate with the County of Santa Clara and pay fair share of additional funding needed to reduce the median width on the eastbound approach of Saratoga Avenue to maximize the left-turn queuing capacity.

## Housing Rich Alternative

The Housing Rich Alternative would result in similar left-turn storage deficiencies as determined in Draft EIR for the proposed project (refer to Appendix C). Implementation of the Housing Rich Alternative, with the implementation of the above conditions of approval, would not result in left-turn queuing deficiencies. (Less than Significant Impact)

Page 196 Traffic and Parking Intrusion; Project; Condition of Approval: **REVISE** the text of the first paragraph of the condition of approval as follows:

**Condition of Approval:** To ensure neighborhood cut-through traffic and parking intrusion are minimized, future development under the proposed project (or General Plan Buildout with Maximum Residential Alternative, Retail and Residential Alternative, or Housing Rich Alternative) shall fund neighborhood cut-through traffic monitoring studies and provide fees in the amount of \$500,000 to the City of Cupertino, \$150,000 to the City of Santa Clara, and \$1250,000 to the City of Sunnyvale to monitor and implement traffic calming improvements and a residential parking permit program to minimize neighborhood cut-through traffic and parking intrusion, if determined to be needed by the respective City's Public Works Department. The details of the neighborhood parking and traffic intrusion monitoring program shall be determined when the conditions of approval for project development are established. The monitoring program shall include the following components: (1) identifying the monitoring areas (roadways where the monitoring would occur), (2) setting baseline

conditions (number of parked vehicles and traffic volumes on the roadways), (3) determining thresholds for parking and traffic volume increases requiring action, (4) establishing the monitoring schedule, and (5) creating reporting protocols. The baseline conditions shall be established prior to but within one year of initial occupancy. Monitoring shall then occur annually for five years.

Page 226 MM TRN-7.17: **REVISE** the number of the mitigation measure as follows:

**MM TRN-7.17.1:** The VTA’s VTP 2040 identifies the Stevens Creek Bus Rapid Transit project (VTP ID T4) as an improvement near the project site. Ultimately, the VTP ID T4 would enhance travel choice for the revised project and make more efficient use of the transportation network. Thus, future development under the revised project would be required to contribute its fair-share to VTP ID T4. However, the impact would remain significant and unavoidable because the implementation of the VTP projects are within the responsibility and jurisdiction of another agency and the City cannot guarantee the improvement would be implemented concurrent with the revised project. **(Significant and Unavoidable Cumulative Impact with Mitigation Incorporated)**

Page 254 Impact UTL-2; Project: **REVISE** the last sentence of the last paragraph on this page as follows:

The project and project alternatives are estimated to generate a net increase of ~~0.72~~0.26 to ~~1.15~~0.58 mgd of sewage.

Page 254 Table 4.18-1: **REVISE** Table 4.18-1 as follows:

<b>Table 4.18-1: Estimated Net Sewage Generation</b>	
	<b>Estimated Net Average Sewage Generation (mgd)</b>
Project	<del>0.72</del> <u>0.40</u>
General Plan Buildout with Maximum Residential Alternative	<del>0.94</del> <u>0.53</u>
Retail and Residential Alternative	<del>1.04</del> <u>0.58</u>
Occupied/Re-Tenanted Alternative	<del>0.26</del>
Housing Rich Alternative	<del>1.15</del> <u>0.65</u>
Note: The sewage generation identified is the net increase in sewage generation anticipated under the proposed project and project alternatives compared to existing conditions. Source: <u>City of Cupertino. Sewer Capacity Calculation (Vallco Specific Plan). August 13, 2018.</u> <del>for Housing Rich Alternative sewage generation: Tanaka, Richard. District Manager Engineer, Cupertino Sanitary District. Personal Communications. June 19, 2018.</del>	

The contractual agreement between CuSD and the City of Santa Clara is 13.8 mgd during peak wet weather flows. The existing CuSD peak wet weather flow into the Santa Clara system is modeled at 10.7 mgd.<sup>34</sup> Therefore, there is an available capacity of approximately 3.1 mgd during peak wet weather flows for the CuSD service area (including the project). A peak wet weather flow multiplier of four (4) times the average dry weather flow was used to establish the available sewer generation capacity for average sewer flows for the project. A four (4) times multiplier is generally considered a conservative figure. Therefore, 3.1 mgd of capacity during peak wet weather flows equates to approximately 0.775 mgd of available capacity for average dry weather sewer flow. Incorporating estimated sewer generation rates from the project and from other potential projects as established by the General Plan, the total capacity needed to serve these projects is approximately 0.749 mgd.<sup>35</sup> Because the needed capacity is less than the total available capacity, there is adequate sewer capacity in the contractual agreement between CuSD and the City of Santa Clara to serve the project and the General Plan Buildout.

If additional hydraulic modeling is performed on the CuSD system and the model indicates that the 13.8 mgd contractual limit through the City of Santa Clara would be surpassed by the project, the future developer(s) would not be permitted to occupy any structures or units that result in the contractual limit being exceeded until additional capacity is available through the City of Santa Clara's sewer system; improvements are made to the CuSD sewer system that reduce the peak wet weather flows that enter the City of Santa Clara system; improvements are made on the project site that ensure the contractual limit is not exceed; or the completion of any combination of these approaches that adequately addresses potential capacity issues.

Page 255 Mitigation Measures: **REVISE** the text of mitigation measures MM UTIL-2.1 through -2.3 and the subsequent paragraph as follows:

**MM UTIL-2.1:** Future development under the proposed project (or General Plan Buildout with Maximum Residential Alternative, Retail and Residential Alternative, or Housing Rich Alternative) shall replace the existing 12- and 15-inch sewer mains in Wolfe Road with new mains of an adequate size as determined by CuSD, ~~and/or~~ shall install an 18- to 21-inch parallel pipe to the existing 12- and 15-inch mains to accommodate existing and project flows.

**MM UTIL-2.2:** Future development under the proposed project (or General Plan Buildout with Maximum Residential Alternative, Retail and Residential Alternative, or Housing Rich Alternative) shall replace the existing 27-inch sewer main in Wolfe Road and Homestead Road with new mains of an adequate size determined by the CuSD, or install a parallel pipe of an adequate size to the existing 27-inch sewer main as determined by CuSD.

---

<sup>34</sup> Mark Thomas and Associates. Email communication with Cupertino Public Works. July 19, 2018.

<sup>35</sup> Sewage coefficients use to calculate the sewer generation rates for the various uses in the project and the General Plan buildout were taken from the San Jose - Santa Clara Water Pollution Control Plant Specific Use Code & Sewer Coefficient table and from the City of Santa Clara Sanitary Sewer Capacity Assessment, May 2007.

**MM UTIL-2.3:** ~~Developer shall complete improvements as designated in the City of Santa Clara's Sanitary Sewer Management Plan to allow for adequate downstream sewer capacity through the City of Santa Clara sewer system. No occupancies can occur on the project site that would exceed the current contractual permitted sewer flows through the City of Santa Clara until the contractual agreement between CuSD and the City of Santa Clara is amended to recognize and authorize this increased flow. No certificates of occupancy shall be issued by the City for structures or units that would result in the permitted peak wet weather flow capacity of 13.8 mgd through the Santa Clara sanitary sewer system being exceeded. The estimated sewage generation by the project shall be calculated using the sewer generation rates used by the San Jose - Santa Clara Water Pollution Control Plant Specific Use Code & Sewer Coefficient table, and from the City of Santa Clara Sanitary Sewer Capacity Assessment, May 2007,<sup>36</sup> unless alternative (i.e., lower) sewer generation rates achieved by future development are substantiated by the developer based on evidence to the satisfaction of the CuSD.~~

Implementation of mitigation measures MM UTIL-2.1 through -2.3 would mitigate the project (or General Plan Buildout with Maximum Residential, Retail and Residential Alternative, or Housing Rich Alternative) impact to the sewer system by making improvements to the sewer system in order to adequately convey flows from future development. The above sewer improvements would occur within existing right-of-way and the construction impacts related to installing new sewer lines are discussed in the EIR sections dealing with construction impacts including Sections 3.3 Air Quality, 3.4 Biological Resources, 3.5 Cultural Resources, 3.13 Noise and Vibration, and 3.17 Transportation/Traffic. If future on-site sewage treatment is proposed, subsequent environmental review would be required at the time when the specifications of the on-site treatment facility (e.g., size, operation, and location) are known. **(Less than Significant Impact with Mitigation Incorporated)**

Page 259 Recycled Water Infrastructure and Supply; Project; Infrastructure: **REVISE** the first paragraph as follows:

The proposed project (and General Plan Buildout with Maximum Residential Alternative, Retail and Residential Alternative, and Housing Rich Alternative) may include the extension of recycled water infrastructure to the project site. Recycled water ~~w~~ould be used on-site for landscape irrigation.

---

<sup>36</sup> The average dry weather sewerage generation rates used by the San Jose - Santa Clara Water Pollution Control Plant Specific Use Code & Sewer Coefficient table, and the City of Santa Clara Sanitary Sewer Capacity Assessment, May 2007, for the different uses within the project are as follows: High Density Residential = 121 gpd/unit; Commercial/Retail = 0.076 gpd/SF; Commercial/Restaurant = 1.04 gpd/SF; Office = 0.1 gpd/SF; Hotel = 100 gpd/Room; Civic Space (office) = 0.21 gpd/SF; Adult Education = 15 gpd/Person; and Civic Space (Auditorium) = 0.11 gpd/SF.