

- iii. Apple Park issues in their comment letter to City, regarding the DEIR for the General Plan, in Appendix, must be addressed for the “Proposed Project”:
1. Shadow sensitive areas
  2. Light intrusion and glare
  3. Preserve hillside views
  4. Privacy and security needs (due to heights allowing a view in to the buildings)
  5. Having suitable setbacks and buffers
  6. Protect neighbor’s privacy
  7. “Placing 85-foot residential towers immediately adjacent to Apple Campus 2 poses the same security concerns as a trail through the site.” (Then surely a 160’ Vallco campus would result in the same security concern.)
- iv. Implementation of the Proposed Project will substantially degrade the existing visual character or quality of the site and its surroundings. Photographs show the ample space and mature trees around the Vallco site. Care must be taken to maintain this open visual effect. There are limited views of the mountains in the east side of Cupertino because it is flat and mostly single story. Views of proposed project in Vallco Measure D were distorted. This would not hold up to scrutiny were it to be repeated for the EIR.

Southbound on Wolfe Road:



Looking Southwest on Wolfe Road near Bay Club



Remodeled three level Bay Club and Starbucks with large gathering room in Sears' building



Looking Southwest on Wolfe Road





Northwest view on Wolfe Road. Parts of the roof are 83' but not visible from street.



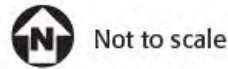
Vallco Measure D Environmental Study, distorted view taken from hundreds of yards away, other views used fish eye camera effect to distort. This is unacceptable.



Proposed Conditions

RVA, 2016

**Figure 5-9: Vantage Point 8 - View from Miller Avenue**  
Town Center Specific Plan  
Environmental Assessment



Apple Shuttle buses on Stevens Creek Boulevard heading west.





Months of disruptive trenching on Wolfe Road for Apple Park:



- d. Proposed Project will have impacts to air quality
  - i. CEQA Article 9, Section 15125(d) allows us to ask that the EIR cover any inconsistencies between the Vallco Specific Plan and these plans.:
    1. <https://www.arb.ca.gov/planning/plan01/planjan02.pdf>
    2. [https://www.arb.ca.gov/cc/scopingplan/scoping\\_plan\\_2017.pdf](https://www.arb.ca.gov/cc/scopingplan/scoping_plan_2017.pdf)
    3. [http://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a\\_-proposed-final-cap-vol-1-pdf.pdf?la=en](http://www.baaqmd.gov/~media/files/planning-and-research/plans/2017-clean-air-plan/attachment-a_-proposed-final-cap-vol-1-pdf.pdf?la=en)
    4. Cover any inconsistencies between these above plans. CEQA Article 9, Section 15125(d): *(d) The EIR shall discuss any inconsistencies between the proposed project and applicable general plans and regional plans. Such regional plans include, but are not limited to, the applicable air quality attainment or maintenance plan or State Implementation Plan, area-wide waste treatment and water quality control plans, regional transportation plans, regional housing allocation plans, habitat conservation plans, natural community conservation plans and regional land use plans for the protection of the Coastal Zone, Lake Tahoe Basin, San Francisco Bay, and Santa Monica Mountain*
    5. The above discrepancies could include, among other things:
      - a. Environmental Justice Principles (placing low income renters or seniors next to a freeway)
      - b. Sound Understanding of Health Effects
      - c. Reduce or Eliminate Disproportionate Pollution Impacts – this project concentrates them, along with Apple Park, Main Street Cupertino, Hyatt House to one part of Cupertino disproportionately.
      - d. Clean Air
      - e. Clean Water
      - f. Communities free from Toxic risk.
    6. Impacts to Air Quality were discussed in the General Plan Amendment process:
      - a. Significant unavoidable impacts start on I-13.
        - i. “Impact AQ-1: Implementation of the Project would conflict with or obstruct implementation of the applicable air quality plan. The Final EIR finds that while the Project would support the primary goals of the 2010 Bay Area Clean Air Plan, the buildout of the Project would conflict with the BAAQMD Bay Area Clean Air Plan goal for community-wide



VMT to increase at a slower rate compared to population and employment growth. The rate of growth in VMT would exceed the rate of population and employment growth, resulting in a substantial increase in regional criteria air pollutant emissions in Cupertino. **There are no mitigation measures to reduce this impact to a less-than-significant level.** Policies and development standards in the Project would lessen the impact, but due to the level of growth forecast in the city and the programmatic nature of the Project, the impact would be significant and unavoidable.”

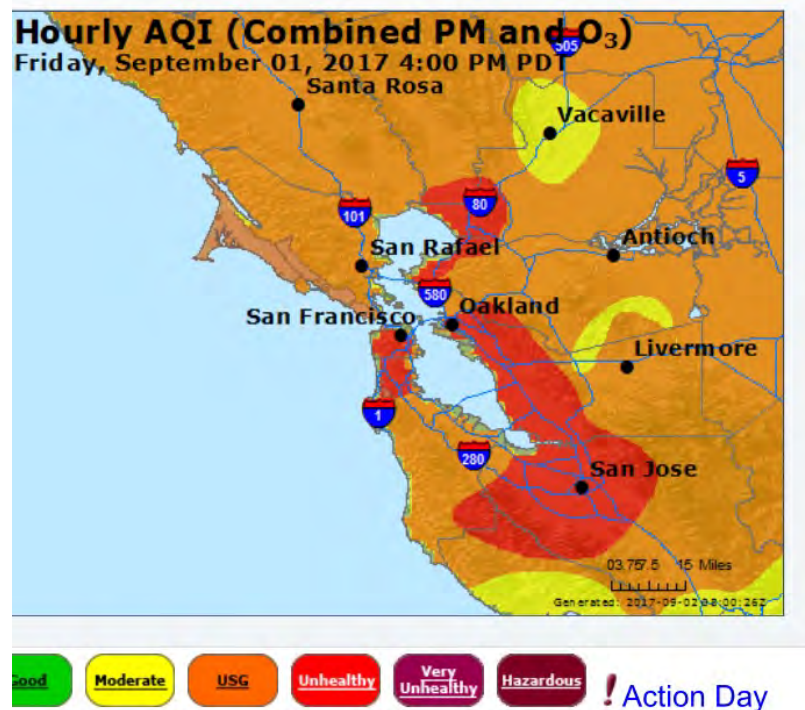
- ii. <https://cupertino.legistar.com/View.ashx?M=F&ID=3388394&GUID=40D6F528-734D-4726-A2F9-A91F34952C3E>
  - iii. The GHG lawsuit in San Jose should be reviewed for applicability in Cupertino. Air Quality GHG Writ of Mandate must be adhered to regarding San Jose’s Envision 2040 EIR:  
[https://d3n8a8pro7vhmx.cloudfront.net/cleanenergy/pages/22/attachments/original/1426349313/Order Re Petition for Writ of Mandate.pdf?1426349313](https://d3n8a8pro7vhmx.cloudfront.net/cleanenergy/pages/22/attachments/original/1426349313/Order_Re_Petition_for_Writ_of_Mandate.pdf?1426349313) “CCEC has argued (and the City did not dispute the calculations) that if present emissions data is compared to that allowed by the proposed General Plan update as required by Guidelines § 15064.4, GHG emissions will increase by 2.7 MNT or 36 percent by 2020 (from the approximate 2008 figure of 7.6 to the estimated 10.3). This is "substantially different information" that was not provided to the public. This failure to provide relevant information was prejudicial as the failure "**deprived the public and decision makers of substantial relevant information about the project's likely adverse impacts.**" Smart Rail, supra, at 463.” “That said, given that the failure to state the "present" GHG emissions affects the Project baseline and all comparisons and determinations made using the baseline, and the City's stated intention to tier other projects off this defective EIR, a limited order may not be possible.”
- b. Impacts to air quality due to placement of the project on a major east-west corridor in Silicon Valley: the I-280.

Project will significantly slow the freeway increasing air pollution to homes which would have been in areas without stopped traffic. The I-280 pm SB traffic is stopping further and further west. Air pollution generated from slowed and stopped traffic is much higher than that of free flowing traffic. The impacts of the difference in traffic speeds must be analyzed to determine the increases above baseline to be expected.

- c. Social Justice: The existing location of Vallco adjacent to the I-280 places project occupants within 1000' of a freeway with over 200,000 vehicles per day. If residents with an economic level below that of the average in Cupertino are expected to live at Vallco, that would be a social justice issue. In essence placing poorer residents in harms' way intentionally. The negative effects of air pollution have been long known. It is also known that poorer people tend to have less adequate health care. Asthmatics from lower economic levels tend to end up in the emergency room and have longer hospital stays than those patients with higher levels of care. Santa Clara County has 257,000 asthmatics and asthma [costs the state of California \\$11.3 billion annually](#).
- ii. Proposed Project may trap the dispersal of freeway pollution. If the 'green roof' concept returns, it will exacerbate the dispersion of the freeway line source pollution. This would not make the site acceptable for community use or for placing low income renters which is a social justice issue.
- iii. The green roof will need approximately 168,000 CY of soil which will need to be hauled up to areas 60'-160' up and soil will get blown to the adjacent residences.
- iv. Old construction like Vallco will likely have asbestos, lead, vermin, unaccounted for petroleum products leakage. When these are excavated the surrounding areas will have particulate matter blown their way. The interiors should be properly demolished to contain any asbestos or other carcinogens.
- v. The Vallco Specific Plan Environmental Study indicated NOx would exceed levels of significance yet outlined no plan to mitigate while stating their mitigation plan would reduce levels below the significance threshold. All construction air pollution must meet all regulatory standards
- vi. Vallco Specific Plan Environmental Study proposed a free shuttle service, while this has been used to reduce GHG, calculations for this service must be provided and hold up to scrutiny.
- vii. The air quality monitors are several miles away from Cupertino. No monitoring has been done in Cupertino along the I-280 which is adjacent



to this project. Project is “down wind” of the freeway. The freeway has over 200,000 vehicles per day. Freeway pollution has been found to travel up to 1.5 miles resulting in readings above baseline. Should the project significantly slow traffic, it will increase air pollution levels. Pollutants increase dramatically when going 13 mph vs 45 mph for example. 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](#). Impacts to outdoor dining areas and public gathering spaces must be presented. This will require relatively inexpensive to rent air quality monitors for PM2.5, PM10, O3, CO, CO, Pb, NO2, and any other pollutants required, for a baseline. The baseline 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.



## Water Usage

- e. Proposed Project Impacts to Water usage
  - i. The Water Supply Assessment, WSA, report for the Hills at Vallco assumed only 20% restaurant use while the same developer has approximately 65% restaurants at their Main Street Cupertino project. Water use for restaurants is 10 TIMES that of retail. The new WSA report must take into account the likelihood of more than 50% restaurants in their

water consumption calculations and base the calculations on predictions which hold up to scrutiny.

- ii. Table 3, from the above referenced Water Supply Assessment indicated that Vallco SP&P which is 58 acres would consume more than THREE TIMES the water of Apple Campus 2 which is 175 acres. 12 TIMES as much water as Main Street.
- iii. Existing water usage must be recalculated to account for the current gym, Dynasty restaurant, ice rink, bowling alley, upcoming FUHSD occupancy, departed AMC, and whatever uses are current. The previous WSA report

<b>Table 3: LAS District Plus Four Development Projects</b>								
<b>Actual and Projected Water Demand (AF)</b>								
	<b>2005</b>	<b>2010</b>	<b>2015</b>	<b>2020</b>	<b>2025</b>	<b>2030</b>	<b>2035</b>	<b>2040</b>
<b>Cal Water Projection</b>	14,758	11,648	14,440	14,706	14,983	15,273	15,577	15,894
<b>Hamptons Project</b>	0	0	0	28.1	28.1	28.1	28.1	28.1
<b>Vallco SP&amp;P</b>	0	0	0	370.9	370.9	370.9	370.9	370.9
<b>Apple Campus 2</b>	0	0	0	121.6	121.6	121.6	121.6	121.6
<b>Main Street Project</b>	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

cannot be resubmitted without an update.

- iv. The WSA made the assumption that no toilets or faucets had been updated from old and therefore made no reduction in their flow calculations. Then reduced all proposed amounts by 25%. When the various water using parts of the mall had been remodeled over the years all of the outdated plumbing would have had to be updated to code.
  - 1. Assumptions made in WSA: “For example, old toilets often exceed 2 gallons per flush. Later toilets use 1.6 gallons per flush. The latest water efficient toilets use only 0.6 gallons per flush. Depending on the reference toilet, the latest toilets achieve 62.5% to 70% reduction in water use. In residential dwelling units, new dishwashers will be installed which use less water than older conventional machines, which use between 7 and 14 gallons per wash load. New water efficient dishwaters use between 4.5 and 7 gallons per wash load. Using an average of 10.5 gallons for conventional machines and 5.75 gallons for new water efficient machines results in an average savings of 4.75 gallons per load or a reduction of 45%. Showers with restricted flow heads have an average flow rate of 2.0 gallons per minute (gpm) versus conventional shower head flows of 2.5 gpm or a 20% reduction. Washing machines 18 years or older used 40 gallons per standard load versus new machines using only 13 gallons per load or a reduction of 67.5%.”



2. “Total Proposed Project estimated average daily potable water use: 597,486 gpd” – See WSD in Appendix: California SB 610 Water Supply Assessment.
3. The WSS for Main Street Cupertino would have been incorrect because the restaurants were underreported.
- v. Impacts to air quality from potable water treatment must be calculated for such a substantial water demand. Water treatment generates air pollution.
- vi. Impacts to air quality from recycled water treatment demand must be calculated. Wastewater treatment generates air pollution.
- vii. Lack of recycled water supply. Tertiary treated water from the Donald Somers plant is currently insufficient. Impacts related to the need to expand the plant will include air quality impacts as well. There is not enough capacity at the Donald Somers plant to supply the Vallco “Hills” project. Should the same green roof be added to the project, there would need to be a dual water system on the roof. This is due to the need to flush the recycled water out to keep certain plants healthy. The water use from the dual roof system needs to be addressed in coordination with the arborist report for the green roof irrigation system. The roof irrigation system may need an auxiliary pump system to irrigate gardens 140-160’ in the air.
- viii. Effects of wind and tilting the green roof towards the sun must be taken into account along with increased water needs establishing the 30 acre garden.

## Noise

- f. Noise from project, project demolition, and project construction
  - i. Sound walls must be constructed to reduce noise. Unacceptable noise levels from construction were already determined from the Environmental Study for Measure D.
  - ii. Noise was inadequately studied for the interior of the project. Particularly from a social justice perspective, it is unacceptable to place low income renters in a high noise area. Likewise, seniors, and children, should not be placed in high noise areas.
  - iii. Should the roof park be part of the project, a large scale model should be built to address both noise and odors from multiple restaurants trapped under the roof. Parks are not acceptable land uses next to a freeway.
  - iv. Extreme amounts of soil cut which would take several months of diesel trucks hauling the entire hill behind the JC Penney to more than two stories below the sidewalk grade on Wolfe is not environmentally sound (removing all topsoil). Here is an excerpt from the 9212 Report for Vallco Measure D:
    1. It is anticipated that approximately 2.2 million cubic yards of soil would be excavated for the proposed below-ground garages and most of the excavated soil would be hauled off-site. The applicant anticipates that the soil hauled off-site would be used at another construction site **within 20 miles of the project site**. Some of the

soil excavated is proposed to be used on the green roof and at-grade landscaped areas. It is estimated that 168,000 cubic yards of soil would need to be imported to the site.

2. My neighbor broke her hip bicycling on Tantau because all of the spilled clay soil became unpassably slick. Her husband could barely walk on the street to come help her. That was with that project “balancing cut and fill on site” and simply needing to move soil across the street. How much air pollution would 5 months of diesel truck traffic generate? How much soil will be spilled onto the I-280 and other streets? What will the economic cost of shutting down lanes for non-stop street sweeping be? How will the trucks return to the site?

### Green Roof Policy Inconsistencies

- g. Green Roof Violates city policies for parkland and may become a city financial burden and a dangerous trap for air pollution. Should the 30 acre green roof return here are some of the issues:
  - i. Common sense tells us that removing 1.2 million SF of Vallco mall and excavating up to 41’ of soil across 50 acres is not an environmentally friendly act. Unlike Apple Campus 2’s design to increase permeable surfaces, decrease their footprint, and use 100% renewable energy, Vallco plans to excavate and entomb the site in concrete.
  - ii. The 30 acre roof garden is tilted toward the sun for the hottest time of the day (afternoon). That roof soars to 160,’ the max parapet on 19,800 Wolfe Road is 61’ by comparison. It will be windy. The wind and sun (tilting it towards the sun rather than to the north) will result in higher water consumption which needs to be taken into account along with higher water needs in the first few years of plant establishment.
  - iii. Noise contours and noise compatibility with land use, do not make much of the roof area acceptable for a park (see Appendix, Future Noise Contours).
  - iv. Cupertino adopted the Community Vision 2040, Ch. 9 outlines the “Recreation, Parks, and Services Element.” Their Policy RPC-7.1 Sustainable design, is to minimize impacts, RPC-7.2 Flexibility Design, is to design for changing community needs, and RPC-7.3 Maintenance design, is to reduce maintenance.
  - v. The Vallco roof violates the three City of Cupertino Parks policies listed: it is not sustainable, it is not flexible (a baseball field cannot be created), and it is extremely high maintenance. Parkland acquisition is supposed to be based on “Retaining and restoring creeks and other natural open space areas” and to “design parks to utilize natural features and the topography of the site in order to...keep maintenance costs low.”



- vi. And unfortunately for us, the city states: “If public parkland is not dedicated, require park fees based on a formula that considers the extent to which the publicly-accessible facilities meet community need.” How much will this cost the public if it is a public park?
- vii. The proposed fruits which would be grown on the roof may absorb an excess of pollutants from the freeway. Additionally, air pollution can make it harder for plants to grow well in general.

## Parking

- h. Inadequate parking/Use of Mall as Park and Ride
  - i. Currently the mall is used a commuter parking lot for Genentech and others, how will the use of the site continue as a known transit center and/or as a “casual” one. There is already a parking issue at 19,800 Wolfe Road.
    1. <https://www.mercurynews.com/2017/12/22/parking-restrictions-proposed-for-front-of-cupertino-condo-complex/>
    2. Proposed Measure D had inadequate parking and would have required an extensive valet parking system to stack vehicles and would burden the city Public Works department having to review and monitor the TDM program. This is unacceptable. Parking must be adequate for demand without expending future city resources form Code Enforcement or Public Works reviews. What will happen to the commuters using the lots now?
    3. The current shuttle service must be studied in the traffic study including the potential for Apple employees.

## Population

- i. Population: All current development and population increases have occurred in Cupertino east of De Anza Boulevard. Main Street Cupertino added 120 units, 19,800 Wolfe Rd. added 204 units, Biltmore added 90 units, Hamptons Apartments will add 942 units minimum, Metropolitan added 107 units. The Proposed Project would add 800 residential units. That is 2,263 residential units within a very small area. Because there is speculation the Vallco apartments are intended for Apple employees, and their employees are 70-80% male, how will this project effect the balance of male and female residents in Cupertino, which is balanced now? What future effects on the population of children can we expect? If traffic assumptions were made expecting Apple employees at Vallco, what happens when they move? Traffic study assumptions must hold up to scrutiny.

## Soil Contamination

- j. Soil Contamination:
  - i. There was a petroleum distillate plume at the intersection of Wolfe and Stevens Creek which extended onto the Vallco site, SE corner. Please research this.
  - ii. 19,333 Vallco Parkway is prohibited from having housing. Verify the soil contamination did not migrate under the parking garage adjacent to this site at Vallco.
  - iii. The following sites have had/may have contamination, and must be remediated:
    - 1. J.C. PENNEY (T0608500770)
    - 2. SEARS AUTOMOTIVE CENTER (T0608552828)
    - 3. FORMER TANDEM / APPLE (T10000000740)
    - 4. TOSCO #11220 (T0608575840)
    - 5. MOBIL (T0608500926)
    - 6. SHELL (T0608501269)
  - iv. The Vallco site was historically an orchard. Area orchards were treated with arsenic and lead arsenate. Orchards typically would have a UST for onsite gas filling of farm equipment. Thoroughly research the potential for soil contamination and report during excavation. Main Street Cupertino had to 'haul off contaminated soil' but the only record was verbal.
  - v. Potential for contamination from HVAC systems to soil.
  - vi. The ice rink had some remediation of the soil with no record, that history needs to be included in the EIR.

## Groundwater

- k. Groundwater
  - i. Proposed Project covers nearly the entire site in impermeable concrete. If cisterns are built for groundwater recharge, their sizing must hold up to scrutiny which will be very difficult. If the green roof is built, fertilizer contamination may result.

## Hydrology

- l. Hydrology
  - i. Proposed Project increases impermeable areas which is contrary to best practices. Runoff must account for planters over concrete which would increase runoff. If the green roof structure is built, the slope and soil depth

must be taken into consideration when calculating runoff, because both will increase runoff amounts and require larger pipe sizing.

#### Storm Water Runoff

- m. Storm Drains
  - i. Determine whether existing storm drains are adequate using the above-mentioned hydrology calculations. Show both with and without the green roof scenarios.

#### Sewage Capacity

- n. Sewage System
  - i. Current system is likely inadequate or partially corroded. Main Street Cupertino needed a partially corroded stretch of pipe replaced because it was causing odor backup into the complex. How much of the current system will need replacing because of corrosion degrading capacity, and how much will the Project require replacement of? Where will sewage be rerouted to, and at what cost should the current treatment plant not have adequate capacity? What is the cost to those living up stream of the project?
  - ii. What traffic impacts would be expected from mitigating the sewage system. The Sewage treatment plant capacity must be re-analyzed with all of the earlier mentioned large developments which will impact it.

#### Thresholds and Standards

- o. Thresholds and standards for the determination of impact significance must be characterized and justified. Individual components must also be aggregated to see if their cumulative effects are significant. Indirect effects that are reasonably foreseen must likewise be addressed.

#### Alternative A: Occupied/Re-Tenanted Mall: EIR Topics and Problems

##### II. Alternative A: Occupied/Re-tenanted Mall

- a. The current mall would likely require some inspections because it has been closed up. If the WSA report was correct in their assumption that all water usage at the current mall is old style high flow, then all of the fixtures should be replaced as a condition for re-occupancy. Whatever remodeling may take place for the mall would need permits, as part of that permitting process, a traffic study would need to be performed. My assertion is that to study the mall fully occupied or with over 95% occupancy would be a different alternative from the required “no project.”



- III. Alternative B: 2/3 residential, 1/3 non-residential mix.
- a. This alternative is inconsistent with the General Plan as stated earlier. It should not be studied because it is an infeasible alternative.
  - b. All of the above-mentioned comments for “Proposed Project” apply to Alternative B.
  - c. **Social Justice Issues are magnified** under Alternative B:
    - i. Social Justice: The existing location of Vallco adjacent to the I-280 places project occupants within 1000’ of a freeway with over 200,000 vehicles per day. If residents with an economic level below that of the average in Cupertino are expected to live at Vallco, that would be a social justice issue. In essence placing poorer residents in harms’ way intentionally. The negative effects of air pollution have been long known. It is also known that poorer people tend to have less adequate health care. Asthmatics from lower economic levels tend to end up in the emergency room and have longer hospital stays than those patients with higher levels of care. Santa Clara County has 257,000 asthmatics and asthma costs the state of California \$11.3 billion annually.
    - ii. Proposed Project may trap the dispersal of freeway pollution. If the ‘green roof’ concept returns, it will exacerbate the dispersion of the freeway line source pollution. This would not make the site acceptable for community use or for placing low income renters which is a social justice issue.
    - iii. This many units adjacent to the freeway would inevitably place vulnerable populations in harm’s way due to poor air quality. This Alternative will likewise require similar building masses as “Proposed Project”. These large building masses may block air flow. Combined with urban street traffic within the street grid, and proposed underground parking in two levels, the air quality will be unacceptable. Ventilation will be problematic. Should the green roof be placed over these residents this could be disastrous. HEPA filtration, should it be used, does not block VOC’s.
  - d. Alternative B, imbalances to population. Apple has a 70-80% male workforce. If the intention is to populate the residential units with Apple employees we can expect a similar gender ratio. This may result in an 11 % increase in the male population of Cupertino. This is a significant impact which could alter whatever other uses are proposed. Should the employees leave Apple, traffic would be worsened. Traffic analysis should study a wide range of residency outcomes. The Alternative gave no estimates as to residential unit size. Consider any options such as family size apartments or micro-apartments. Employment centers both near and far. School impacts, as listed above for Proposed Project, for the

potential of a massive amount of students, must be studied. Results and SGR's must stand up to scrutiny.

#### Alternative C: Retail and Residential (no office): EIR Topics and Problems

#### IV. Alternative C: Retail and Residential (no office)

- a. This alternative ignores the hotel.
- b. There is not enough information to speculate how much retail or residential they are attempting. The realistic capacity is 389 residential units and retail maximum is 1.2 million SF. This project would result in tearing down the mall structure to create the grid layout for the Specific Plan. (see Proposed Project for all comments and apply here).
- c. This could result in residents who would have been shopping in an enclosed mall now in a street grid. Because the structures would potentially be lower, the air pollution could dissipate more rapidly. There are too many missing variables to speculate.
- d. Placement of the residential units would need to be away from the freeway and other major streets (Wolfe Road and Stevens Creek Boulevard are over 30,000 vehicles per day).
- e. While not having office helps meet the housing goals better, the types of retail would need to be addressed. This matters for traffic (retail generating  $\frac{1}{4}$  the traffic of a restaurant, and retail generates  $\frac{1}{10^{\text{th}}}$  the traffic of a fast food restaurant). Should the proposed regulation sized ice rink be built, that could have pre-dawn skaters, so the placement of that and parking would best be away from residents.
- f. If, referring back to CEQA and the need to present alternatives to project "which could feasibly attain its basic objectives but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives."
  - i. this option would need to have less impacts than Proposed Project, and still be compliant. That would be 1.2 million SF retail maximum and 389 units residential. 30% of retail could be entertainment: 360,000 SF. It is possible it will have less impacts and could be compliant with the General Plan. However, since the Proposed Project is infeasible and inconsistent, this exercise has been moot.

# **ENROLLMENT AND FISCAL IMPACT ANALYSIS**

*for the:*

## **THE HILLS AT VALLCO**

*Prepared for:*

**The City of Cupertino**



*Prepared by:*

**SCHOOLHOUSE SERVICES**

*Economists and Planners*

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February 2016



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## **SUMMARY**

The proposed Hills at Vallco includes 800 relatively small apartments over ground floor retail, including 680 market rate units, 80 below market rate (BMR) affordable rentals and 40 age-restricted senior units. Proposed non-residential uses consist of about three million square feet of office space and associated amenity and support uses, 650,000 square feet of retail and other commercial space, 40,000 square feet in facilities available for civic uses, and 150,000 square feet of civic use and infrastructure space. The name of the project reflects a 30-acre green park and open space roof.

The enrollment and fiscal impacts of the apartments on Cupertino Union School District (CUSD) and Fremont Union High School District (FUHSD) are summarized below. In addition to required mitigation, the developer has signed letters of intention (LOIs) to provide substantial benefits to the two districts at an estimated cost of \$40,000,000. Both districts have concluded that, if these benefits are provided, the Vallco project would be of net benefit to them.

- ❑ Both CUSD and FUHSD have grown steadily in recent decades. However, due to maturing households and the rapid increase in the cost of housing, CUSD enrollment is now projected to decrease by about 400 elementary and 500 middle school students over the next five years (prior to any significant student generation from the Vallco project). FUHSD enrollment is expected to increase by about 600 students over the same period, then begin to decline as smaller cohorts move up from the younger grades.
- ❑ The demand for housing in the CUSD and in the Cupertino High attendance area is very high. The Hills at Vallco apartments are projected to have students per household generation rates of 0.28 for CUSD and 0.06 for FUHSD, a total of 0.34 students per household, though recent student counts indicate decreasing generation rates.
- ❑ Based on the above SGRs, an enrollment impact of 258 students is estimated as a result of the Vallco project: 144 students in the Collins Elementary attendance area; 68 students in the Lawson Middle attendance area, and 46 students in the current Cupertino High attendance area.
- ❑ The most significant benefit included in the developer's CUSD LOI is the construction of a new 700 student school on the Site of the former Nan Allan School, adjacent to the Collins school. This school would provide capacity for Vallco project students and reduce enrollment pressures on Collins and the schools north and east of Collins.
- ❑ The recent addition of 21 classrooms at Lawson Middle School brings its capacity up to about 1,500 students, significantly above its Fall 2015 enrollment of 1,249 students. Enrollment in the 2018-19 school year is projected to be at the same level, allowing room for the Vallco project students.

- ❑ The recent addition of 12 classrooms at Cupertino High School increases capacity approximately equal to the 300 student projected enrollment growth in Cupertino High's current attendance area. Lynbrook High, whose attendance area borders Cupertino's on the south, is projected to experience a decline of about 240 students in the next five years. The district recently allowed students from Miller Middle School, in the current Cupertino School attendance area, to attend Lynbrook and established a district-wide citizens advisory committee "to study the enrollment needs of the district...."
- ❑ The developer's LOI to FUHSD provides for a 10,000 square foot "Innovator Space" for 34 years in the Vallco project. The district sees this space as a unique opportunity to help students relate their classes at the comprehensive schools to the tech activities of Silicon Valley.
- ❑ For both districts one-time development fee revenue from The Hills at Vallco project is anticipated to be significantly less than the share of school facilities costs attributable to the project, consistent with the intent of the state-set limits on fees. However, the magnitude of the costs of the benefits to be voluntarily provided by the developer are a multiple of the costs of full mitigation of the project's impacts.
- ❑ The share of CUSD annual operational costs attributable to the Vallco project are anticipated to be approximately equal to operational revenue from the project due to the developer's commitment to pay in lieu parcel taxes on the market rate apartments.
- ❑ In contrast, FUHSD operational revenues from the project will exceed operational costs attributable to the project by a large amount, about \$109,000 per student. The result is a projected annual surplus of about \$5.0 million for FUHSD.



## **I. ENROLLMENT IMPACTS**

### **The Hills at Vallco Project**

The City of Cupertino has contracted with Schoolhouse Services to conduct an analysis of the enrollment and fiscal impacts of the proposed The Hills at Vallco project (also referred to as the Vallco project in this report) on the Cupertino Union School District and the Fremont Union High School District. The land-owner, Vallco Property Owner, LLC, and the developer and applicant, Sand Hill Property Company, are seeking approval for the project on the site of the Vallco Shopping Center on Wolfe Road at its intersection with the Interstate 280 freeway. The developer envisions the project to be a center of community activity, with a variety of activities situated around two town squares, one on each side of Wolfe Road with a connecting overpass. The name, The Hills at Vallco, refers to the sloping roof design that presents a 30 acre green environment, with parkland and open space, to viewers outside of the project.

### **On-site Components**

The residential component of the proposed new development consists of 800 apartments over ground floor retail, which would include 680 market rate units, 80 below market rate (BMR) affordable rentals and 40 age-restricted senior units. Sixty percent of the units are studio and one-bedroom units. The apartments are relatively small, the interiors averaging only 800 square feet in size. Amenity uses including a clubhouse/fitness pavilion are associated with the residences.

Proposed non-residential uses consist of about 2.3 million square feet of office space and associated amenity and support uses, 650,000 square feet of retail and other commercial space, 40,000 square feet in facilities available for civic uses, and 110,000 square feet of support infrastructure area. The commercial space is required to include 420,000 square feet of restaurants and similar uses by the city's General Plan and the theatre, bowling alley and ice rink are being retained. The land uses are listed in more detail in Table I-1 below.

The 30-acre roof supporting playgrounds and green open space is a distinguishing feature of the development. It is planned to include 3.8 miles of walking/hiking trails, bike paths, children's play areas, and gardens and vineyards; the majority of the area will be green open space. Parking is planned for 9,175 vehicles, the large majority of it in underground structures. The project requires the demolition of approximately 1,200,000 square feet of existing retail space as well as associated parking garages.

**Table I-1  
The Hills at Vallco Project**

	<i>Units</i>	<i>Square Feet</i>
<b><i>Apartments</i></b>		
<i>Non-senior Units</i>	680	723,100
<i>Senior Units</i>	80	38,700
<i>Non-living Space</i>	40	38,200
<b><i>Residential Total</i></b>	<b>800</b>	<b>800,000</b>
<b><i>Non-residential</i></b>		
<i>Office</i>		2,000,000
<i>Office Support<sup>1</sup></i>		345,000
<i>Commercial/Retail<sup>2</sup></i>		420,000
<i>Commercial/Entertainment<sup>3</sup></i>		180,000
<i>Commercial/Other<sup>4</sup></i>		50,000
<i>Civic<sup>5</sup></i>		40,000
<i>Residential Amenity</i>		25,000
<i>Support Infrastructure<sup>6</sup></i>		110,000
<b><i>Non-residential Total</i></b>		<b>3,170,000</b>

<sup>1</sup> *Includes testing and workshop area, conference hall, cafeteria and fitness*

<sup>2</sup> *Retail and restaurants*

<sup>3</sup> *Theatre, ice rink, and bowling alley*

<sup>4</sup> *Fitness*

<sup>5</sup> *Community meeting space, high school innovation center, and transit center*

<sup>6</sup> *Loading, facility, and security areas and central plant*

*Source: Sand Hill Property Company*

School District Benefits

The project is located within the school district service areas of Cupertino Union Elementary School District (CUSD or Cupertino District) and Fremont Union High School District (FUHSD or Fremont District). It is located within the Collins Elementary School and the Lawson Middle School attendance areas, both part of CUSD. The project is in the Cupertino High School attendance area within the FUHSD.

State law specifies that a school district can only require payment of state authorized fees to mitigate school impacts. For the Hills at Vallco, the developer has voluntarily proposed funding for specific facilities and program improvements beyond its obligations under state law.

Discussions with the two districts on their facility needs have resulted in Letters of Intent (LOIs) signed by Sand Hill Property and the school districts to address district needs.

The improvements proposed in these LOIs are substantial; the developer estimates their cost at more than \$40 million. The benefits have also been evaluated below in this report as part of the school enrollment and fiscal impacts on the two districts.

The Letter of Intent to the Cupertino Union School District provides for the following benefits.

- The construction of a new school on the former Nan Allan School site. This is a small site on the Portal Avenue side of the Collins campus. The site currently houses district administrative facilities and a small pre-school; these activities would be moved elsewhere. By using multi-story buildings, the site will accommodate a school for 700 students.
- The developer is committing to replacing the relocatables that are part of Collins School with new two-story classrooms. This will also result in more ground space being available.
- The LOI commits the developer to improving the Collins playground, a large portion of which is currently unusable.
- The creation of a \$1,000,000 quasi endowment fund to support the Yosemite Science Program for eighth grade students.
- Sand Hill Property had agreed to remain subject to payment of statutory development fees on the Vallco project construction, generating funds to CUSD's capital account. Sand Hill has also committed that in lieu parcel tax payments would be made for the non-senior market rate apartments, as though they were separate parcels rather than a single parcel, per current taxes and parcel taxes as authorized in the future.

The provision of the new Nan Allan School is particularly important to CUSD. It has long seen the need another school in the northern portion of the district and, while it would ideally be located north of Interstate 280, located at the Collins campus it does provide additional capacity in the larger northern portion of the district.

Sand Hill Property has executed a similar LOI to the Fremont Union High School District. It focuses on the following.

- A new 10,000 square foot, turn-key Innovation Center within the project for the FHUSD, with a lease with rent of \$1 per year for a term of 34 years. The Center could be used by students for the following:
  - Student led business incubator
  - Work-based learning initiatives hub



- Robotics team competition arena
- Multi-disciplinary student maker creativity brainstorming and prototyping space
- Centrally located classroom for students from all five campuses within the district
- Performance space
- Exhibition space
- 
- As with CUSD, Sand Hill Property had agreed to remain subject to payment of statutory development fees on the Vallco project construction and also committed that in lieu parcel tax payments would be made for the non-senior market rate apartments, as though they were separate parcels rather than a single parcel, per current taxes and parcel taxes as authorized in the future.

The stated intention of the Vallco developer is to provide resources to CUSD and FUHSD substantially in excess of the development fee mitigation required by state law. CUSD and FUHSD have expressed the view that the LOIs do provide significant benefits in addition to the fee revenues, and in so doing more than mitigate the impacts of the project.

**Enrollment Considerations**

A projection of new student enrollment resulting from The Vallco Hills project is necessary for identification of the potential impact of the proposed development on the impacted schools. Student generation rates (SGRs), the average number of students per new housing unit, are the key factor for the projection of enrollment into the future. Multiplying the number of new units by an appropriate SGR results in a projection of students from the units.

Different housing types generate different SGRs. Single family detached units with private yards usually generate the most students, typically approximately two to three times the number of students generated by most apartment units and condominiums. Within the range of apartments and condominiums, however, student generation can vary significantly, with the sizes and the design and marketing of the units being major factors. The majority of apartments and condominiums are not designed for families. Most of these units are smaller than single family homes, ranging from studio and loft units to predominantly one and two-bedroom units. They are usually in multi-story buildings and lack private yards. However, if located in a highly rated school district and especially if they are in a family-friendly setting, relatively large apartments and condominiums can generate almost as many students as single family detached units.

SGRs of Recent Residential Development in Cupertino

Enrollment Projection Consultants (EPC) has been the demographer for both the Cupertino District (elementary and middle schools) and the Fremont District (high school) for many years. As part of its work the firm determines student generation (counts the number of students) for a large number of relatively new housing units of various housing types. The student generation rate (SGR) for a given type of homes is the number of students counted divided by the number of units generating those students. The SGRs are then multiplied by the number of projected new units of each housing type to project future enrollment from new housing.

The EPC surveys are the logical place to start in estimating the SGRs for The Hills project. The most recent survey covered 585 units in multi-family buildings, mostly apartments but also including some condominiums, built in the last few years. While, one and two-bedroom units dominate the sample, it also includes some studios and some larger units. A few low-rise multi-family buildings with generally larger units and/or that appear to be designed to accommodate families are not included in this sample; they have been grouped with single family homes in a separate 294 unit sample for EPC’s analysis.

The survey by Enrollment Projection Consultants found an average SGR for the CUSD (kindergarten through eighth grade) of 0.33 students per multi-family residential unit, or approximately one student in every three homes. The average high school SGR for the Cupertino District portion of FUHSD was 0.09 per unit in multi-family buildings. (This is more than four times the 0.02 high school SGR in the remainder of the Fremont District.) These rates include some below market rate (BMR) units in the buildings, but not buildings devoted entirely to BMR units.

Tables I-2 and I-3 summarize the SGR findings for both CUSD and FUHSD for the residential projects analyzed. (The SGRs for single family units are included for reference only since no single family units have been proposed for the Vallco development.)

**Table I-2  
Average SGRs by Housing Type  
Cupertino Union School District**

<i>Housing Type</i>	<i>Average SGR</i>
<i>Most Apartments and Condominiums</i>	<b>0.33</b>
<i>Single Family Detached Units*</i>	<b>0.57</b>

*\*Includes a few family-friendly apartments and condominiums  
Source: Enrollment Projection Consultants.*

**Table I-3  
Average SGRs by Housing Type  
Fremont Union High School District\***

<i>Housing Type</i>	<i>Average SGR</i>
<i>Most Apartments and Condominiums</i>	<b>0.09</b>
<i>Single Family Detached Units**</i>	<b>0.24</b>

*\* City of Cupertino portion of FUHSD  
\*\*Includes a few family-friendly apartments and condominiums  
Source: Enrollment Projection Consultants.*

The Hills at Vallco project units will be in some ways different from many of the buildings included in these averages; this suggests that SGRs of buildings with specific similarities to the project would be relevant. The “19800” apartments, also known as the “Rosebowl”, are adjacent

to the proposed project site. As of Fall 2015, 184 units (out of 204) had been rented. These units have 60 CUSD students, an SGR of 0.33, and 13 FUHSD students, an SGR of 0.07. It should be noted that these units are on average significantly larger than the proposed units in The Hills at Vallco project, indicating that the Rosebowl SGRs are likely to be higher than those of the units in the Vallco project.

The 80 new units in the Biltmore apartments, nearby along Stevens Creek Blvd., have significantly lower SGRs - 12 CUSD students, an SGR of 0.15, and three FUHSD students, an SGR of 0.04. These SGRs are surprisingly low, especially given that the units are modestly larger than the proposed units in the Vallco project. These two are the only large projects that have been renting in the last 18 months. Table I-4 shows other developments and their SGRs.

**Table I-4  
SGRs in Comparable Developments**

Development	Unit Characteristics	Number of Units	CUSD SGR	FUHSD SGR
<i>19800/Rosebowl</i>	much larger apartments <sup>1</sup>	184 <sup>1</sup>	0.33	0.07
<i>Biltmore Addition</i>	larger apartments <sup>2</sup>	80	0.15	0.04
<i>Earlier Apartments<sup>3</sup></i>	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.

Finally, four earlier large apartment projects (built 1995 to 2000) provide a large, but not as recent, sample of 828 rental units. The CUSD SGRs for these projects in 2013 were 0.25 for grades K-5 and 0.07 for grades 6-8, a total of 0.32. The FUHSD SGR for grades 9-12 was 0.07. It should be noted that the rents were considerably more affordable when the tenants rented these units and it not likely that their rents had escalated to the level of new units constructed in the few years prior to 2013. The district-wide sample of recent multi-family buildings that year had a CUSD SGR of 0.35 and a FUHSD SGR of 0.12, the high school SGR in particular being almost double the SGR of the larger projects. These comparisons from the larger, but older survey, support the conclusion that SGRs in large multi-family projects are lower than the SGRs of all multi-family units in the survey.

The Hills at Vallco SGRs

We know from our many studies that certain characteristics are often associated with adult oriented complexes (and hence few students). These include:

- The units have more studios and one bedroom units than units with two or three bedrooms;
- The units are small, in particular lacking larger kitchen/family eating areas;
- Though small, the apartments are expensive; families can usually get more for their money in older buildings and alternative locations;
- They tend to be in taller buildings, with a minimal number of the units at ground level;
- They are not in a residential environment; apartments situated in the midst of an urban commercial environment are more likely to appeal to adults than to families with children.
- They lack yards with limited access and play structures for pre-school children, and lack lawns in the complex for the play of elementary school-age children;
- There is no more than one assigned parking space per unit;
- They are marketed for their sophisticated adult life style;
- To make living at such a high density attractive, they include features such as physical fitness centers, party lounges, business centers, gated entrances, etc., all oriented to adult preferences, but adding to the price. They do not include child care facilities.

The proposed apartments within the project will generally match the characteristics listed. They will be four to seven stories tall; the ground floors will be commercial. The units are small, averaging about 800 square feet within each unit. Amenity features in the complex, e.g. a fitness center, will be oriented to the preferences of young, working adults but not so much to families with young children. The roofs will be designed to provide recreational space, the only factor appearing to make the units attractive to families with children.

Most important, they will be expensive. The market for apartments is a primary consideration. The wild success of technology (including internet) firms, many of them young companies, has created a demand for young engineers and entrepreneurs, with relatively large salaries as a result. The housing supply is inadequate and rents have escalated tremendously. Many of these tech employees can afford the high rents, though many have to double up to do so, two people sharing a two-bedroom unit, each having his/her own room. It has become very difficult for young families to compete for two- and three-bedroom apartments in the heart of Silicon Valley.

For the above reasons the projected Vallco SGRs are below the average SGRs from EPC's survey of recently added multi-family housing. This is consistent with the survey of 800+ earlier units that demonstrated that smaller units in large relatively high-rise buildings have lower student generation than the average for all multi-family buildings. The recently rented 19800



(Rosebowl) units provide a very relevant comparable, though some adjustments have to be made due to the smaller units in the proposed project. The new units at the Biltmore, also recently rented, indicate the potential for markedly lower SGRs.

In summary, our perspective is that The Hills at Vallco SGRs are likely to be modestly below the average of the large sample of recent multi-family projects and between the Rosebowl SGRs and those of the Biltmore units. The low Biltmore SGRs indicate that the SGRs used here could be high, but they are deliberately chosen to be conservative. For the proposed apartments for purposes of this analysis, a 0.19 SGR for elementary school and a 0.09 SGR for middle school, for a total CUSD SGR of 0.28, and a 0.06 SGR for FUHSD are used, based on the reasons identified above. These assumptions were checked by development of a scenario of sub-SGRs for each size unit, from studios to 3-bedroom units, fitting the project SGRs. Table I-5 above shows the project SGRs by grade level for CUSD and FUHSD.

**Table I-5  
Vallco Development  
Projected SGRs**

	<i>Vallco Project</i>
<i>Elementary (K-5) SGR</i>	0.19
<i>Middle (6-8) SGR</i>	0.09
<b><i>Total CUSD SGR</i></b>	<b>0.28</b>
<b><i>High School (FUHSD) SGR</i></b>	<b>0.06</b>

*Source: Schoolhouse Services.*

Enrollment Impacts

With appropriate SGRs we can proceed with the calculation of the enrollment generated from the 760 non-senior apartments. (The number of students generated by the 80 senior units will presumably be negligible. It should also be remembered that the SGRs analyzed above and those chosen for the Vallco project include a proportion of BMR units.) We can also assess the impact of that development on the current enrollment at the impacted schools, which the districts expect to be at the Collins/Nan Allan Elementary campus, Lawson Middle, and Cupertino High. Table I-6 shows the calculated student enrollment impact resulting from the project three to ten years after construction of the units.

**Table I-6  
Estimated Enrollment Impact\***

	<i>Elementary</i>	<i>Middle</i>	<i>High</i>	<i>Total</i>
<i>Apartments</i>	760	760	760	760
<i>SGR</i>	0.19	0.09	0.06	0.34
<b><i>Students Subtotal</i></b>	<b>144</b>	<b>68</b>	<b>46</b>	<b>258</b>

*\* Three to ten years after construction of the units.*

*Source: Schoolhouse Services.*

Given the assumptions described above, the Hills at Vallco development is projected to generate approximately 258 students. It is anticipated that the 144 K-5 students projected will be in the current Collins/Nan Allan Elementary attendance area. Sixty eight students will be attending Lawson Middle School, and 46 students will be attending Cupertino High School, perhaps in the time period 2025-2030.

These estimates are reasonable for the proposed units. However, many characteristics of the units are unknown and the market is uncertain; the actual enrollment generated could vary moderately up or down from these numbers, especially since we are talking about perhaps 10 years and further into the future. We suggest that the forecast be considered as being a total of 200 to 300 students; given the intention that the projections be conservative, there is more potential for enrollment being below 258 students than above.

## **Enrollment and Capacity of Cupertino Union District Schools**

### District-wide Enrollment

A discussion of the capacity of schools needs to start with a consideration of capacity versus enrollment of the district as a whole. Cupertino Union has been a rapidly growing school district. Enrollment has increased almost every year, going from 15,571 in the fall of 2001 to 18,924 in the Fall of 2015, an increase of more than 20% accommodated without additional schools in the District. This has overcrowded many of schools, particularly in the northern and northeastern portions of the District. Many of the schools are housing far more students than their design capacity, primarily by adding modular classrooms and, more recently, two story classroom buildings. School classroom support facilities - cafeteria/general purpose spaces, administrative offices, support classrooms for music/art or for students with targeted needs, playground space and facilities, etc. - are over-crowded in some schools.

A different enrollment trend is now projected for the next five years. The Enrollment Projection Consultants (EPC) Fall 2015 study projects a decline of over 900 students district-wide over this period. Two main factors appear to be responsible for this decline. One is a long understood and anticipated maturation of households whose students are graduating and moving on. This process has been ongoing over the last decade, particularly in the southern half of the district, but the resulting loss of students was in the past more than compensated for by the growth in young families in the northern portion of the district.

The other factor causing a loss of students is relatively new. Rapidly rising rents are resulting in young families being priced out of the district. Rising home prices are also making it much more difficult for young families to move into the district, though they do not price out existing homeowners and thus have less effect than on renters. Many of the households with the financial resources to move into the district are young tech employees, many not yet married and relatively few with school age children. EPC sees this factor continuing to reduce enrollment over the next five years.

This is the first year in many that the EPC report has not forecast growth beyond the five-year period. This reflects the firm's uncertainties about the longer term picture. In particular, in the long term the young tech workers will be older; a decade from now, many will be married and with children in the household. Additionally, rising values could lead to more home sales by older households in the district, with the buyers being tech employee households, including workers who currently choose to live in San Francisco because of its more urban life style, but with school-age children will likely come to prefer a more suburban environment with good schools. How these factors will balance out is difficult to predict.

### Elementary Schools

Against the district-wide overall picture, attention must be given to (1) what is happening in the elementary schools compared to the middle schools and (2) the differences in the various parts of the district. A decline in elementary enrollment over the next five years, reflecting the large number of maturing households, has been projected by EPC in previous reports. The current report adds awareness of the smaller number of young families due to housing affordability issues. It projects that over the next five years elementary enrollment will decline by almost 400 students, a three percent decline from 12,362 students to 11,964 students. The decline would be even greater except for EPC's projected increase of 900 housing units (including an estimate of only 50 units from the Vallco project).

The rate of decline will not be the same throughout the district, differing among three areas of the district. The majority of the schools north and northeast of I-280 will still be experiencing some growth worsening already serious capacity problems. Schools in the central area lying below I-280 and Bollinger Road (Collins, Garden Gate, Eaton and Sedgwick) overall are crowded, though not to the extent of the northern schools. These central area schools are now beginning to experience decreases in enrollment. The schools in the southern portion of the district have already passed their peak enrollment and have a continued decline projected in the future.

Wolfe Road is the dividing line between the Collins and Eisenhower attendance areas. While the proposed project encompasses property on both the east and west sides of Wolfe Road, the residential portion of the development is limited to the property located on the west side of Wolfe Road. In any case, CUSD anticipates that the students generated by the project would be assigned to the Collins/Nan Allan campus and Lawson Middle School attendance areas.

The relationship between a school's enrollment and the count of students residing in the school's attendance area needs to be explained.

- The Cupertino District has developed programs and magnet schools that are located at campuses with available capacity, generally schools in the south part of the district; CLIP, the Chinese Language Immersion Program, is an example. Many students participating in the program are drawn from attendance areas in the northern/northeastern and central tiers of the district, lessening the pressure on these overcrowded schools.

- Special Day Class (SDC) programs are located in the southern schools, again drawing some students from the more crowded schools.
  - There are situations in which students are directed to a school in a nearby attendance area, shifting enrollment south and lessening the pressure on the over-crowded schools.
- All of these practices have some inherent disadvantage, but it is a more favorable resolution than either having the northern schools even more crowded or having fewer voluntary choices of schools.

Collins Elementary currently has only 36 more students residing within its attendance area than attending the school, making it approximately in balance when the factors in the preceding list are considered. Looking ahead, the number of students residing in its attendance area is projected to decline by 49 students over the next three years.

District staff considers that Collins Elementary School has a maximum capacity of about 700 students. However, this assumes that all rooms are continually utilized and additional academic support space would be desirable. The staff considers about 600 students to be a more effectively managed school size.

Fall 2015 enrollment at Collins Elementary School is 719 students; the projected decline of 49 students residing in the attendance area will reduce enrollment by the year 2019 to 670 students. This reduces the severe overcrowding, but leaves no room to accommodate the 144 students projected from the Hills at Vallco project. As described earlier the developer, working with CUSD, has agreed in the LOI on the voluntary construction of a new school at the site of the former Nan Allan School to add capacity for 700 students. The construction of this school would accommodate all the elementary students from the Vallco project, allow for reduction of enrollment at Collins to a desirable level, and accommodate some students from Stocklmeir and other crowded schools.

### Middle Schools

Growing enrollment in the school district was until recently threatening to overwhelm the capacity of CUSD middle schools. Enrollment reached 6,562 students in the Fall 2015 counts while the General Plan Housing Element study calculated capacity at desirable educational standards at a much lower figure. However, since that study proceeds from a bond issue have allowed the district to complete several projects that add enrollment capacity.

The most important is the relocation of CUSD offices to office space on Mary Avenue in Sunnyvale, freeing up the site adjacent to Lawson Middle School to add 12 classrooms, bringing capacity up to about 1,500 students. Classrooms added to the Cupertino Middle School also brought capacity up to that level.

The decline in enrollment in the K-5 elementary schools, which is already underway, is projected to begin soon in the middle school grades. EPC is expecting a decrease of about 500 students between now and the Fall of 2020, the majority showing in lower counts in the fourth and fifth years (2019 and 2020). However, the decline of students living in the Lawson Middle School attendance area is projected to be relatively modest.

Lawson Middle School had a Fall 2015 student enrollment of 1,249 students, about 250 students below its capacity. This enrollment includes 60 more than the 1,189 CUSD students residing within its attendance area. These intra-district students include students from the adjacent Cupertino and Kennedy attendance areas, these being the largest schools in the district.

### **Enrollment and Capacity of Fremont Union High School District Schools**

The Fremont Union High School District had a Fall 2015 enrollment of 10,683 students, with all but 37 of them attending its five comprehensive high schools. This is an increase of about 800 students over the last decade. Enrollment Projection Consultants projects that this pattern will continue over the next five years with a further increase of 625 students over this period, bringing enrollment to about 11,300, an increase of about six percent. This increase is due to the larger cohorts already in the older elementary school grades and middle school grades entering the high schools. EPC has not made quantitative forecasts past that point, but it is expected that the decreases projected over the next five years in its feeder districts will begin to be reflected in FUHSD enrollment as the smaller feeder district cohorts move into the high school grades.

FUHSD staff has just completed draft calculations of enrollment capacity of district schools in the 2016-17 school year. Assuming moderate compromises in order to maximize capacity, the enrollment capacity of these five schools is determined to be 11,095 students. In other words, the district's current capacity is more than its current enrollment, but a little less than its expected coming peak enrollment.

Cupertino High School had a Fall 2015 enrollment of 2,233 students. EPC projects the increase of students residing in its attendance area over the next five years at 312 students, about half of the district's growth. Staff estimates Cupertino High School's capacity at 2,268 students. This is adequate for current enrollment, but not for the expected increase.

The Lynbrook High School attendance lies south of Cupertino's attendance area. Lynbrook had a Fall 2015 enrollment of 1,767 students, with a projected decline of 243 students living in its area over the next five years. Lynbrook's calculated capacity is 1,803 students, ideal for current enrollment but significantly greater than projected enrollment. The Board acted in January 2016 to allow students from Miller Middle School to choose to enroll at Lynbrook and appointed a committee to study options for changes in district attendance assignment policies.



## II. CAPITAL FACILITIES COST AND REVENUE IMPACTS

This section of the report addresses the cost of accommodating students from Vallco and compares the cost with the development fees the project will generate and with the cost of the proposed voluntary supplemental benefits. As with the consideration of enrollment impact, mitigation, and voluntary benefits, both one-time capital and annual operating fiscal impact projections cannot be precise. This is generally the case in predicting the effects of development on schools, but is particularly so in this case where the full impacts will not be felt until a decade or more in the future. Nevertheless, in this case, the estimates present a relatively clear picture.

### **Facilities Costs**

#### Elementary and Middle School Costs

The analysis of elementary school capacity above shows that about 144 additional students generated by The Hills at Vallco project would be generated within the Collins Elementary School attendance area. Even if Collins were to remain stressed from more students than it was designed for, it could not accommodate these students. This is the primary CUSD need addressed in the benefits to which the developer is committing. The cost of additional capacity if the district builds capacity for the Vallco project elementary students offers financial perspective on the impact and perspective on the benefit if the developer constructs Nan Allan School.

On the middle school level, because of the recent construction bringing capacity at Lawson up to 1,500 students, the district can accommodate the 68 projected additional students from the Vallco project at the school. In effect, a portion of the debt incurred to build the Lawson addition, that attributable to space for 68 students, is the cost impact of the Vallco project.

Table II-1 shows the cost impact of the Hills at Vallco project generated students on the Cupertino Union School District.

**Table II-1  
The Hills at Vallco Cost Impact  
Elementary and Middle Schools**

<i><b>Elementary School</b></i>	
<i>Number of Students</i>	144
<i>Cost per Student</i>	\$29,780
<i><b>Cost Impact</b></i>	<b>\$4,288,320</b>
<i><b>Middle School</b></i>	
<i>Number of Students</i>	68
<i>Cost per Student</i>	\$32,640
<i><b>Cost Impact</b></i>	<b>\$2,219,520</b>
<i><b>Total CUSD</b></i>	<b>\$6,507,840</b>

*Sources: City of Cupertino Housing Element and Schoolhouse Services.*

The costs in Table II-1 are from the June 2014 study of school impacts for the City of Cupertino Housing Element of the General Plan. The report determined CUSD’s cost of providing additional capacity in multi-story buildings at \$29,780 per elementary student and \$32,640 per middle school student based on recent district projects; these costs are conservatively used here as current costs. (It should be understood that, unless noted otherwise, all cost and revenue figures are expressed in January 2016 constant dollars.) The building cost is relatively high because it is based on multi-story buildings constructed on a constrained site. However, it does not include any land acquisition costs.

High School Costs

The General Plan Housing Element study (June 2014) determined that the cost for additional high school capacity based on FUHSD recent projects was \$69,600; again this figure is conservatively used as a current cost. The building cost is relatively high because it is based on multi-story buildings constructed in a constrained site, but it does not include any land acquisition costs.

It is not known whether FUHSD would incur future costs of new capacity to have the capacity to accommodate students from the Vallco project. The advisory committee and the board will be considering various attendance options. But the cost impact of the Vallco project students on the district can, similar to the situation with the middle schools, be seen as a share of the cost of recent improvements that have added to the district’s enrollment capacity, or perhaps the cost of future improvements. In either case, the magnitude of the cost can be estimated as the cost cited in the General Plan Housing Study report. Table II-2 shows the cost impact of the Hills at Vallco project generated students on the FHUSD.

**Table II-2  
The Hills at Vallco Cost Impact  
High Schools**

<b><i>High School</i></b>	
<i>Number of Students</i>	46
<i>Cost per Student</i>	\$69,600
<b><i>Cost Impact</i></b>	<b>\$3,201,600</b>
<b><i>Total FHUSD</i></b>	<b>\$3,201,600</b>

*Sources: City of Cupertino Housing Element and Schoolhouse Services.*

Table II-3 shows the cost impact of the Hills at Vallco project generated students on both Cupertino and Fremont Union Districts.

**Table II-3**  
The Hills at Vallco Cost Impact  
Cupertino and Fremont Union Districts

<b>Total CUSD</b>	<b>\$6,507,840</b>
<b>Total FHUSD</b>	<b>\$3,201,600</b>
<b>Total Cost Impact</b>	<b>\$9,709,440</b>

**Development Impact Fee Revenues**

A school district adding a significant number of students usually needs to incur one-time upfront costs for capital facilities to house the students. California law provides for fees on residential and non-residential development, usually paid at the time a building permit is issued. The maximum fee amounts were originally conceived of as providing one-half of the cost of facilities to accommodate additional students, though they typically fall short of this share.

The initial fees authorized by state legislation, effective beginning in 1987, are set forth in Education Code Section 17620(a)(1), “The governing board of any school district is authorized to levy a fee, charge, dedication or other requirement against any construction project ... for the purpose of funding the construction or reconstruction of school facilities ....” Even more critically, the section states “A city or county ... shall not issue a building permit for any construction absent certification by the appropriate school district that any fee ... levied by the governing board of that school district has been complied with, ....”

The imposition of these fees, now usually referred to as Level 1 fees, is subject to statutorily prescribed rules. One rule limits the fees to maximum amounts, adjusted biennially for inflation. The fee for residential development was increased in January 2016 to \$3.39 per square foot. Fees can also usually be levied on non-residential development because of the role of employment in causing a need for residences where employees and their children live. The recently adjusted fee for commercial/industrial (C/I) buildings, which includes almost all private non-residential development, is \$0.55 per square foot.

A minority of school districts in the state are eligible, based on factors such as overcrowding and debt, to levy higher residential fees, referred to as Level 2 and Level 3 fees. Few of the districts in the Cupertino area are eligible to levy these fees; neither CUSD or FUHSD are. The same 1998 law that authorized these fees, set forth in Government Code Sections 65995.5 *et seq.*, made it clear that a project’s compliance with a fee program adopted by a district constituted mitigation of the project’s impact; no other mitigation can be required. The Hills at Vallco

project is unusual in that the developer has agreed to fund significant voluntary benefits to the school districts in addition to payment of the fees levied by the districts.

Both CUSD and FUHSD are eligible to levy Level 1 development impact fees on new residential development and the majority of commercial/industrial development. When two districts both serve in an area, they must agree on how the fee revenue is to be split in that area. FUHSD and its elementary feeder districts have such agreements. Per the agreement between the two districts, CUSD will be allowed to collect up to 60% of the maximum fee amount, \$2.03 per square foot of residential development. FUHSD is allowed to collect 40% of the maximum, \$1.36 per square foot of residential development. The maximum fees on commercial/industrial development are \$0.33 and \$0.22 per square foot for CUSD and FUHSD respectively.

California Government Code section 65995.1(a) stipulates that residential units designated for senior housing may be charged only the commercial/industrial rate. Therefore, the 40 Vallco project senior units would be charged \$0.55 per square foot, with the revenue being allocated between the districts according to the agreed upon shares.

The impact fee revenue, the source of school capital improvements funding, will depend on the size and nature of the buildings in proposed project. Other documents provide much more information about the buildings than is included in this report. Here we focus on the characteristics of the buildings that affect development fee revenues and property tax revenues that will accrue to the two school districts.

Table I-1 listed the various types of development in the project with the number of residential units and the square footage of the non-residential buildings. That information is incorporated here into Table II-4 below. The area in parking structures is not included in the table. The reasons are (1) that generally only parking facilities that are paid parking with attendants can justify levying fees and (2) even if fees are justified they likely will be only about \$0.05 per square foot (about 10% of the fee levied on office and retail space). Of course, no fees can be levied for surface parking.

Two court decisions have made it clear that demolition of existing buildings that contribute to school enrollment should result in credit against the fees payable by construction of which the demolition is a component. About 1.2 million square feet of the Vallco shopping center retail space will be demolished. This is also shown in Table II-4. Credit against fees from the demolition of the parking structures will be non-existent or negligible.

The calculations in the table show net fee revenues (after credits for demolition) of about \$2.2 million to CUSD and \$1.5 million to FUHSD. This amounts to \$11,000 per additional CUSD student and \$32,000 per additional FUHSD student.

**Table II-4  
Development Impact Fee Revenue**

	<i>Total Square Feet</i>	<i>CUSD Fee/sq ft</i>	<i>CUSD Fee Revenue</i>	<i>FUHSD Fee/sq ft</i>	<i>FUHSD Fee Revenue</i>	<i>Total Revenue</i>
<b>Apartments</b>						
<i>Non-senior Units</i>	723,100	\$2.03	\$1,468,000	\$1.36	\$983,000	\$2,451,000
<i>Senior Units</i>	38,700	\$0.33	\$13,000	\$0.22	\$9,000	\$22,000
<i>Non-living Space</i>	38,200	\$0.33	\$13,000	\$0.22	\$8,000	\$21,000
<b>Total Residential</b>	800,000		<b>\$1,494,000</b>		<b>\$1,000,000</b>	<b>\$2,494,000</b>
<b>Non-residential</b>	3,170,000	\$0.33	<b>\$1,046,000</b>	\$0.22	<b>\$697,000</b>	<b>\$1,743,000</b>
<b>Gross Revenues</b>	3,970,000		<b>\$2,540,000</b>		<b>\$1,697,000</b>	<b>\$4,237,000</b>
<b>Credit for Demolition</b>	1,200,000	\$0.33	<b>\$396,000</b>	\$0.22	<b>\$264,000</b>	<b>\$660,000</b>
<b>Net Revenues</b>	2,770,000		<b>\$2,144,000</b>		<b>\$1,433,000</b>	<b>\$3,577,000</b>
<b>Number of Students</b>			212		46	
<b>Revenue per Student</b>			<b>\$10,000</b>		<b>\$31,000</b>	

*Source: Schoolhouse Services*

### **Comparison of Capital Costs and Developer Mitigation and Voluntary Benefits**

Table II-5 below shows the calculation of the difference between the development impact fees likely to be generated by the proposed project and the facilities costs per student for each of the districts. (The voluntary benefits, in addition to development fees, proposed by the developer are not reflected in this table.) The table shows a larger net capital cost impact for CUSD and a larger net per student impact for FUHSD. The impacts reflect the high cost of school facilities at CUSD and FUHSD campuses. They would be even higher if not for the substantial fee revenue from the non-residential development portion of the project. The deficits also reflect the design of California law that development fees are only intended to partially mitigate development impacts on schools districts.



**Table II-5  
Development Impact Fees versus School Costs\***

	<i>Fee Revenue Per Student</i>	<i>Facilities Cost Per Student</i>	<i>Per Student Cost Difference</i>	<i>Students</i>	<i>Total Facilities Cost Impact</i>
<i>CUSD-Elementary</i>	\$11,000	\$29,780	<b>(\$18,780)</b>	144	<b>(\$2,704,320)</b>
<i>CUSD-Middle</i>	\$11,000	\$32,640	<b>(\$21,640)</b>	68	<b>(\$1,471,520)</b>
<i>CUSD - total</i>				212	<b>(\$4,175,840)</b>
<i>FUHSD</i>	\$32,000	\$69,600	<b>(\$37,600)</b>	46	<b>(\$1,729,600)</b>
<i>Total</i>				<b>\$258</b>	<b>(\$5,905,440)</b>

\* Both fee revenue and facilities costs are one-time, rather than annual, estimates.

Source: Schoolhouse Services

Recognizing the importance of schools to Cupertino citizens and the role of a positive impact on schools in making the project attractive to them, the developer has, as noted above, offered LOIs that specify voluntary improvements and funding obligations in addition to the statutory development fees. The provision of a new school at the site of the former Nan Allan Elementary School is particularly important to CUSD, as the district has long seen the need for another school in the northern portion of the district. The proposed location, proximate to the Collins Elementary School campus, would provide additional capacity in the greater northern portion of the district. It would provide capacity for about 550 more CUSD students than the proposed project would generate located reasonably close to the overcrowded schools north and east of Interstate 280. The new school would address perhaps the most significant problem the district faces in accommodating its students.

In addition, the construction of permanent classrooms to replace the existing portables at the Collins Elementary School site would improve the usability of the existing playgrounds at the site. The project applicant also proposes to improve the playgrounds as a part of their voluntary improvements and to fund a \$1 million endowment for the 8<sup>th</sup> grade Yosemite science program.

FUHSD sees the “Innovator Space” as a critical element in its future role educating students who may work in the tech industry. Being part of the Valco project, and also its favorable location in the project, allow the district to have a facility in the proximity of the tech world. It is envisioned that student involvement there will enhance the relevance of many of the classes in the district’s comprehensive schools.

The developer has estimated the cost of the benefits at \$40 million. Some of the facts about the benefits are not specific enough for us to generate an accurate independent estimate of the costs, but enough is specified for us to confirm that the cost to the two districts of providing these benefits would be of this order of magnitude.

Table II-4 above calculated the cost impact to the districts based on its recent cost of adding capacity. The table below shows the magnitude of the benefit to the district based on the

developer’s cost estimate. The benefits are a multiple of the deficit assuming only fee mitigation.

**Table II-6  
Fees and Voluntary Improvements Versus Facilities Costs\***

<i>Cost of Voluntary Benefits*</i>	<i>Fee Cost Deficit</i>	<i>Net Benefit</i>
<b>\$40,000,000</b>	<b>(\$5,905,440)</b>	<b>\$34,094,560</b>

*\* Cost of Voluntary Improvements estimated by the developer.*

### **III OPERATING REVENUE AND COST IMPACTS**

#### **Operating Costs**

Operating costs are annual costs and are matched with revenues received annually. Almost all operating costs tend to increase with enrollment if educational standards are to be maintained. These costs include personnel costs like salaries and benefits for certificated and classified employees, which comprise the large majority of a district’s budget. It is possible that there can be some economies of scale, that students can be added without increasing some costs proportionately. But the savings would be small and, therefore, the cost per student estimate here is simply a calculation of the operating expenditures divided by the number of students.

**Table III-1  
Operating Costs**

	<i>Operating Budget</i>	<i>Number of Students</i>	<i>Per Student Cost</i>
<i>CUSD</i>	\$187,371,986	18,924	<b>\$9,900</b>
<i>FUHSD</i>	\$125,000,000	10,683	<b>\$11,700</b>

*Sources: CUSD and FUHSD 2015-16 budgets and Schoolhouse Services*

#### **Operating Revenues**

##### Cupertino Union School District Revenue

The Hills at Vallco project will affect the revenues and costs for the two districts in very different ways. CUSD is a “revenue limit” district. Like other revenue limited districts in the state, its property tax revenues are sufficiently low that it is eligible to receive a supplemental grant from the state’s operating grants program. (Ninety-plus percent of the students in California public schools attend in revenue limit districts.) This grant program in its current version is only in its third year; it folds about 40 funding programs into a single grant program and generally allows districts to allocate the revenue as it see fit.

The program can be briefly summarized as follows. The public school funding level (property tax revenues plus grants) that the state can support across all California districts is determined based on the state budget allocation to K-12 education for the fiscal year and the state Local Control Funding Formula (LCFF). The state then uses the educational budget allocation to supply the additional funds necessary to each district to fill the gap between that level and local property taxes. For example, if the LCFF calculations determine that a district is be supported with \$100 million of property taxes plus LCFF grant, and the district’s property tax revenues are \$70 million, then the LCFF grant is \$30 million.

For each district, the state specified funding level per the LCFF depends on total enrollment and the portion of that enrollment that is learning English or eligible for free or reduced price lunches. CUSD revenue (taxes plus the state grant) due to this program totals \$137 million in this fiscal year, or \$7,230 per student.

The result is that the sum of the revenues from property taxes and the revenue limit program increases proportionately as enrollment increases. Another reality for a revenue limit district is that the increase in property tax revenue from new homes is offset by an equal reduction in the money from the state; thus higher property taxes do not affect the total of property tax and state revenue limit funding. It should also be understood that the above analysis is based on current programs. These programs could be modified in coming years.

The federal and state governments also supply other funding, generally for categorical programs, and these also tend to increase as enrollment increases, as do the relatively small revenues from several local sources (e.g. interest and transportation fees). CUSD operating revenues from these sources total \$42 million, or \$2,210 per student for the 2015-2016 fiscal year.

There is one CUSD funding source (other than the property taxes) that ordinarily would not increase proportionally with enrollment, that being parcel taxes. Parcel taxes flow from measures approved by the voters. The current CUSD parcel tax, which provides less than five percent of district revenues, is \$250 per parcel. It is not known, of course, whether a new measure will be adopted when it expires and, if so, at what level, but a new parcel tax is more likely than not. Since there will not be a large number of parcels in the project, its legally required contribution to parcel tax revenue would be negligible.

However, the LOIs have been updated to require that in lieu parcel taxes equal to the Measure A amounts, as well as any subsequent parcel taxes, will be paid on the 680 non-senior market rate apartments as if they were separate parcels rather than a single parcel. While this requirement is in place, parcel tax revenue would also increase significantly.

In summary, all categories of CUSD revenue sources would tend to increase proportionately with enrollment. The result would be that additional revenue per student and additional expenses per student would be approximately equal.

#### Fremont Union High School District Revenue

FUHSD is one of the relatively few districts in the state that is not a revenue limit district. The District's property tax revenue is moderately above the amount below which the state Local Control Funding Formula (LCFF) comes into play and provides grants supplementing property tax revenue. Because there is no state supplement to property tax revenues (in contrast to the CUSD situation), state revenue does not increase when additional students are enrolled. However, new development generates additional property taxes, increasing the District's revenues. The property tax revenues will be equal to the District's share of the property tax rate times the fair market value established by the Santa Clara County Assessor at the time each building is completed.

Table III-2 shows the calculation of the assessed valuation estimate for the proposed project as proposed. The assessed values are calculated based on per unit and/or per square foot market

values estimated by Schoolhouse based on an analysis of about 30 sales in the last three months as comparables. At this time the real estate markets are changing rapidly, with values up in the order of 15-25% in the last year, so reference information needs to be quite recent. Sales are to a large extent dependent on historically low interest rates and the uncertainty about alternative investments. These, and other, factors could change in the years before construction of the buildings is completed.

**Table III-2  
Assessed Value**

	<i>Number of Units</i>	<i>Square Feet</i>	<i>Assessed Value per Unit/Foot*</i>	<i>Assessed Value (in Millions)</i>
<b>Apartments</b>				
<i>Market Rate</i>	680		\$900,000	\$612
<i>Below Market Rate</i>	80		\$300,000	\$24
<i>Senior</i>	40		\$500,000	\$20
<b>Apartments Total</b>	<b>800</b>			<b>\$656</b>
<b>Non-residential</b>				
<i>Office</i>		2,000,000	\$950	\$1,900
<i>Office Amenity and Support</i>		345,000	\$400	\$138
<i>Commercial/Retail</i>		420,000	\$1,200	\$504
<i>Commercial/Entertainment</i>		180,000	\$400	\$72
<i>Commercial/Other</i>		50,000	\$500	\$25
<i>Civic</i>		40,000	\$100	\$4
<i>Residential Amenity</i>		25,000	\$300	\$8
<i>Support Infrastructure</i>		110,000	\$100	\$11
<b>Non-residential Total</b>		<b>3,170,000</b>		<b>\$2,662</b>
<b>Total</b>				<b>\$3,318</b>

\*Assessed value of parking facilities and the 30-acre roof are included with that of the buildings shown.  
Source: Schoolhouse Services

There are also uncertainties as to how value will be allocated among the buildings; the central plant, for example, has little value in itself, but it is necessary for the income generating buildings. Parking facilities and the 30-acre roof are other components for which it is difficult to assign value independent of its relationship to components that generate significant income. Therefore these estimates should be understood to reflect judgment as much as they reflect statistical data.

The estimated total fair market value of the buildings is \$3.32 billion. The basic property tax rate per California law is one percent of assessed value; the annual base property tax (without voter approved bonds and special taxes) that will be generated by The Hills at Vallco complex is estimated to be \$33.2 million. FUHSD's share of the property tax in the 13-301 tax code area in which the project is located is 16.68% of the total one percent base tax rate; the annual property tax revenue from the Vallco project going to the district general fund is \$5.53 million. If 46 high



school students reside in the 800 apartments, this amounts to \$120,200 for per student. It should be understood that this large per student number reflects the fact that residential development is a relatively small part of the total Vallco development.

Assessed values by law are only allowed to increase by a maximum of two percent annually unless the property changes ownership. This rate is likely to be less over time than the rate at which district expenses increase. There are, however, ballot proposals to remove this limit on the rate of increase for commercial properties.

**Table III-3  
FUHSD Property Tax Impact**

	<i>Assessed Valuation</i>
<i>Estimated Assessed Valuation</i>	<b>\$3,318</b>
<i>Property Tax at 1.0% Tax Rate</i>	<b>\$33,180,000</b>
<i>FUHSD Share of Tax Rate (16.68%)</i>	<b>\$5,530,000</b>
<i>FUHSD Share of Tax Rate per FUHSD Student</i>	<b>\$120,200</b>

*Sources: Santa Clara County Tax Collector, Controller, and Schoolhouse Services*

The voters of both CUSD and FUHSD have approved bond issues for campus improvements. Debt service on the bond issues is spread among property tax payers proportional to assessed value. The current tax rate for CUSD is 0.000519 per dollar of assessed value; the revenue thus paid by Vallco property owners for debt service on CUSD bonds is projected to be \$1.72 million. Similarly, the current tax rate for the Fremont District is 0.000525 per dollar of assessed value and the revenue paid for debt service on the district’s bonds is projected to be \$1.74 million. It should be understood, however, that these revenues do not increase the funds available to the two districts. The bond issues and associated debt service are fixed amounts. The assessed value of new development increases the total assessed value, spreading the debt service among a larger tax base; it does not increase the revenue to the districts. It does decrease by \$3.46 million annually the amount other tax-payers in the districts have to pay.

Other revenues to FUHSD, the largest components being government support (\$7.00 million) and parcel taxes (\$5.75 million), provide \$1,620 per student. Given the developer’s commitment on parcel taxes (FUHSD’s current parcel tax Measure J is \$98 per year), these sources are estimated to increase roughly proportional to district enrollment. They would generate about \$67,000 annually from the Vallco project.

**Table III-4  
Operational Costs Versus Operational Revenues\***

	<i>CUSD</i>	<i>FUHSD</i>
<b><i>Projected Enrollment</i></b>		
Students	<b>212</b>	<b>46</b>
<b><i>Per Student Revenues</i></b>		
State LCFF Funding	\$7,230	
Sources Proportional to Enrollment	\$2,670	\$1,620
FUHSD Share of Property Tax		\$120,200
Total per Student Revenues	\$9,900	\$121,820
<b>Total Operational Revenues</b>	<b>\$2,099,000</b>	<b>\$5,604,000</b>
<b><i>Per Student Costs</i></b>		
Average Cost per Student	\$9,900	\$11,700
<b>Total Operational Costs</b>	<b>\$2,099,000</b>	<b>\$538,200</b>
<b><i>Net Fiscal Impact</i></b>		
Per Student Impact	<b>\$0</b>	<b>\$110,120</b>
<b>Total Impact</b>	<b>\$0</b>	<b>\$5,065,800</b>

\* All costs and revenues shown are annual costs and revenues

Sources: Revenues and costs from the CUSD and FUHSD 2015-2016 budgets, Schoolhouse Services

### Comparison of Operating Costs and Revenues

Table III-4 also shows the operational costs anticipated for both districts as a result of the proposed Hills at Vallco project, which allows for a comparison with the revenues resulting from the project. There is no discernable annual operating impact for CUSD as a result of the additional students from the proposed project. This reflects the perspective that all major funding sources are expected to increase proportionately to the number of students added, as our operating costs.

For FUHSD, at the estimated assessed valuation of the project, there is a net fiscal surplus of about \$110,000 per student for FUHSD, about ten times the district's costs per student. After providing services to an additional 46 students as a result of the Hills at Vallco project, the annual surplus is projected to be about \$5.0 million, a substantial amount.

## MEMORANDUM

TO: Carol Korade, City Attorney

FROM: Ellen J. Garber

DATE: February 25, 2014

RE: Application of SB 50 to Consideration of Development Applications

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### INTRODUCTION and SUMMARY OF CONCLUSIONS

The Leroy F. Greene School Facilities Act of 1998 (“SB 50”)<sup>1</sup> preempts the issue of impacts of new development on school facilities. Therefore, if a developer agrees to pay the fees established by SB 50, the impacts on school facilities may not be analyzed under the California Environmental Quality Act (“CEQA”),<sup>2</sup> no mitigation for impacts on school facilities may be required, and the project may not be denied due to impacts on schools or due to the inadequacy of school facilities. Hence, state law limits the City’s discretion to (i) consider the effects of new development on the ability of schools to accommodate enrollment, (ii) require mitigation, and (iii) deny projects.

A relatively recent case, *Chawanakee Unified School District v. County of Madera* (2011) 196 Cal. App. 4th 1016, holds that development applications may be analyzed under CEQA, and mitigation may be required, if the potential impacts are indirectly caused by the operation or construction of schools on the non-school physical environment.

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<sup>1</sup> Gov. Code §§ 65995-65998 and Educ. Code §§ 17620-17621.

<sup>2</sup> Pub. Resources Code § 21000 *et seq.*

## DISCUSSION

### I. SB 50

Pursuant to SB 50, which was enacted in 1998, impacts on school facilities are not to be considered in an EIR, and SB 50 fees constitute adequate mitigation of those impacts. As SB 50 states, payment of fees “shall be the exclusive method[] of considering and mitigating impacts on school facilities,” and “are . . . deemed to provide full and complete school facilities mitigation. Gov. Code §§ 65996 (a) and (b). See Part II, below. In addition,

A state or local agency may not deny or refuse to approve a legislative or adjudicative act, or both, involving, but not limited to, the planning, use, or development of real property, or any change in governmental organization or reorganization as defined in Section 56021 or 56073 on the basis of a person's refusal to provide school facilities mitigation that exceeds the amounts authorized pursuant to this section or pursuant to Section 65995.5 or 65995.7, as applicable.

Gov. Code § 65995(i).

Even where applicants have agreed to pay school impact mitigation fees, however, if the proposed development, including the school expansion it requires, would cause other environmental impacts—traffic or construction impacts, for example—then those impacts to non-school resources may be analyzed under CEQA. This is discussed in Part III, below.

### II. Impacts of New Development On School Facilities

SB 50 limited the scope of CEQA analysis of impacts on school facilities, making the fees set forth in Government Code section 65995 “the exclusive means of both ‘considering’ and ‘mitigating’ school facilities impacts of projects. The provisions of [S.B. 50] are ‘deemed to provide full and complete school facilities mitigation.’” Kostka & Zischke, *Practice Under the California Environmental Quality Act* (2012), § 14.28 (citations omitted). According to the Kostka & Zischke treatise, SB 50 appears to transform CEQA review of impacts on school facilities into a ministerial function after the applicant agrees to pay the required mitigation fees. *Id.*, § 14.28 (concluding that the law limits not only mitigation but also the scope of the EIR).<sup>3</sup> No case expressly reached

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<sup>3</sup> *Cf.* 9 Miller & Starr, *Cal. Real Estate* (3d ed. 2001) § 25.49, 25–213 to 25–214, fns. omitted (“SB 50 employs three primary means to preempt the field of development (footnote continued)

this conclusion until the *Chawanakee Unified School District* case, discussed below, but logic seemed to dictate this outcome based on the statutory language.

Therefore, if a project applicant has agreed to pay school mitigation fees, the lead agency may not consider the following items in an EIR, nor deny the project based on these considerations:

- impacts on the physical structures at the school (on school grounds, school buildings, etc.) related to the ability to accommodate enrollment;
- mitigation measures above and beyond the school mitigation fee ;
- other non-fee mitigation measures the school district's ability to accommodate enrollment.

### **3. Physical Effects on the Environment Because of School Facilities**

Despite the restrictions on environmental review and mitigation discussed above, SB 50 also states that “[n]othing in this section shall be interpreted to limit or prohibit the ability of a local agency to mitigate the impacts of land use approvals other than on the need for school facilities, as defined in this section.” Gov. Code, § 65996(e). This leaves the agency free to reject a project based on impacts *other* than impacts on the need for “school facilities.”<sup>4</sup> Any number of impacts could fall outside of this definition; for example, impacts on wildlife in the development site, impacts on air quality, or inadequate water supply.

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fees and mitigation measures related to school facilities and to overturn [*Mira* and its progeny]. First, it provides for a *cap on the amount of fees, charges, dedications or other requirements* which can be levied against new construction to fund construction or reconstruction of school facilities. Second, SB 50 *removes denial authority* from local agencies by prohibiting refusals to approve legislative or adjudicative acts based on a developer's refusal to provide school facilities mitigation exceeding the capped fee amounts, or based on the inadequacy of school facilities. Third, it *limits mitigation measures* which can be required, under the California Environmental Quality Act or otherwise, to payment of the statutorily capped fee amounts and deems payment of these amounts ‘to provide full and complete school facilities mitigation [.]’ (emphasis in original).

<sup>4</sup> SB 50 defines “school facilities” as “any school-related consideration relating to a school district's ability to accommodate enrollment.” Gov. Code § 65996(c).

In 2011, the court in *Chawanakee Unified School District* carefully interpreted the statutory language of SB 50 and held that while an EIR need not analyze the impacts on school facilities as a result of accommodating more students, the document must consider the impacts on traffic of additional students traveling to the school and consider other impacts to the non-school physical environment from construction of additional facilities. 196 Cal. App. 4th at 1028-1029.<sup>5</sup>

Courts have found the physical activities caused by school growth to be outside the definition of “school facilities,” and therefore not shielded from review by SB 50. For example, as discussed above, *Chawanakee Unified School District* interpreted the traffic associated with more students traveling to a school to be something other than impacts on school facilities, and therefore subject to review and mitigation under CEQA. Accordingly, traffic impacts resulting from more students traveling to the school, dust and noise from construction of new or expanded school facilities, and any other impacts to the non-school physical environment were not impacts on “school facilities,” and must be addressed in an EIR. According to the court in *Chawanakee*:

Consequently, the phrase ‘impacts on school facilities’ used in SB 50 does not cover all possible environmental impacts that have any type of connection or relationship to schools. As a matter of statutory interpretation . . . the prepositional phrase ‘on school facilities’ limits the type of impacts that are excused from discussion or mitigation to the adverse physical changes to the school grounds, school buildings and ‘any school-related consideration relating to a school district’s ability to accommodate enrollment.’ Therefore, the project’s indirect impacts on parts of the physical environment that are not school facilities are not excused from being considered and mitigated.

196 Cal. App. 4th at 1028 (internal citation omitted).

Hence, the lead agency must determine whether impacts fall outside the definition of “school facilities,” thereby making them subject to environmental review. In light of the *Chawanakee* case, however, the agency’s discretion to conduct environmental review, to require mitigation, and to consider denying the would be limited to physical effects on the non-school environment.

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<sup>5</sup> While SB 50 was not at issue in this case, in *City of Long Beach v. Los Angeles Unified School Dist.* (2009) 176 Cal. App. 4th 889 the court held that an EIR prepared in connection with the construction of a new school properly analyzed health and safety issues, air quality, traffic impacts, and land use issues.



Therefore, a lead agency may consider, in an EIR, among other factors the following impacts potentially caused by school expansion or construction:

- traffic impacts associated with more students traveling to school;
- dust and noise from construction of new or expanded school facilities;
- effects of construction of additional school facilities (temporary or permanent) on wildlife at the construction site;
- effects of construction of additional school facilities on air quality;
- other “indirect effects” as defined by CEQA Guidelines § 15258 (a)(2) (growth-inducing effects, changes in pattern of land use and population density, related effects on air and water and other natural systems). *See Chawanakee Unified School District*, 196 Cal. App. 4th at 1029.

## CONCLUSION

When it comes to arguments about the impact of a proposed development on existing school facilities and their ability to accommodate more students, the CEQA process is essentially ministerial. Agencies must accept the fees mandated by SB 50 as the exclusive means of considering and mitigating the impacts of the proposed development on school facilities. However, nothing in SB 50 or in CEQA or current case law prohibits an agency from conducting environmental review of an application that creates significant environmental impacts on non-school-facility settings or sites, regardless of whether the applicant has agreed to pay mitigation fees under SB 50.

## EXHIBIT EA-1

### CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS AND STATEMENT OF OVERRIDING CONSIDERATIONS FOR GENERAL PLAN AMENDMENT, HOUSING ELEMENT UPDATE, AND ASSOCIATED REZONING

#### I. INTRODUCTION

The City of Cupertino (City), as lead agency under the California Environmental Quality Act (CEQA), Public Resources Code Section 21000 *et seq.*, has prepared the Final Environmental Impact Report for the General Plan Amendment, Housing Element Update, And Associated Rezoning (the “Project”) (State Clearinghouse No. 2014032007) (the “Final EIR” or “EIR”). The Final EIR is a program-level EIR pursuant to Section 15168 of the State CEQA Guidelines.<sup>1</sup> The Final EIR consists of Volumes I and II of the June 2014 Public Review Draft Project Environmental Impact Report (the “Draft EIR”); the August 2013 Response to Comments Document; and the November 3, 2014 Supplemental Text Revisions memorandum,<sup>2</sup> which contains typographical corrections, insignificant modifications, amplifications and clarifications of the EIR.

In determining to approve the Project, which is described in more detail in Section II, below, the City makes and adopts the following findings of fact and statement of overriding considerations, and adopts and makes conditions of project approval the mitigation measures identified in the Final EIR, all based on substantial evidence in the whole record of this proceeding (administrative record). Pursuant to Section 15090(a) of the State CEQA Guidelines, the Final EIR was presented to the City Council, the City Council reviewed and considered the information contained in the Final EIR prior to making the findings in Sections II through XIII, below, and the City Council determined that the Final EIR reflects the independent judgment of the City. The conclusions presented in these findings are based on the Final EIR and other evidence in the administrative record.

#### II. PROJECT DESCRIPTION (the “Balanced Plan”)

As fully described in Chapter 3 of the Draft EIR, the Balanced Plan (also, the “Project”) involves all of the following: (1) a focused General Plan Amendment consisting of revised city-wide development allocations for office commercial, hotel and residential uses, as well

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<sup>1</sup> The State CEQA Guidelines are found at California Code of Regulations, Title 14, Section 15000 *et seq.*

<sup>2</sup> PlaceWorks, *Supplemental Text Revisions to the General Plan Amendment, Housing Element Update and Associated Rezoning Project Final Environmental Impact Report (EIR)* (November 3, 2014) (“Supplemental Text Revisions”).

as buildings heights and densities for Major Mixed-Use Special Areas; (2) updating the General Plan Housing Element to accommodate the Regional Housing Needs Allocation (RHNA) for the 2014-2022 planning period to meet the City's fair-share housing obligation of 1,064 units; (3) amending certain Zoning and Density Bonus portions of the City's Municipal Code to be consistent with the Housing Element and to be consistent with requirements pertaining to emergency shelters; and (4) conforming changes to the General Plan Land Use Map, Zoning Ordinance and Zoning Map for consistency and for revisions required by State law, and reorganization for purposes of increasing clarity and ease of use.

The increased development allocations would be allowed in specific locations throughout the City, which are categorized as follows and are described and depicted on figures in the EIR:

- Special Areas (including City Gateways and Nodes along major transportation corridors);
- Study Areas;
- Other Special Areas (including Neighborhoods and Non-Residential/Mixed-Use Special Areas); and
- Housing Element Sites

The buildout of the potential future development in these identified locations is based on a horizon year of 2040; therefore, the EIR analyzes growth occurring between 2014 and 2040. The 2040 horizon year is generally consistent with other key planning documents, including Plan Bay Area, which is the Bay Area's Regional Transportation Plan/ Sustainable Community Strategy to Senate Bill 375, the Sustainable Communities and Climate Protection Act.

The EIR analyzed the proposed Project (which is "Land Use Alternative C")<sup>3</sup> and three additional alternatives (No Project Alternative, Land Use Alternative A, and Land Use Alternative B), all at the same level of detail. The Balanced Plan is a revised version of Alternative C consisting of the same development allocations and Housing Element sites that were analyzed in the EIR for Alternative C, except, as described in more detail in the next section below, that the office allocation is reduced to the amount analyzed in the EIR for Alternative B, and the maximum height limits are reduced except at one location (Stelling Gateway) as part of reducing the office allocation. The purpose of the revisions to Alternative C in the Balanced Plan is to more closely achieve a balance among the project objectives (see Section II.A, below).

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<sup>3</sup> Draft EIR, p. 2-5 (Table 2-1, footnote a).

## A. General Plan Amendment

Every city and county in California is required to prepare and to adopt a comprehensive, long-term general plan for the physical development of the county or city and, in some cases, land outside the city or county boundaries. Government Code § 65300. The City's current, 2000-2020 General Plan controls the area and density of commercial, office, hotel, and residential uses built in the city through development allocations in terms of square feet (commercial and office), rooms (hotel), and units (residential). The allocations are geographically assigned in certain neighborhoods, commercial, and employment centers so that private development fulfills both City goals and priorities and reduces adverse impacts to the environment. The City allocates development potential on a project-by-project basis to applicants for net new office and commercial square footage, hotel rooms, and/or residential units. As a result of several recent approvals of projects, a large amount of the current office, commercial and hotel development allocation has been granted, leaving an inadequate pool to allocate to additional development in the city.

While the Project is not a complete revision of the City's 2000-2020 General Plan. The current General Plan contains many goals, policies, standards, and programs that the City and community would like to continue into the future. The Project instead focuses on identifying and analyzing potential changes along the major transportation corridors in Cupertino that have the greatest ability to evolve in the near future because the rest of the city consists primarily of single-family residential neighborhoods.

The development allocations in the Balanced Plan are as follows:

- Office allocation (reduced to amount in Alternative B): 2,540,231 square feet (net increase of 2,000,000 square feet from the 2000-2020 General Plan)<sup>4</sup>
- Commercial allocation (same as Alternative C): 1,343,679 square feet (net increase of 0 square feet from the 2000-2020 General Plan)<sup>5</sup>

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<sup>4</sup> The Alternative C proposed office allocation is 4,040,231 square feet (net increase from 2000-2020 General Plan of 3,500,000 square feet).

<sup>5</sup> The EIR provided an analysis for the commercial development allocation of 1,343,679 square feet for Alternative C, which is an increase in commercial development allocation of 642,266 square feet over the remaining allocation of 701,413 square feet in the 2020 General Plan; however, the additional 642,266 square footage does not constitute a net increase in commercial development in Cupertino during the planning period of the General Plan Amendment (through 2040). That is because the entire 642,266 square feet of the increased allocation would come from demolition of Vallco Shopping Center and rebuilding and/or relocating that existing commercial square footage to other sites. Due to the high vacancy rate at the Vallco Shopping Mall under existing conditions, however, the EIR conservatively analyzed the total commercial development allocation of 1,343,679 square feet (642,266 existing square feet + 701,413 new square feet).

- Hotel allocation (same as Alternative C): 1,339 rooms (net increase of 1,000 rooms from the 2000-2020 General Plan)
- Residential allocation (same as Alternative C): 4,421 units (net increase of 2,526 units from the 2000-2020 General Plan )

As shown above, these development allocations consist of a balance among the development allocations in Alternatives B and C. The recommended heights are lower than those studied in Alternative C, however. In most Special Areas the Balanced Plan would have the same height limits as Alternative B, but in one case (South De Anza Avenue) the height limits would be the same as Alternative A. See Land Use and Community Design Element, Table LU-2.

The Balanced Plan provides a better balance of land uses than the Alternative C or any of the other alternatives due to the fact that the office/commercial-to-residential balance is even better than that in Alternative B, which had the lowest VMT of all of the alternatives studied in the EIR. However, it will continue to have significant avoidable impacts for traffic, air quality and noise even after incorporation of all feasible mitigation measures.

The majority of the Balanced Plan is located in the City's Special Areas as identified in the current General Plan. The development allocations can generally be used in Special Areas, Study Areas, Housing Element Sites and Other Special Areas; however, hotel development allocations may not be used in Other Special Areas. The boundaries and proposed changes within each Special Area, Study Area and Other Special Area are described in detail in Section 3.7 (Project Components) of Chapter 3 (Project Description) of the Draft EIR.

## **B. Housing Element Update**

The Balanced Plan includes a comprehensive update to the City's Housing Element (the "2014-2022 Housing Element") in compliance with State law. The Housing Element's policies and programs are intended to guide the City's housing efforts through the 2014 to 2022 Housing Element period. The 2014-2022 Housing Element keeps many of the existing policies and strategies in the 2007-2014 Housing Element and revises them to conform to changes in State law or based on a critical evaluation of the programs and policies. The Housing Element assesses housing needs for all income groups and establishes a program to meet these needs. The policies and strategies have also been reorganized to provide for better readability and to eliminate redundancies.

State law requires each jurisdiction to address how it will satisfy the quantified objectives for new residential units as represented by the Regional Housing Needs Allocation (RHNA). The RHNA identifies Cupertino's housing needs by income levels. The City's housing needs allocation for the period 2014 to 2022 is 1,064 new housing units. The income levels are separated into four categories: very low, low, moderate and above moderate, shown in Draft EIR Table 3-20. Draft EIR, p. 3-66. State law allows jurisdictions

to take credit for residential projects that have been approved, building permits issued during the plan period in which the review is taking place, and second dwelling units (also known as accessory dwelling units) that are anticipated to be constructed during the plan period.

The City has issued entitlements and/or building permits for 30 units since January 1, 2014. Additionally, it is anticipated that because 32 second units (on single-family lots) were constructed in the 2007-2014 plan period, 32 second units will be constructed in the current plan period as well. Therefore, the City can take credit for a total of 62 units (30 units approved and 32 second units anticipated). As a result, the City is required to identify sites for the construction of 1,064 minus 62 units, or 1,002 units.

To accommodate the current planning period's RHNA, the Available Land Inventory in the Draft 2014-2022 Housing Element identified 19 potential housing sites, which are analyzed in the EIR. The State Department of Housing and Community Development (HCD) generally requires jurisdictions to show a surplus of sites/units in order to guarantee that the City could realistically accommodate the RHNA allocations. Of the original 19 sites identified in the Draft EIR, 12 remain for consideration.<sup>6</sup> Approximately 2,085 units could be accommodated on these 12 sites. Draft EIR, Table 3-21, pp. 3-68 to 3-70 and City Council Staff Report for November 10, 2-14 (Table 3). The maximum number for the residential allocation pursuant to the Balanced Plan is 4,421 units, which allows for net new development of 2,526 units above the current General Plan buildout.

HCD generally requires jurisdictions to show a surplus of sites/units in order to guarantee that the RHNA realistically can be accommodated. Based on consultation with HCD and the City's housing consultant expert, it is anticipated that HCD will require sites to accommodate units equivalent to a moderate surplus, between 25% and 40% above the City's housing need, or approximately between 1,250 and 1,400 units. Of the 12 identified sites, the City Council has directed staff to submit six sites to HCD for review as to their adequacy under State Planning and Zoning Law. These six sites can accommodate 1,386 units.

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<sup>6</sup> Of the 19 studied in the EIR, only 12 sites are available for selection. That is because the largest property owner associated with the Intrahealth/Valley Church etc. site on Stelling Road, and the owners of two of the three parcels at Cypress Building/Hall property site notified the City that their properties should not be included in the Housing Sites Inventory. The property owner of a small portion of Shan Restaurant/Q-Mart/China Dance indicated that their parcel should not be included in the Housing Sites Inventory, the resulting reduction in size does not result in a significant change in the size of the site and the balance of the site is included as an Alternate Site. While the property owner of 40% of the Arya/Scandinavian Design site indicated that their property should be removed from the Housing Sites Inventory, this site was already recommended for removal in the Balanced Plan. In addition, four other sites were removed from consideration.



The means of achieving the development of these units are provided for in the policies and programs described in the Housing Element. The City's quantified objectives are identified in Table 3.4 of the Housing Element. The City is not obligated to construct the housing units identified by the RHNA. Rather, the City is required to demonstrate adequate capacity for 1,064 housing units by identifying sufficient specific sites in order to satisfy the RHNA under existing zoning and land use policy.

In addition to analyzing the 2014-2022 Housing Element for the specified planning period, the Final EIR analyzes the overall environmental effects of increasing housing units on a citywide basis to address, which is necessary to address the two future housing elements that are expected to be adopted during the period between 2014 and General Plan Amendment horizon year of 2040. The Plan Bay Area (the Bay Area Region's Sustainability Communities Strategy and Regional Transportation Plan) identifies that the City of Cupertino's housing need by 2040 will be 4,421 units. Therefore, while the Housing Element only identifies the potential for development of 1,064 units on six Available Land Inventory housing sites, the Balanced Plan also adds 2,526 units to the City's current residential development allocation for a total of 4,421 units, the impacts of which are analyzed in the EIR.

### **C. Conforming General Plan Amendments, Zoning Amendments, and Density Bonus Amendments**

As part of the Housing Element update process, Chapter 19.56 (Density Bonus) in Title 19 (Zoning) of the City's Municipal Code will be amended to be consistent with the 2007-2014 Housing Element Program 12 (Density Bonus Program). Chapter 19.20 (Permitted, Conditional and Excluded Uses in Agricultural and Residential Zones), Chapter 19.76 (Public Building (BA), Quasi-Public Building (BQ) and Transportation (T) Zones), and Chapter 19.84 (Permitted, Conditional And Excluded Uses In Open Space, Park And Recreation And Private Recreation Zoning Districts), also in Title 19 (Zoning) of the City's Municipal Code, will be amended to ensure conformance with SB 2 requirements pertaining to permanent emergency shelters and to comply with the State Employee Housing Act with respect to farmworker housing and employee housing. In addition, Program 17 of the Housing Element, which addresses the potential loss of multi-family housing and displacement of lower- and moderate-income households due to new development, will be amended to comply with recent legislation and to mitigate the potential displacement impacts to renters (e.g. tenant relocation benefits).

The Balanced Plan also includes revisions to the General Plan Land Use Map, Zoning Ordinance (including the Chapters listed above and 19.08 (Definitions) and 19.144 (Development Agreements), and the Zoning map to ensure consistency with the General Plan as a result of changes to Housing Element policies or to address changes required as a result of State legislation adopted since the last General Plan update (such as Assembly Bill

1358, Complete Streets), and as a result of bringing non-conforming land uses into conformance with the General Plan and Zoning Ordinance.

#### **D. Project Objectives**

The project objectives are as follows:

- Emphasize employment and a mix of economic development opportunities by replenishing, reallocating, and increasing city-wide office, commercial, and hotel, allocations in order to capture:
  - A share of the regional demand for office and hotel development, and
  - Retail sales tax leakage in the trade area.
- Address local needs and regional requirements for new housing, including affordable housing, in Cupertino by replenishing, re-allocating and increasing city-wide residential allocations to be consistent with 2040 Bay Area Plan projections to allow flexibility for the city when future state-mandated updates are required to the Housing Element.
- Update the Housing Element as required by State law.
- Creating opportunities for mixed-use development consistent with Regional Sustainable Communities Strategies for greenhouse gas emissions reductions as required by SB 375.
- Investing in improvement to adapt to climate change over time.
- Consider increased heights in key nodes and gateways, if proposed development provides retail development and benefits directly to the community.
- Update General Plan policies to implement multi-modal traffic standards as opposed to LOS thresholds currently identified. Balancing development objectives with transportation constraints and opportunities.
- Revitalize the Vallco Shopping District by adopting policies to support its redevelopment, so it becomes a cohesive, vibrant shopping and entertainment destination that serves both the region and the local community.

### **III. ENVIRONMENTAL REVIEW PROCESS**

#### **A. Environmental Impact Report**

On March 5, 2014, the City circulated a Notice of Preparation (NOP) of the Draft EIR to the Office of Planning and Research (OPR) State Clearinghouse and interested agencies and

persons. A postcard notice had previously been delivered in February 2014 to all postal addresses in the City to announce upcoming dates for the General Plan and Housing Element projects. The NOP was circulated for comment by responsible and trustee agencies and interested parties for a total of 30 days, from March 5, 2014 through April 7, 2014, during which time the City held a public scoping meeting on March 11, 2014. Comments on the NOP were received by the City and considered during preparation of the Draft EIR.

The Draft EIR was made available for review by the public and interested parties, agencies, and organizations for a 45-day comment period starting on June 18, 2014 and ending August 1, 2014. The Draft EIR was distributed to local, regional and State agencies. Copies of the Draft EIR in paper or electronic format were available to interested parties for purchase or review at Cupertino City Hall. The Draft EIR was also available for review at libraries in the City and in surrounding communities, and an electronic version of the Draft EIR and all appendices were posted on a website the City created for the combined General Plan and Housing Element projects at [www.cupertinogpa.org](http://www.cupertinogpa.org), which included an electronic comment portal to receive public comment 24 hours a day, seven days a week. The City continues to make these documents available on its website for the Project at the following URL: [http://www.cupertinogpa.org/app\\_folders/view/1](http://www.cupertinogpa.org/app_folders/view/1). The public was also invited to submit written comments on the Draft EIR to the City of Cupertino Community Development Department by mail or e-mail to [planning@cupertino.org](mailto:planning@cupertino.org).

Notice of availability of the Draft EIR was made in several ways. The City sent a postcard announcing the availability of the Draft EIR and inviting attendance at the Draft EIR comment meeting to all postal addresses in Cupertino. In addition, in accordance with CEQA, the City posted the Notice of Availability (NOA) on the Project website. The City also sent emails providing notice of the Draft EIR's availability to all persons who had indicated an interest in the Project and signed up for notifications through the City's website. The local media publicized the availability of the Draft EIR and the public comment period.

The City held a Community Open House and EIR Comment Meeting during the comment period on June 24, 2014. The City solicited written comments at the meeting by distributing comment cards that were collected at the end of the evening.

The 45-day comment period on the Draft EIR ended on August 1, 2014 at 4:30 p.m. Agencies, organizations, and members of the public submitted written comments on the Draft EIR. The Responses to Comments Document, which is the third volume of the Final EIR, was issued for public review on August 28, 2014 and sent to public agencies who had commented on the Draft EIR. Chapter 5 of the Responses to Comments Document provides responses to the comments received during the comment period on the Draft EIR. Late comments received after the close of the public comment period have been addressed in memoranda submitted to the City Council.

On September 9, 2014, the Planning Commission held a Study Session on the EIR and took public comments. On October 7, 2014, the City Council held a Study Session on the Final EIR and took public comments.

On October 2, 2014, the Environmental Review Committee determined that the EIR was adequate and recommended that the City Council certify the EIR. On October 20, 2014, following a duly noticed public hearing on October 14, 2014 that was continued on October 20, 2014, the City Planning Commission, recommended that the City Council certify the Final EIR.

## **B. Additional Housing Element Public Review Process**

The Housing Element must identify community involvement and decision-making processes and techniques that constitute affirmative steps for receiving input from all economic segments of the community, especially low-income persons and their representatives, as well as from other members of the community. Public participation, pursuant to Section 65583(c)(8) of the Government Code, was accomplished in a variety of ways. Outreach was conducted in the form of in-person interviews with stakeholders including several housing-related non-profits and organizations that provide services to low income families and individuals in the City; and with parties interested in the Housing Element process, including property owners and community groups such as the Concerned Citizens of Cupertino and neighborhood groups. Below are some examples of outreach and noticing conducted as part of the Housing Element update.

- Notice postcard sent to every postal address in the City.
- Joint Housing Commission and Planning Commission workshop – January 23, 2014
- Housing Commission Workshop – February 12, 2014
- Open House – February 19, 2014, September 16, 2014
- Study Session held with Planning Commission – February 19, 2014
- Study Session held with City Council – March 3, 2014
- Housing Commission meeting on housing policy – March 19, 2014
- Joint Planning Commission/City meeting on housing policy – April 1, 2014
- Newspaper notices.
- Notices sent to all prospective housing element site property owners prior to City Council authorization to commence environmental review.

- Notices sent to all prospective housing element site property owners prior to Planning Commission and City Council prioritization of the sites for HCD review.
- Webpage hosted focusing on the Housing Element Update process.
- Notice of website additions and Workshop reminders e-mailed to over 300 Housing Element website subscribers.
- Staff presentations at the Chamber of Commerce.
- Housing Commission Meeting – August 28, 2014
- Planning Commission Hearing – October 14, 2014 and October 20, 2014

The City's outreach also included stakeholder meetings with non-profit and for-profit housing developers, building industry trade groups, architects, planners, and affordable housing funders. The Housing Element update process in the City has involved a number of groups and individuals in the process of reviewing current housing conditions and needs and considering potential housing strategies. Two public workshops were held at Housing Commission meeting and at a Joint Planning Commission Housing Commission meeting. In addition, one publicly noticed Planning Commission Study Session was held and included opportunity for public comment. Feedback from these study sessions and public workshops was used to identify needs, assess constraints and develop draft programs for the Housing Element update, and are included in Section 1.3 of Appendix A of the General Plan.

#### **IV. FINDINGS**

The findings, recommendations, and statement of overriding considerations set forth below (the "Findings") are made and adopted by the Cupertino City Council as the City's findings under CEQA and the State CEQA Guidelines relating to the Project. The Findings provide the written analysis and conclusions of this City Council regarding the Project's environmental impacts, mitigation measures, alternatives to the Project, and the overriding considerations that support approval of the Project despite any remaining environmental effects it may have.

These findings summarize the environmental determinations of the Final EIR with regard to project impacts before and after mitigation, and do not attempt to repeat the full analysis of each environmental impact contained in the Final EIR. Instead, these findings provide a summary description of and basis for each impact conclusion identified in the Final EIR, describe the applicable mitigation measures identified in the Final EIR, and state the City's findings and rationale about the significance of each impact following the adoption of mitigation measures. A full explanation of these environmental findings and conclusions can be found in the Final EIR, and these findings hereby incorporate by reference the discussion and analysis in the Final EIR supporting the Final EIR's determinations regarding mitigation measures and the Project's impacts.

When evaluating cumulative impacts, CEQA allows the use of either a list of past, present, and probable future projects, including projects outside the control of the lead agency, or a summary of projections in an adopted planning document. The cumulative impacts analysis in the Final EIR uses the projections approach and takes into account growth from the Project within the Cupertino city boundary and Sphere of Influence (SOI), in combination with impacts from projected growth in the rest of Santa Clara County and the surrounding region, as forecast by the Association of Bay Area Governments (ABAG).

In adopting mitigation measures, below, the City intends to adopt each of the mitigation measures identified in the Final EIR. Accordingly, in the event a mitigation measure identified in the Final EIR has been inadvertently omitted from these findings, such mitigation measure is hereby adopted and incorporated into the Project in the findings below by reference. In addition, in the event the language of a mitigation measure set forth below fails to accurately reflect the mitigation measure in the Final EIR due to a clerical error, the language of the mitigation measure as set forth in the Final EIR shall control unless the language of the mitigation measure has been specifically and expressly modified by these findings.

Sections V and VI, below, provide brief descriptions of the impacts that the Final EIR identifies as either significant and unavoidable or less than significant with adopted mitigation. These descriptions also reproduce the full text of the mitigation measures identified in the Final EIR for each significant impact.

#### **V. SIGNIFICANT AND UNAVOIDABLE ADVERSE IMPACTS AND DISPOSITION OF RELATED MITIGATION MEASURES RESULTING IN SIGNIFICANT AND UNAVOIDABLE ADVERSE IMPACTS**

The Final EIR identifies the following significant and unavoidable adverse impacts associated with the approval of the Project, some of which can be reduced, although not to a less-than-significant level, through implementation of mitigation measures identified in the Final EIR. Public Resources Code § 21081(a)(1). In some cases, the City cannot require or control implementation of mitigation measures for certain impacts because they are within the responsibility and jurisdiction of other public agencies. Public Resources Code § 21081(a)(2). Therefore, as explained below, some impacts will remain significant and unavoidable notwithstanding adoption of feasible mitigation measures. To the extent that these mitigation measures will not mitigate or avoid all significant effects on the environment, and because the City cannot require mitigation measures that are within the responsibility and jurisdiction of other public agencies to be adopted or implemented by those agencies, it is hereby determined that any remaining significant and unavoidable adverse impacts are acceptable for the reasons specified in Section XII, below. Public Resources Code § 21081(a)(3). As explained in Section IX, below, the findings in this Section



V are based on the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

**A. Impact AQ-1: Implementation of the Project would conflict with or obstruct implementation of the applicable air quality plan.**

The Final EIR finds that while the Project would support the primary goals of the 2010 Bay Area Clean Air Plan, the buildout of the Project would conflict with the BAAQMD Bay Area Clean Air Plan goal for community-wide VMT to increase at a slower rate compared to population and employment growth. The rate of growth in VMT would exceed the rate of population and employment growth, resulting in a substantial increase in regional criteria air pollutant emissions in Cupertino.

There are no mitigation measures to reduce this impact to a less-than-significant level. Policies and development standards in the Project would lessen the impact, but due to the level of growth forecast in the city and the programmatic nature of the Project, the impact would be significant and unavoidable.

**B. Impact AQ-2: Implementation of the Project would violate any air quality standard or contribute substantially to an existing or projected air quality violation.**

The Final EIR finds that future development under the Project would result in a substantial long-term increase in criteria air pollutants over the 26-year General Plan horizon. Criteria air pollutant emissions would be generated from on-site area sources (e.g., fuel used for landscaping equipment, consumer products), vehicle trips generated by the project, and energy use (e.g., natural gas used for cooking and heating). Because cumulative development within the City of Cupertino could exceed the regional significance thresholds, the Project could contribute to an increase in health effects in the basin until such time as the attainment standards are met in the San Francisco Bay Area Air Basin (SFBAAB). The impact is considered significant and unavoidable.

Implementation of Mitigation Measures AQ-2a and AQ-2b, set forth below, which are hereby adopted and incorporated into the Project, would reduce these impacts, but not to a less-than-significant level. Due to the programmatic nature of the Project, no additional mitigation measures are available beyond Mitigation Measures AQ-2a and AQ-2b; therefore, the impact would be significant and unavoidable.

**Mitigation Measure AQ-2a:**

*As part of the City's development approval process, the City shall require applicants for future development projects to comply with the current Bay Area Air Quality Management District's basic control measures for reducing construction emissions of PM10.*

### **Mitigation Measure AQ-2b:**

*As part of the City's development approval process, the City shall require applicants for future development projects that could generate emissions in excess of the Bay Area Air Quality Management District's (BAAQMDs) current significance thresholds during construction, as determined by project-level environmental review, when applicable, to implement the current BAAQMD construction mitigation measures (e.g. Table 8-3 of the BAAQMD CEQA Guidelines) or any construction mitigation measures subsequently adopted by the BAAQMD.*

- C. Impact AQ-3: Implementation of the Project would result in a cumulatively considerable net increase of any criteria pollutant for which the Project region is nonattainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors).**

The Final EIR finds that the Project will combine with regional growth within the air basin to result in a cumulatively considerable net increase of pollutants for the SFBAAB, which is currently designated a nonattainment area for California and National O<sub>3</sub>, California and National PM<sub>2.5</sub>, and California PM<sub>10</sub> ambient air quality standards (AAQS). Any project that produces a significant regional air quality impact in an area that is in nonattainment adds to the cumulative impact. Mitigation measures AQ-2a and AQ-2b, set forth and incorporated above, would reduce impacts to the extent feasible, but the Project's impacts would remain significant and unavoidable.

There are no mitigation measures to reduce the impact to a less-than-significant level. Air pollutant emissions associated with the Project would result in a cumulatively considerable contribution to air quality impacts, and the Project's impacts would be significant and unavoidable.

- D. Impact AQ-6: Implementation of the Project would cumulatively contribute to air quality impacts in the San Francisco Bay Area Air Basin.**

As described in the discussion of Impact AQ-3, the Final EIR finds that regional air quality impacts will be significant. Implementation of the Project, in combination with past, present, and reasonably foreseeable projects, would result in a significant cumulative impact with respect to air quality even with the applicable regulations, as well as the Mitigation Measures AQ-2a, AQ-2b, AQ-4a and AQ-4b and the General Plan policies outlined in Impact AQ-1 through AQ-5. Therefore, this cumulative impact would be significant and unavoidable.

There are no mitigation measures to reduce the impact to a less-than-significant level. Implementation of Mitigation Measures AQ-2a, AQ-2b, AQ-4a and AQ-4b and the General Plan policies outlined in Impact AQ-1 through AQ-5, would lessen the impact, but not to a less-than-significant level. Because the San Francisco Bay Area Air Basin is currently

designated as a nonattainment area for California and National O<sub>3</sub>, California and National PM<sub>2.5</sub>, and California PM<sub>10</sub> AAQS , the Project's cumulative impact would be significant and unavoidable.

**E. Impact NOISE-3: Implementation of the Project would result in a substantial permanent increase in ambient noise levels in the Project vicinity above levels existing without the Project.**

The Final EIR finds that implementation of the Project would have a significant impact if it results in a substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the Project. The Final EIR anticipates that there would be substantial permanent increases to ambient noise levels throughout Cupertino as a result of implementation of the Project and ongoing regional growth, and that these increases would result primarily from increases in transportation-related noise, especially noise from automobile traffic.

Although the Project contains policies that could in certain cases reduce or prevent significant increases in ambient noise at sensitive land uses upon implementation (e.g., noise-reducing technologies, rubberized asphalt, soundwalls, berms, and improved building sound-insulation), the measures described in these policies would not be universally feasible, and some of the most effective noise-attenuation measures, including sound walls and berms, would be infeasible or inappropriate in a majority of locations where sensitive land uses already exist.

There are no mitigation measures to reduce the impact to a less-than-significant level. All conceivable mitigations would be either economically impractical, scientifically unachievable, outside the City's jurisdiction, and/or inconsistent with City planning goals and objectives. Therefore, even after the application of relevant, feasible regulations and General Plan policies, the impact to ambient noise levels would remain significant and unavoidable.

**F. Impact NOISE-5: Implementation of the Project, in combination with past, present, and reasonably foreseeable projects, would result in significant cumulative impacts with respect to noise.**

The Final EIR finds that the analysis of the Project, as described in the discussions of Impact NOISE-3, addresses cumulative noise impacts from implementation of the Project. Similarly, the noise contours and traffic-related noise levels developed for the Project include and account for regional travel patterns as they affect traffic levels in the City. Thus, the future noise modeling which served as the foundation for the overall Project analysis was based on future, cumulative conditions, and finds that implementation of the Project would result in significant cumulative impacts.

The Final EIR finds that even after the application of pertinent policies and strategies of the General Plan Amendment cumulative noise impacts of the Project, as described in the discussion of Impact NOISE-3, would remain significant and unavoidable. Thus, implementation of the Project would result in a significant and unavoidable cumulative impact with respect to noise.

There are no feasible mitigation measures to reduce the impact to a less-than-significant level. As explained in the discussion of Impact NOISE-3, all conceivable cumulative noise mitigations would be economically impractical, scientifically unachievable, outside the City's jurisdiction, and/or inconsistent with City planning goals and objectives, and would be infeasible. Therefore, even after the application of relevant, feasible regulations and General Plan policies, the cumulative impact would remain significant and unavoidable.

**G. Impact TRAF-1: Implementation of the Project would conflict with an applicable plan, ordinance or policy establishing measures of effectiveness for the performance of the circulation system, taking into account all modes of transportation including mass transit and non-motorized travel and relevant components of the circulation system, including but not limited to intersections, streets, highways and freeways, pedestrian and bicycle paths, and mass transit.**

The Final EIR finds that implementation of the Project would generate additional motor vehicle trips on the local roadway network, resulting in significant impacts to sixteen (16) out of 41 study intersections during at least one of the AM or PM peak hours. See Draft EIR, Table 4.13-13.<sup>7</sup>

Implementation of Mitigation Measure TRAF-1, set forth below, which is hereby adopted and incorporated into the Project, would secure a funding mechanism for future roadway and infrastructure improvements that are necessary to mitigate impacts from future projects based on then current standards, but not to a less-than-significant level. Impacts would remain significant and unavoidable because the City cannot guarantee improvements at these intersections at this time. This is in part because the nexus study has yet to be prepared and because some of the impacted intersections are within the jurisdiction of the City of Sunnyvale, the City of Santa Clara, and Caltrans. The City will continue to cooperate with these jurisdictions to identify improvements that would reduce or minimize the impacts to intersections and roadways as a result of implementation of future development projects in Cupertino, but, because many of the improvements in Mitigation Measure TRAF-1 are within the responsibility and jurisdiction of other agencies and not the City of Cupertino, this impact would remain significant and unavoidable.

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<sup>7</sup> Following completion of the Draft EIR, the impacts to Intersection #29 were determined to be less-than-significant rather than significant. See Supplemental Text Revisions Memo.

### **Mitigation Measure TRAF-1:**

*The City of Cupertino shall commit to preparing and implementing a Transportation Mitigation Fee Program to guarantee funding for roadway and infrastructure improvements that are necessary to mitigate impacts from future projects based on the then current City standards. As part of the preparation of the Transportation Mitigation Fee Program, the City shall also commit to preparing a "nexus" study that will serve as the basis for requiring development impact fees under AB 1600 legislation, as codified by California Code Government Section 66000 et seq., to support implementation of the Project. The established procedures under AB 1600 require that a "reasonable relationship" or nexus exist between the transportation improvements and facilities required to mitigate the transportation impacts of new development pursuant to the Project. The following examples of transportation improvements and facilities would reduce impacts to acceptable level of service standards and these, among other improvements, could be included in the development impact fees nexus study:*

- ◆ **SR 85 Northbound Ramps and Stevens Creek Boulevard (#2):** *An exclusive left-turn lane for the northbound leg of the intersection (freeway off-ramp) at the intersection of SR 85 and Stevens Creek Boulevard would result in one left-turn lane, one all-movement lane, and one right turn lane. The additional lane could be added within the existing Caltrans right-of-way.*
- ◆ **Stelling Road and Stevens Creek Boulevard (#3):** *The addition of a second exclusive left-turn lane for the eastbound leg of the intersection from Stevens Creek Boulevard to northbound Stelling Road, which could be accomplished by reworking the median. Right turns would share the bike lane.*
- ◆ **Sunnyvale-Saratoga Road/De Anza Boulevard and Homestead Road (#5):** *Widen De Anza Boulevard to four lanes in each direction or the installation of triple left-turn lanes.*
- ◆ **De Anza Boulevard and I-280 Northbound Ramp (#6):** *Restriping of De Anza Boulevard in the southbound direction to provide room for right turn vehicles to be separated from through traffic may be required. The bike lane would be maintained, and right turns would occur from the bike lane. The right turns would continue to be controlled by the signal and would need to yield to pedestrians.*
- ◆ **De Anza Boulevard and Stevens Creek Boulevard (#8):** *Restripe westbound Stevens Creek Boulevard to provide room for right turn vehicles to be separated from through vehicles may be required. The right turn vehicles will share the bike lane and will still be controlled by the traffic signal. Paint a bike box at the front of the lane to provide bikes a place to wait at red lights. The pedestrian crossings will not be affected may enhance the bicycling experience.*
- ◆ **De Anza Boulevard and McClellan Road/Pacifica Drive (#9):** *Realign the intersection that is currently offset resulting in inefficient signal timing such that the McClellan Road and*

*Pacifica Drive legs are across from each other may be required. In addition, double left turn lanes may be required to be added to De Anza Boulevard with sections of double lanes on McClellan Road and Pacifica Drive to receive the double left turn lanes. These improvements will require the acquisition of right-of-way and demolition of existing commercial buildings. However, some existing right-of-way could be abandoned, which would reduce the net right-of-way take.*

- ◆ ***Wolfe Road and Homestead Road (#16):*** *The addition of a third southbound through lane to the southbound approach of the intersection of Wolfe Road and Homestead Road may be required, as well as the addition of a southbound exclusive right-turn lane. Three southbound receiving lanes on the south side of the intersection currently exist. An additional westbound through lane for a total of three through-movement lanes, an additional receiving lane on Homestead westbound to receive the additional through lane, as well as the addition of a westbound exclusive right-turn lane may be required. This will require widening Homestead Road. An additional eastbound through lane for a total of three through-movement lanes, an additional receiving lane on Homestead eastbound to receive the additional through lane, as well as the addition of an eastbound exclusive left-turn lane for a total of two left-turn lanes may be required. These improvements will require the acquisition of right-of-way and demolition of parking areas.*
- ◆ ***Wolfe Road and I-280 Northbound Ramp (#18):*** *The Apple Campus 2 project will be adding a third northbound through lane starting at the northbound on ramp. This third lane will need to be extended farther south to effectively serve the additional northbound traffic due to the General Plan development. This could require widening the Wolfe Road overcrossing. Right-of-way acquisition may be required. In accordance with Caltrans procedures, a Project Study Report (PSR) will need to be prepared. The PSR will look at all interchange improvement options, which may include widening the overcrossing and may also include a redesign of the interchange to go from a partial cloverleaf design to a diamond design. This could help with heavy volumes in the right lane, which contributes to the level-of-service deficiency.*
- ◆ ***Wolfe Road and I-280 Southbound Ramp (#19):*** *An additional through lane for a total of three through-movement lanes for the northbound leg of the intersection at the Wolfe Road and I-280 Southbound Ramp may be required. This additional northbound through lane would require widening to the freeway overcrossing. In addition to widening the overcrossing, the City may wish to pursue a redesign of the interchange to go from a partial cloverleaf design to a diamond design. This could help with the problem of heavy volume in the right lane, which contributes to the level of service deficiency.*
- ◆ ***Wolfe Road/Miller Avenue and Stevens Creek Boulevard (#21):*** *The restriping of the westbound leg of the intersection to provide room so that right turn vehicles can be separated from through vehicles may be required. Right turn vehicles would share the bike lane. Right turn vehicles would still be controlled by the signal, and pedestrian crossings would not be affected. Paint a bike box at the front of the lane to provide bikes a place to wait at red lights may enhance the bicycling experience.*

- ◆ **North Tantau Avenue/Quail Avenue and Homestead Road (#24):** Restriping of the southbound leg of the intersection (Quail Avenue) to provide a separate left turn lane may be required. This will require the removal of on-street parking near the intersection. The level-of-service calculations show that with implementation of these improvements, the intersection would operate at an acceptable LOS D.
- ◆ **Tantau Avenue and Stevens Creek Boulevard (#27):** The addition of a separate left-turn lane to northbound Tantau Avenue may be required. Right-of-way acquisition and demolition of existing commercial buildings would be required.
- ◆ **Stevens Creek Boulevard and Agilent Technologies Driveway (#30):** The restriping of the westbound leg of the intersection to provide room so that right turn vehicles can be separated from through vehicles may be required. Right turn vehicles would share the bike lane. Right turn vehicles would still be controlled by the signal, and pedestrian crossings would not be affected. Paint a bike box at the front of the lane to provide bikes a place to wait at red lights may enhance the bicycling experience.
- ◆ **Lawrence Expressway Southbound Ramp and Stevens Creek Boulevard (CMP, County)(#31):** The addition of a second right-turn lane for the southbound leg of the intersection at the Lawrence Expressway Southbound Ramp and Stevens Creek Boulevard may be required. Both lanes would need to be controlled by the signal, and disallow right turns on red. Right-of-way acquisition may be required.
- ◆ **Lawrence Expressway Northbound Ramp and Stevens Creek Boulevard (CMP, County) (#32):** Redesign of the northbound leg of the intersection at the Lawrence Expressway Northbound Ramp and Stevens Creek Boulevard to provide one through-movement lane, and one exclusive right-turn lane may be required. Right-of-way acquisition would be required.

*The fees shall be assessed when there is new construction, an increase in square footage in an existing building, or the conversion of existing square footage to a more intensive use. The fees collected shall be applied toward circulation improvements and right-of-way acquisition. The fees shall be calculated by multiplying the proposed square footage, dwelling unit, or hotel room by the appropriate rate. Traffic mitigation fees shall be included with any other applicable fees payable at the time the building permit is issued. The City shall use the traffic mitigation fees to fund construction (or to recoup fees advanced to fund construction) of the transportation improvements identified above, among other things that at the time of potential future development may be warranted to mitigate traffic impacts.*

- H. Impact TRAF 2: Implementation of the Project would conflict with an applicable congestion management program, including, but not limited to, level of service standards and travel demand measures, or other standards established by the county congestion management agency for designated roads or highways.**



The Final EIR finds that of the 41 intersections studied in the EIR traffic analysis, 21 are included in Santa Clara County's Congestion Management Program (CMP). See Table 4.3-13, Draft EIR. The Project would result in significant impacts to 11 CMP intersections during at least one of the peak hours. Implementation of Mitigation Measure TRAF-1, set forth and incorporated above, would reduce these impacts, but not to a less-than-significant level.

**Mitigation Measure:**

*Implement Mitigation Measure TRAF-1.*

As described in the discussion of Impact TRAF-1, because many of the improvements in Mitigation Measure TRAF-1 are within the responsibility and jurisdiction of other agencies and not the City of Cupertino, these impacts would remain significant and unavoidable.

- I. **Impact TRAF-6: Implementation of the Project, in combination with past, present, and reasonably foreseeable projects, would result in additional cumulatively considerable impacts.**

The Final EIR finds that the analysis of the Project, as described in the discussions of Impact TRAF-1 and Impact TRAF-2, addresses cumulative impacts to the transportation network in the city and its surroundings; accordingly, cumulative impacts would be the same as Project-specific impacts. Therefore, the cumulative impacts to the City's transportation network resulting from the Project would be significant and unavoidable.

**Mitigation Measure:**

*Implement Mitigation Measure TRAF-1.*

As discussed under TRAF-1, because many of the improvements in Mitigation Measure TRAF-1 are within the responsibility and jurisdiction of other agencies and not the City of Cupertino, this cumulative impact would remain significant and unavoidable.

**VI. SIGNIFICANT ADVERSE IMPACTS IDENTIFIED IN THE FINAL EIR THAT ARE REDUCED TO A LESS-THAN-SIGNIFICANT LEVEL BY MITIGATION MEASURES ADOPTED AND INCORPORATED INOT THE PROJECT**

The Final EIR identifies the following significant impacts associated with the Project. It is hereby determined that the impacts addressed by these mitigation measures will be mitigated to a less than significant level or avoided by adopting and incorporating these mitigation measures conditions into the Project. Public Resources Code § 21081(a)(1). As explained in Section IX, below, the findings in this Section VI are based on the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

**A. Impact AQ-4: Implementation of the Project would expose sensitive receptors to substantial concentrations of air pollution.**

The Final EIR finds that the Project could result in locating sensitive receptors in proximity to major sources of air pollution or the siting of new sources of air pollution in proximity to sensitive receptors in the city. Nonresidential land uses that generate truck trips may generate substantial quantities of air pollutants within 1,000 feet of off-site sensitive receptors. In addition, proposed sensitive land uses in Cupertino may be within 1,000 feet of major sources of air pollutants, which would create a significant and unavoidable impact.

Implementation of the Mitigation Measures AQ-4a and AQ-4b, set forth below, which are hereby adopted and incorporated into the Project, would reduce this impact to a less-than-significant level.

**Mitigation Measure AQ-4a:**

*Applicants for future non-residential land uses within the city that: 1) have the potential to generate 100 or more diesel truck trips per day or have 40 or more trucks with operating diesel-powered Transport Refrigeration Units (TRUs), and 2) are within 1,000 feet of a sensitive land use (e.g. residential, schools, hospitals, nursing homes), as measured from the property line of the Project to the property line of the nearest sensitive use, shall submit a health risk assessment (HRA) to the City of Cupertino prior to future discretionary Project approval. The HRA shall be prepared in accordance with policies and procedures of the State Office of Environmental Health Hazard Assessment and the Bay Area Air Quality Management District. If the HRA shows that the incremental cancer risk exceeds ten in one million (10E-06), PM<sub>2.5</sub> concentrations exceed 0.3 µg/m<sup>3</sup>, or the appropriate noncancer hazard index exceeds 1.0, the applicant will be required to identify and demonstrate that Best Available Control Technologies for Toxics (T-BACTs) are capable of reducing potential cancer and noncancer risks to an acceptable level, including appropriate enforcement mechanisms. T-BACTs may include but are not limited to:*

- *Restricting idling on-site.*
- *Electrifying warehousing docks.*
- *Requiring use of newer equipment and/or vehicles.*
- *Restricting offsite truck travel through the creation of truck routes.*

*T-BACTs identified in the HRA shall be identified as mitigation measures in the environmental document and/or incorporated into the site development plan as a component of the Project.*

**Mitigation Measure AQ-4b:**

*Applicants for residential and other sensitive land use projects (e.g. hospitals, nursing homes, day care centers) in Cupertino within 1,000 feet of a major sources of TACs (e.g. warehouses, industrial areas, freeways, and roadways with traffic volumes over 10,000 vehicle per day), as measured from*

*the property line of the project to the property line of the source/edge of the nearest travel lane, shall submit a health risk assessment (HRA) to the City of Cupertino prior to future discretionary Project approval. The HRA shall be prepared in accordance with policies and procedures of the State Office of Environmental Health Hazard Assessment (OEHHA) and the Bay Area Air Quality Management District. The latest OEHHA guidelines shall be used for the analysis, including age sensitivity factors, breathing rates, and body weights appropriate for children age 0 to 16 years. If the HRA shows that the incremental cancer risk exceeds ten in one million (10E-06), PM2.5 concentrations exceed 0.3 µg/m3, or the appropriate noncancer hazard index exceeds 1.0, the applicant will be required to identify and demonstrate that mitigation measures are capable of reducing potential cancer and non-cancer risks to an acceptable level (i.e. below ten in one million or a hazard index of 1.0), including appropriate enforcement mechanisms. Measures to reduce risk may include but are not limited to:*

- *Air intakes located away from high volume roadways and/or truck loading zones.*
- *Heating, ventilation, and air conditioning systems of the buildings provided with appropriately sized Maximum Efficiency Rating Value (MERV) filters.*

*Mitigation measures identified in the HRA shall be identified as mitigation measures in the environmental document and/or incorporated into the site development plan as a component of the Project. The air intake design and MERV filter requirements shall be noted and/or reflected on all building plans submitted to the City and shall be verified by the City's Planning Division.*

**B. Impact BIO-1: Implementation of the Project would have a substantial adverse effect, either directly or through habitat modifications, on a plant or animal population, or essential habitat, defined as a candidate, sensitive or special-status species.**

The Final EIR finds that some special-status bird species such as Cooper's hawk and white-tailed kite could utilize the remaining riparian corridors and heavily wooded areas for nesting, dispersal and other functions when they pass through urbanized areas. More common birds protected under MBTA may nest in trees and other landscaping on the Project Component locations. Given the remote potential for occurrence of nesting birds at one or more of the Project Component locations and possibility that nests could be inadvertently destroyed or nests abandoned as a result of construction activities, this would be considered a potentially significant impact.

Implementation of Mitigation Measure BIO-1, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

### **Mitigation Measure BIO-1:**

*Nests of raptors and other birds shall be protected when in active use, as required by the federal Migratory Bird Treaty Act and the California Department of Fish and Game Code. If construction activities and any required tree removal occur during the breeding season (February 1 and August 31), a qualified biologist shall be required to conduct surveys prior to tree removal or construction activities. Preconstruction surveys are not required for tree removal or construction activities outside the nesting period. If construction would occur during the nesting season (February 1 to August 31), preconstruction surveys shall be conducted no more than 14 days prior to the start of tree removal or construction. Preconstruction surveys shall be repeated at 14-day intervals until construction has been initiated in the area after which surveys can be stopped. Locations of active nests containing viable eggs or young birds shall be documented and protective measures implemented under the direction of the qualified biologist until the nests no longer contain eggs or young birds. Protective measures shall include establishment of clearly delineated exclusion zones (i.e. demarcated by identifiable fencing, such as orange construction fencing or equivalent) around each nest location as determined by a qualified biologist, taking into account the species of birds nesting, their tolerance for disturbance and proximity to existing development. In general, exclusion zones shall be a minimum of 300 feet for raptors and 75 feet for passerines and other birds. The active nest within an exclusion zone shall be monitored on a weekly basis throughout the nesting season to identify signs of disturbance and confirm nesting status. The radius of an exclusion zone may be increased by the qualified biologist if project activities are determined to be adversely affecting the nesting birds. Exclusion zones may be reduced by the qualified biologist only in consultation with California Department of Fish and Wildlife. The protection measures shall remain in effect until the young have left the nest and are foraging independently or the nest is no longer active.*

- C. Impact BIO-6: Implementation of the Project, in combination with past, present, and reasonably foreseeable projects, would result in significant cumulative impacts with respect to biological resources.**

The Final EIR finds that implementation of the Project could result in further conversion of existing natural habitats to urban and suburban conditions, limiting the existing habitat values of the surrounding area and potentially resulting in significant cumulative impacts with respect to biological resources.

With implementation of Mitigation Measure BIO-1, set forth and incorporated above, the Project would not make a cumulatively considerable contribution to this cumulative impact, and the impact would be less than significant.

### **Mitigation Measure:**

*Implement Mitigation Measure BIO-1.*

- D. Impact HAZ-4: Implementation of the Project would be located on a site which is included on a list of hazardous materials sites compiled pursuant**

**to Government Code Section 65962.5 and, as a result, create a significant hazard to the public or the environment.**

The Final EIR finds that because hazardous materials are known to be present in soil, soil gas, and/or groundwater due to past land uses at certain sites that may be redeveloped as part of the Project, the direct contact, inhalation, or ingestion of hazardous materials could potentially cause adverse health effects to construction workers and future site users. The severity of health effects would depend on the contaminant(s), concentration, use of personal protective equipment during construction, and duration of exposure. The disturbance and release of hazardous materials during earthwork activities, if present, could pose a hazard to construction workers, nearby receptors, and the environment and impacts could be potentially significant.

Implementation of Mitigation Measures HAZ-4a and HAZ-4b, set forth below, which are hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

**Mitigation Measure HAZ-4a:**

*Construction at the sites with known contamination shall be conducted under a project-specific Environmental Site Management Plan (ESMP) that is prepared in consultation with the Regional Water Quality Control Board (RWQCB) or the Department of Toxic Substances Control (DTSC), as appropriate. The purpose of the ESMP is to protect construction workers, the general public, the environment, and future site occupants from subsurface hazardous materials previously identified at the site and to address the possibility of encountering unknown contamination or hazards in the subsurface. The ESMP shall summarize soil and groundwater analytical data collected on the project site during past investigations; identify management options for excavated soil and groundwater, if contaminated media are encountered during deep excavations; and identify monitoring, irrigation, or other wells requiring proper abandonment in compliance with local, State, and federal laws, policies, and regulations.*

*The ESMP shall include measures for identifying, testing, and managing soil and groundwater suspected of or known to contain hazardous materials. The ESMP shall: 1) provide procedures for evaluating, handling, storing, testing, and disposing of soil and groundwater during project excavation and dewatering activities, respectively; 2) describe required worker health and safety provisions for all workers potentially exposed to hazardous materials in accordance with State and federal worker safety regulations; and 3) designate personnel responsible for implementation of the ESMP.*

**Mitigation Measure HAZ-4b:**

*For those sites with potential residual contamination in soil, gas, or groundwater that are planned for redevelopment with an overlying occupied building, a vapor intrusion assessment shall be performed*

by a licensed environmental professional. If the results of the vapor intrusion assessment indicate the potential for significant vapor intrusion into an occupied building, project design shall include vapor controls or source removal, as appropriate, in accordance with regulatory agency requirements. Soil vapor mitigations or controls could include vapor barriers, passive venting, and/or active venting. The vapor intrusion assessment and associated vapor controls or source removal can be incorporated into the ESMP (Mitigation Measure HAZ-4a).

- E. Impact HAZ-7: Implementation of the Project, in combination with past, present, and reasonably foreseeable projects, would result in less than significant cumulative impacts with respect to hazards and hazardous materials.**

The Final EIR takes into account growth projected by the Project within the Cupertino city boundary and Sphere of Influence (SOI), in combination with impacts from projected growth in the rest of Santa Clara County and the surrounding region, as forecast by the Association of Bay Area of Governments (ABAG). Potential cumulative hazardous materials impacts could arise from a combination of the development of the Project together with the regional growth in the immediate vicinity of the Project Study Area. As discussed under Impact HAZ-4, disturbance and release of hazardous materials during earthwork activities, if present, could pose a hazard to construction workers, nearby receptors, and the environment and impacts could be potentially significant.

With implementation of Mitigation Measures HAZ-4a and HAZ-4b, set forth and incorporated above, in conjunction with compliance with General Plan policies and strategies, other local, regional, State, and federal regulations, the Project would not make a cumulatively considerable contribution to this cumulative impact, and the impact would be less than significant.

**Mitigation Measure:**

*Implement Mitigation Measures HAZ-4a and HAZ-4b.*

- F. Impact UTIL-6: Implementation of the Project would result in a determination by the wastewater treatment provider, which serves, or may serve the project, that it does not have adequate capacity to serve the project's projected demand in addition to the provider's existing commitments.**

Buildout of the Project would have a significant impact if future projected demand exceeds the wastewater service capacity of the San Jose/Santa Clara Water Pollution Control Plan (SJ/SCWPCP) or the Sunnyvale Water Pollution Control Plan (SWPCP), or the Cupertino Sanitary District (CSD) or City of Sunnyvale collection systems.

Implementation of Mitigation Measures UTIL-6a, UTIL-6b, and UTIL-6c, set forth below, which are hereby adopted and incorporated into the Project, would avoid or reduce this impact to a less-than-significant level.

**Mitigation Measure UTIL-6a:**

*The City shall work with the Cupertino Sanitary District to increase the available citywide treatment and transmission capacity to 8.65 million gallons per day, or to a lesser threshold if studies justifying reduced wastewater generation rates are approved by CSD as described in Mitigation Measure UTIL-6c.*

**Mitigation Measure UTIL-6b:**

*The City shall work to establish a system in which a development monitoring and tracking system to tabulate cumulative increases in projected wastewater generation from approved projects for comparison to the Cupertino Sanitary District's treatment capacity threshold with San Jose/Santa Clara Water Pollution Control Plant is prepared and implemented. If it is anticipated that with approval of a development project the actual system discharge would exceed the contractual treatment threshold, no building permits for such project shall be issued prior to increasing the available citywide contractual treatment and transmission capacity as described in Mitigation Measure UTIL-6a.*

**Mitigation Measure UTIL-6c:**

*The City shall work with the Cupertino Sanitary District to prepare a study to determine a more current estimate of the wastewater generation rates that reflect the actual development to be constructed as part of Project implementation. The study could include determining how the green/LEED certified buildings in the City reduce wastewater demands.*

**G. Impact UTIL-7: Implementation of the Project, in combination with past, present, and reasonably foreseeable projects, would not result in significant cumulative impacts with respect to wastewater treatment.**

The Final EIR finds that buildout of the Project would generate a minor increase in the volume of wastewater delivered for treatment at SJ/SCWPCP and SWPCP, representing less than 1 percent of the available treatment capacity at the SJ/SCWPCP and SWPCP, and it would occur incrementally over a period of 26 years. Based on the recent trends of diminishing wastewater treatment demand and the projected population growth in the service areas, cumulative wastewater treatment demand over the Project buildout period is far below the excess capacity of the SJ/SCWPCP and SWPCP. Because the cumulative demand would not substantially impact the existing or planned capacity of the wastewater treatment systems, which have sufficient capacity for wastewater that would be produced



by the Project, the construction of new wastewater treatment facilities would not be necessary.

With implementation of Mitigation Measures UTIL-6a, UTIL-6b and UTIL-6c, set forth and incorporated above, cumulative development combined with the Project would not exceed wastewater treatment requirements. Therefore, the Project would not make a cumulatively considerable contribution to this cumulative impact, and the impact would be less than significant.

**Mitigation Measure:**

*Implement Mitigation Measures UTIL-6a, UTIL-6b, and UTIL-6c.*

- H. Impact UTIL-8: The Project would not be served by a landfill(s) with sufficient permitted capacity to accommodate the Project's solid waste disposal needs.**

The Final EIR finds that anticipated rates of solid waste disposal would have a less-than-significant impact with regard to target disposal rates, and that the City would continue its current recycling ordinances and zero-waste policies. Nevertheless, the 2023 termination of the agreement between the Newby Island Landfill facility, as well as that facility's estimated closure date in 2025, would result in insufficient solid waste disposal capacity at buildout of the Project, resulting in a significant impact.

Implementation of Mitigation Measure UTIL-8, set forth below, which is hereby adopted and incorporated into the Project, would avoid or reduce this impacts to a less-than-significant level.

**Mitigation Measure UTIL-8:**

*The City shall continue its current recycling ordinances and zero-waste policies in an effort to further increase its diversion rate and lower its per capita disposal rate. In addition, the City shall monitor solid waste generation volumes in relation to capacities at receiving landfill sites to ensure that sufficient capacity exists to accommodate future growth. The City shall seek new landfill sites to replace the Altamont and Newby Island landfills, at such time that these landfills are closed.*

- I. Impact UTIL-10: Implementation of the Project, in combination with past, present and reasonably foreseeable projects, would result in significant cumulative impacts with respect to solid waste.**

The Final EIR finds that buildout of the Project will increase the quantity of solid waste for disposal. AB 939 established a goal for all California cities to provide at least 15 years of ongoing landfill capacity; however, growth from other cities in the region may exceed the growth that was taken into account when determining landfill capacity. Also, because the

Newby Island Landfill facility, which currently takes approximately 92 percent of the City's solid waste, is expected to close in 2025, Cupertino may eventually experience insufficient landfill capacity to accommodate existing or increased population and employment levels. Although implementation of existing waste reduction programs and diversion requirements would reduce the potential for exceeding existing capacities of landfills, the potential lack of landfill capacity for disposal of solid waste would be a significant cumulative impact.

With implementation of Mitigation Measure UTIL-8, set forth and incorporated above, the Project would not make a cumulatively considerable contribution to this cumulative impact, and the impact would be less than significant.

### **Mitigation Measure**

*Implement Mitigation Measure UTIL-8.*

## **VII. GROWTH INDUCING IMPACTS**

An EIR is required to discuss growth inducing impacts, which consist of the ways in which the project could foster economic or population growth, or the construction of additional housing, either directly or indirectly, in the surrounding environment. State CEQA Guidelines § 15126.2(d); Public Resources Code § 21100(b)(5). Direct growth inducement would result, for example, if a project involves the construction of substantial new housing that would support increased population in a community or establishes substantial new permanent employment opportunities. This additional population could, in turn, increase demands for public utilities, public services, roads, and other infrastructure. Indirect growth inducement would result if a project stimulates economic activity that requires physical development or removes an obstacle to growth and development (e.g., increasing infrastructure capacity that would enable new or additional development). It must not be assumed that growth in any area is necessarily beneficial, detrimental, or of little significance to the environment. State CEQA Guidelines § 15126.2(d). Section 6.3 of the Draft EIR analyzes the growth inducing impacts of the Project. As explained in Section IX, below, the findings in this Section VII are based on the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

Implementation of the Project would directly induce population, employment and economic growth by replenishing the commercial, residential, hotel, and office space allocation within some areas of the city. The Project would result in the following growth patterns based on the expected growth assumptions for the city boundary:

- Implementation of the Project to the year 2040 would result in increased office space development allocation of approximately 2,540,231 square feet. This would result in a total anticipated office space of approximately 11,470,005 square feet by 2040.<sup>8</sup>
- Implementation of the Project to the year 2040 would result in a commercial space development allocation of approximately 1,343,679 square feet, which is an increase of 642,266 square feet in the allocation pool but a net increase of 0 square feet. That is because all 642,266 square feet of increase allocation would come from demolition and rebuilding of existing commercial square footage (see footnote 5, above). This would result in a total anticipated commercial space of approximately 4,430,982 square feet by 2040.<sup>9</sup>
- Implementation of the Project to the year 2040 would result in increased hotel room development allocation of approximately 1,339 rooms. This would result in a total anticipated hotel room inventory of approximately 2,429 rooms by 2040.<sup>10</sup>
- Implementation of the Project to the year 2040 would result in increased residential unit development allocation of approximately 4,421 units. This would result in a total anticipated residential unit inventory of approximately 25,820 residential units by 2040.<sup>11</sup>

State law requires the City to promote the production of housing to meet its Regional Housing Needs Allocation made by ABAG. The housing and commercial/ industrial growth in Cupertino would allow the City to address its regional fair-share housing obligations.

The Project is considered growth inducing because it encourages new growth in the urbanized areas of Cupertino. Development in these areas would consist of infill development on underutilized sites, sites that have been previously developed, and sites that are vacant and have been determined to be suitable for development. However, because infrastructure is largely in place and commercial or office growth would be required to comply with the City's General Plan, Zoning regulations and standards for public services and utilities; secondary or indirect effects associated with this growth do not represent a new significant environmental impact which has not already been addressed in the individual resource chapters of this EIR.

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<sup>8</sup> Existing built/approved office space was 8,929,774 square feet in 2013.

<sup>9</sup> Existing built/approved commercial space was 3,729,569 square feet in 2013.

<sup>10</sup> Existing built/approved hotel rooms are 1,090 rooms. With the remaining commercial allocation, commercial buildout by 2040 is estimated to be 4,430,982 square feet. Cupertino Community Development Department (October 31, 2014).

<sup>11</sup> Existing built/approved residential units was 21,339 units in 2014.

## VIII. ALTERNATIVES

The Final EIR analyzed four alternatives, examining the environmental impacts and feasibility of each alternative, as well as the ability of the alternatives to meet project objectives. The project objectives are listed in Chapter 3 (Project Description) of the Draft EIR; the potentially significant environmental effects of the Project, including feasible mitigation measures identified to avoid these impacts, are analyzed in Chapter 4 (Environmental Evaluation) of the Draft EIR; and the alternatives are described in detail in Chapter 5 (Alternatives to the Proposed Project) of the Draft EIR.

Brief summaries of the alternatives are provided below. A brief discussion of the Environmentally Superior Alternative follows the summaries of the alternatives. As explained in Section IX, below, the findings in this Section VII are based on the Final EIR, the discussion and analysis in which is hereby incorporated in full by this reference.

### A. The No Project Alternative

CEQA requires evaluation of the “no project” alternative. State CEQA Guidelines § 15126.6(e). Consistent with State CEQA Guidelines section 15126.6(e)(3)(A), the No Project Alternative assumes that growth and development would continue to occur under the provisions of the current 2000-2020 General Plan, including the development allocations for office and commercial space, and hotel and residential unit allocations. Thus, no new development potential beyond what is currently permitted in the 2000-2020 General Plan would occur.

As shown in Draft EIR Table 5-1, the No Project Alternative would allow for the following new development allocations:

- **Office allocation: 540,231 square feet** (no net increase from 2000-2020 General Plan)
- **Commercial allocation: 701,413 square feet** (no net increase from 2000-2020 General Plan)
- **Hotel allocation: 339 rooms** (no net increase from 2000-2020 General Plan)
- **Residential allocation: 1,895 units** (no net increase from 2000-2020 General Plan)

As discussed in Section 5.1.7 of the Draft EIR, the No Project Alternative would not achieve any of the City’s project objectives, which are as follows, except that it would provide for the RHNA for the 20014-2022 planning period:

- Emphasize employment and a mix of economic development opportunities by replenishing, reallocating, and increasing city-wide office, commercial, and hotel, allocations in order to capture:

- A share of the regional demand for office and hotel development, and
- Retail sales tax leakage in the trade area.
- Address local needs and regional requirements for new housing, including affordable housing, in Cupertino by replenishing, re-allocating and increasing city-wide residential allocations to be consistent with 2040 Bay Area Plan projections to allow flexibility for the city when future state-mandated updates are required to the Housing Element.
- Update the Housing Element as required by State law.
- Creating opportunities for mixed-use development consistent with Regional Sustainable Communities Strategies for greenhouse gas emissions reductions as required by SB 375.
- Investing in improvement to adapt to climate change over time.
- Consider increased heights in key nodes and gateways, if proposed development provides retail development and benefits directly to the community.
- Update General Plan policies to implement multi-modal traffic standards as opposed to LOS thresholds currently identified. Balancing development objectives with transportation constraints and opportunities.
- Revitalize the Vallco Shopping District by adopting policies to support its redevelopment, so it becomes a cohesive, vibrant shopping and entertainment destination that serves both the region and the local community.

For the foregoing reasons, the No Project Alternative is hereby rejected as infeasible.

## **B. Land Use Alternative A**

Land Use Alternative A identifies how growth would occur if the City largely continues the policies of the current 2005 General Plan, while making minor development allocation and boundary changes. The 2005 General Plan land use standards would continue to apply to Vallco Shopping Mall, and it would not be redeveloped in any substantial manner. Alternative A would increase city-wide office and hotel allocation but would not increase allocations for commercial and residential uses. No maximum height increases are proposed under this alternative.

As shown in Draft EIR Table 5-1, the Land Use Alternative A would allow for the following new development allocations:

- **Office allocation: 1,040,231 square feet** (net increase of 500,000 square feet from the 2000-2020 General Plan)
- **Commercial allocation: 701,413 square feet** (no net increase from the 2000-2020 General Plan)
- **Hotel allocation: 600 rooms** (net increase of 261 rooms from the 2000-2020 General Plan)
- **Residential: 1,895 units** (no net increase from the 2000-2020 General Plan)

As discussed in Section 5.2.8 of the Draft EIR, Alternative A would not achieve the project objectives concerning local needs and regional requirements for new housing, including affordable housing, in Cupertino, because it would not provide sufficient residential units to meet the City's Regional Housing Needs Allocation (RHNA) of 1,064 units minus 62, or 1,002 units. In order to fully comply with the RHNA, the City would need to provide a moderate surplus of 25% to 40 % in addition to the 1,002 units or approximately 1,250 to 1,400 units. Alternative A only allows for a surplus of only eight units, however. Alternative A also would not increase the allocation of residential units to accommodate Plan Bay Area projections for residential growth by 2040 (4,421 units).

Alternative A fails to meet project objectives with regard to reallocating, replenishing and increasing city-wide office, commercial and hotel allocations for purposes of economic development, because Alternative A does not allow for any commercial growth beyond that allocated under the 2000-2020 General Plan and allows in insufficient amount of office and hotel growth. Further, Alternative A does not meet the project objective to consider increased heights in key Nodes and Gateways, because no maximum height increases are proposed under this alternative.

Alternative A also does not meet the City's objective of creating mixed use development consistent with Plan Bay Area and SB 375, because it would not concentrate development in major transportation corridors to the same degree as Alternatives B and C and the Balanced Plan. Alternative A does not envision a complete redevelopment for Vallco Shopping District that would involve adding office and residential uses as in Alternatives B and C. This would not completely meet the project objective to revitalize the Shopping District so it becomes a cohesive, vibrant shopping and entertainment destination that serves both the region and the local community.

For the foregoing reasons, Land Use Alternative A is hereby rejected as infeasible.

### **C. Land Use Alternative B**

Land Use Alternative B identifies how the City can focus development along major mixed-use corridors in order to create more complete commercial, office and entertainment areas,

and to address mid-term housing needs. It would increase development allocations for office, commercial and hotel land uses in order to better capture retail sales leakage and regional demand for office development. Alternative B also envisions the transformation of the Vallco Shopping Mall into a retail, employment, housing and entertainment destination, but possibly at a slightly smaller scale than under Alternative C. Although the zoning and land use designations are the same in the Alternative B and Alternative C, the Foothill Market and Bateh Housing Element sites were not studied as part of Alternative B. Alternative B would allow for revised density and height standards at key Gateways and Nodes within Special Areas along major transportation corridors that are different from Alternative C. Alternative B also would increase residential allocations to the amount necessary to meet the City's housing need of 1,002 units plus a moderate surplus of 25% to 40%, or approximately 1,250 to 1,400 units, but would increase the allocation of residential units to accommodate only 75 percent of Plan Bay Area projections for residential growth by 2040.

As shown in Draft EIR Table 5-1 and the Supplemental Text Revisions, the Land Use Alternative B would allow for the following new development allocations:

- **Office allocation: 2,540,231 square feet** (net increase of 2,000,000 square feet from the 2000-2020 General Plan)
- **Commercial allocation: 1,343,679 square feet** (net increase of 0 square feet from the 2000-2020 General Plan)<sup>12</sup>
- **Hotel allocation: 839 rooms** (net increase of 500 rooms from the 2000-2020 General Plan)
- **Residential: 3,316 units** (net increase of 1,421 units from the 2000-2020 General Plan)

While Alternative B meets all of the project objectives, in comparison with the Balanced Plan, described in Section II.A, above, the commercial, hotel, and residential allocations under Alternative B would not strike the optimal balance in attempting to achieve the City's economic development objectives. Furthermore, as described in Section 5.3.8 of the Draft EIR, Alternative B would not go as far as Alternative C in meeting project objectives with regard to reallocating, replenishing and increasing city-wide commercial and hotel allocations for purposes of economic development, and replenishment of the residential allocation because it would add less office square footage and fewer hotel rooms, thereby failing to capture as much regional demand for office and hotel uses and failing to capture as much retail sales tax leakage. Similar to the Balanced Plan, Alternative B envisions that the Vallco Shopping District will be completely redeveloped. Alternative B allows for 500 fewer hotel rooms and 1,105 fewer residential units than the Balanced Plan, however.

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<sup>12</sup> See footnote 5, above.



The City commissioned a Market Study<sup>13</sup> which indicates that the City has a strong market for office, hotel room and residential development. An allocation of only 500 hotel rooms and only 75 percent of the Plan Bay Area projection for residential development by 2040 would not achieve the City's goal of capturing a share of the regional demand for hotel development or meeting the City's goals of providing fewer affordable housing options.

For the foregoing reasons, Land Use Alternative B is hereby rejected as infeasible.

#### **D. Land Use Alternative C**

Land Use Alternative C identifies a way to transform the Vallco Shopping Mall into a locally and regionally significant retail, employment, housing and entertainment destination, and account for a large portion of the City's RHNA. Similar to the Balanced Plan, Alternative B envisions that the Vallco Shopping District will be completely redeveloped. In addition, under Alternative C, the Vallco area would become the "downtown" of Cupertino, serving the mixed-use hub for residents, workers and the larger region. Alternative C would increase development allocations to levels higher than those that would be allowed under either Land Use Alternative A or Land Use Alternative B in order to fully capture retail sales leakage and regional demand for office and hotel development. Alternative C would allow for revised height standards at key Gateways and Nodes within Special Areas along major transportation corridors at heights greater than those allowed under Alternative B. The increases in heights and densities in key Nodes, Gateways and Sub-areas are consistent with the City's goals of concentrating development along the five mixed-use corridors. Alternative C also would increase residential allocations to the amount necessary to meet the City's housing need of 1,002 units plus a moderate surplus 25% to 40%, or approximately 1,250 to 1,400 units, and would increase the allocation of residential units to accommodate 100 percent of Plan Bay Area projections for residential growth by 2040.

As shown in Draft EIR Table 5-1 and the Supplemental Text Revisions, the Land Use Alternative C (the "proposed Project" in the EIR) would allow for the following new development allocations:

- **Office allocations: 4,040,231 square feet** (net increase of 3,500,000 square feet from the 2000-2020 General Plan)
- **Commercial allocation: 1,343,679 square feet** (net increase of 0 square feet from the 2000-2020 General Plan)<sup>14</sup>
- **Hotel allocation: 1,339 rooms** (net increase of 1,000 rooms from the 2000-2020 General Plan)

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<sup>13</sup> BAE Urban Economics, General Plan Amendment Market Study (February 13, 2014).

<sup>14</sup> See footnote 5, above.

- **Residential allocation: 4,421 units** (net increase of 2,526 units from the 2000-2020 General Plan)

While Land Use Alternative C would meet all of the project objectives, the combination of the office allocation in Alternative C together with the other land use allocations in Alternative C would not be as effective or as balanced as the Balanced Plan, which includes the lower office allocation in Alternative B, in achieving the project objective of creating a mix of economic development opportunities.

Furthermore, the environmental effects from the larger office allocation in Alternative C would be marginally greater than the environmental effects from the office allocation in the Balanced Plan (which has the same office allocation as Alternative B). That is because the Alternative C office allocation is 59 percent greater than the office allocation in the Balanced Plan. Increased allocation to office development would mean more jobs and, as people move to Cupertino to fill those jobs, a higher population. Draft EIR Table 5-2 projects a 70 percent greater increase in jobs and a 75 percent greater increase in population under Alternative C compared to the increases under Alternative B. The increased development and population growth resulting from the Alternative C office allocation would have greater effects on the environment than the office allocation component of the Balanced Plan and Alternative B. Alternative B would reduce air quality impacts, as described in the analysis of Impact AIR-1, because the Vehicle Miles Traveled (VMT) for Alternative B is lower and reduces the impact to less than significant. See Draft EIR Table 5.5. This is because the mix of development in the Balanced Plan, which includes the same office allocation as Alternative B, represented a better balance of development. In categories where all of the alternatives were found to have significant and unavoidable impacts, namely air quality, noise, and traffic, Land Use C's office allocation would result in greater environmental impacts, as it represents the greatest amount of development, which would result in higher consumption of non-renewable resources, generate the greatest amount of waste and pollutants, and increase the demand of public facilities and infrastructure.

For the foregoing reasons, Land Use Alternative C is hereby rejected as infeasible.

#### **E. Environmentally Superior Alternative**

In addition to the discussion and comparison of impacts of the Balanced Plan and the Alternatives, Section 15126.6(e)(2) of the State CEQA Guidelines requires that an "environmentally superior" alternative be selected and the reasons for such a selection be disclosed. The environmentally superior alternative is the alternative that would be expected to create the least significant environmental effects. Identification of the environmentally superior alternative is an informational procedure and the alternative selected may not be the alternative that best meets the goals or needs of Cupertino.

As shown in Draft EIR Table 5-5, the impacts associated with each of the four land use scenarios analyzed in this EIR would essentially be the same. As previously stated, this is

because the recommended mitigation measures would apply to all of the alternatives, and compliance with the General Plan policies designed to reduce environmental impacts would also apply to all future development in Cupertino. However, as shown in Draft EIR Table 5-5, for Land Use Alternative B air quality Impact AQ-1 (Conflict with or obstruct implementation of the applicable air quality plan) would be less than significant for Alternative B but would be significant and unavoidable for the other alternatives. That is because the mix of development in Alternative B would increase office square footage, but to all lesser extent than Alternative C, while at the same time increasing the residential allocation unlike Alternative A and the No Project Alternative.

While Alternative C represents the maximum extent of residential development anticipated by the Plan Bay Area for Cupertino by 2040, Alternative C's higher increase in office square footage (4,040,231 square feet compared to the lower office increase in Alternative B of 2,540,231 square feet), together with the total increase in residential allocation, does not reflect a balanced jobs-housing ratio that results in lower per capita VMT when compared to Alternative B. Under Alternative C, land uses allocations in the General Plan would generate 897,419 VMT per day (10.47 miles per service population per day in 2013). Based on the future estimates of VMT per person for Cupertino for year 2040, 1,264,271 VMT per day (10.94 miles per service population per day in 2040) would be generated in Cupertino. Accordingly, the daily VMT in the Project Study Area under Alternative C would increase at a slightly greater rate (40.9 percent) between 2013 and 2040 than would the service population of the Project Study Area (34.8 percent). In comparison, under Alternative B, based on the future estimates of VMT per person for Cupertino for year 2040, 1,097,596 VMT per day (10.24 miles per service population per day in 2040) would be generated in the City. Under Alternative B, daily VMT in the Project Study Area would increase at a slower rate (22.3 percent) between 2013 and 2040 than would the service population of the Project Study Area (25.0 percent). When the VMT increase is less than or equal to the projected population increase, this represents a balanced jobs-housing ratio.

In identifying an Environmental Superior Alternative, the analysis in the EIR is based on the principle that less development would mean reduced effects on the environment. Each incremental increase in development allocations among the alternatives represents increased population and activity which would result in increased noise, air quality, greenhouse gas, traffic, and utilities impacts. Although a number of these impacts would be significant and unavoidable under every alternative, the severity of the significant and unavoidable impacts would vary according to the development allocations within a given alternative. For example, while Land Use Alternative B would reduce Air Quality Impact AQ-1, as described above in Section VIII.D, the No Project Alternative would be the environmentally superior alternative because it would not allow for new development to occur beyond what is currently planned for in the 2000-2020 General Plan, which would result in the least amount of development in the City and thereby reduce the consumption of renewable resources (e.g., lumber and water) and nonrenewable resources (e.g., fossil fuels, natural gas, and gasoline). Less development would place fewer demands on public

service providers (which could require new facilities), would require fewer road, sewer, water and energy infrastructure improvements, and would generate less waste, which would overall reduce impacts on the environment.

In accordance with State CEQA Guidelines Section 15126.6(e)(2), if the environmentally superior alternative is the No Project alternative, the EIR shall also identify an environmentally superior alternative from among the other alternatives. Accordingly, the environmentally superior alternative would be Land Use Alternative A, because less development would occur compared to Land Use Alternative B, Land Use Alternative C, and the Balanced Plan. Under Land Use Alternative A, no new commercial space, hotel rooms or residential units would be permitted beyond the allocations in the current General Plan.

For the foregoing reasons, Alternative A is considered the environmentally superior alternative.

## **IX. INCORPORATION BY REFERENCE**

These findings incorporate the text of the Final EIR for the Project, the Mitigation Monitoring and Reporting Program, City staff reports relating to the Project and other documents relating to public hearings on the Project, by reference, in their entirety. Without limitation, this incorporation is intended to elaborate on the scope and nature of mitigation measures, project and cumulative impacts, the basis for determining the significance of impacts, the comparison of the alternatives to the Project, the determination of the environmentally superior alternative, and the reasons for approving the Project.

## **X. RECORD OF PROCEEDINGS**

Various documents and other materials related to the Project constitute the record of proceedings upon which the City bases its findings and decisions contained herein. Those documents and materials are located in the offices of the custodian for the documents and materials, which is the City of Cupertino Community Development Department, Cupertino City Hall, 10300 Torre Avenue, Cupertino, CA 95014-3202.

## **XI. NO RECIRCULATION REQUIRED**

State CEQA Guidelines Section 15088.5 requires a lead agency to recirculate an EIR for further review and comment when “significant new information” is added to the EIR after public notice is given of the availability of the Draft EIR but before certification. No significant new information was added to the Draft EIR as a result of the public comment process. The Final EIR responds to comments, and clarifies, amplifies and makes insignificant modifications to the Draft EIR. The Final EIR does not identify any new significant effects on the environment or a substantial increase in the severity of an environmental impact.

The EIR analyzes full buildout of 2040 growth for Cupertino as projected in Plan Bay Area. The Balanced Plan consists of the same development allocations and Housing Element sites that were analyzed in the EIR for Alternative C except, as described in more detail in the next section below, the office allocation is reduced to the amount analyzed in the EIR for Alternative B, the maximum height limits are reduced except at one location. Accordingly, all portions of the Balanced Plan were analyzed in the EIR, either as part of Alternative C or as part of Alternative B. There are no new significant effects on the environment or a substantial increase in the severity of an environmental impact associated with substituting the smaller office allocation from Alternative B for the original, larger office allocation in Alternative B in order to create the Balanced Plan that are the subject of these Findings nor are there new significant effects on the environment or a substantial increase in the severity of an environmental impact associated with the changes in maximum height limits.

For the foregoing reasons, recirculation of the Final EIR is not required.

## **XII. STATEMENT OF OVERRIDING CONSIDERATIONS**

As set forth above, the City has found that the Project will result in project and cumulative significant adverse environmental impacts related to air quality, noise, and traffic and transportation that cannot be avoided following adoption, incorporation into the Project, and implementation of mitigation measures described in the EIR. In addition, there are no feasible project alternatives that would mitigate or avoid all of the Project's significant environmental impacts. Section 15093(b) of the State CEQA Guidelines provides that when the decision of the public agency results in the occurrence of significant impacts that are not avoided or substantially lessened, the agency must state in writing the reasons to support its actions. See also Public Resources Code Section 21081(b). Having balanced the economic, legal, social, technological or other benefits of the Project, including region-wide or statewide environmental benefits, against its significant and unavoidable environmental impacts, the City finds that the Project benefits outweigh its unavoidable adverse environmental effects, and that the adverse environmental effects are therefore acceptable.

The following statement identifies the reasons why, in the City's judgment, specific benefits of the Project outweigh the significant and unavoidable effects. The substantial evidence supporting the benefits of the Project can be found in the preceding sections of these Findings, in the Project itself, and in the record of proceedings as defined in Section X, above. The City further finds that each of the project benefits discussed below is a separate and independent basis for these findings. The reasons set forth below are based on the Final EIR and other information in the administrative record.

- 1) The Vision Statement in the General Plan states that "Cupertino aspires to be a balanced community with quiet and attractive residential neighborhoods; exemplary parks and schools; accessible open space areas, hillsides and creeks; and a vibrant,

mixed use 'Heart of the City.' Cupertino will be safe, friendly, healthy, connected, walkable, bikeable and inclusive for all residents and workers, with ample places and opportunities for people to interact, recreate, innovate and collaborate." In incorporating the office allocation from Land Use Alternative B, the commercial allocations from Land Use Alternatives B and C, and the hotel and residential allocations from Land Use Alternative C, the Project provides the City with a balanced mix of economic development opportunities while seeking to lessen significant impacts by pursuing the highest possible levels of development.

- 2) The Project provides the City with the commercial development allocation it needs to increase sales and avoid retail leakage in the trade area as, recommended on page 85-86 of the General Plan Amendment Market Study (BAE Urban Economics, February 13, 2014), and would allow the City flexibility to encourage new commercial uses in other parts of the City in the future that will generate additional sales taxes. and as set forth in the project objectives.
- 3) The Project provides for economic growth by creating employment-related land uses. This will attract new businesses and allow existing businesses to stay and grow within the City, improve sales tax and property tax revenue to help the City maintain a healthy fiscal balance to provide its residents with high quality services.
- 4) The Project concentrates growth along the City's major transportation corridors and in the City's employment centers, which are areas that are within walking distance/bus distance of large employment areas. Encouraging development in existing urbanized areas results in fewer impacts from the construction of new infrastructure, maximizes use of existing impervious surfaces, provides multi-modal transportation opportunities, and reduces miles traveled, which translates into air quality benefits.
- 5) The Project concentrates growth at locations with existing uses and, as a result, potential future development under the Project would consist largely of either redevelopment of existing building, selective demolition of existing structures and replacement with new construction, or new infill development adjacent to existing uses, all of which would serve to lessen environmental impacts.
- 6) The Project policies concentrating growth along transportation corridors and in employment centers contributes to community goals of protecting the City's neighborhoods and connectivity.
- 7) The Project includes policies that encourage conservation of water and energy resources in conformance with the City's sustainability goals.

- 8) The Project is in conformance with the principles of planning sustainable communities by meeting both the present and future housing needs of the City, and fulfills the City Council's charge to prepare a Housing Element.
- 9) The Project is consistent with key planning documents, including Plan Bay Area, which is the Bay Area's Regional Transportation Plan (RTP)/Sustainable Community Strategy (SCS), as well as SB 375, the Sustainable Communities and Climate Protection Act.
- 10) The Project meets the City's Regional Housing Needs Allocation (RHNA) of 1,064 units, and provides a moderate surplus above the City's housing need of 1,002 units, or approximately 1,400 units.
- 11) The Project provides opportunities for increased building heights in key Nodes and Gateways, and makes additional building height and residential density increases contingent on future development projects in Cupertino providing the City with community benefits.
- 12) The Project provides for revitalizing the Vallco Shopping Mall and transforming it into a locally and regionally significant retail, employment, housing and entertainment destination, which would become the "downtown" of Cupertino.
- 13) The Gateways and Nodes located within some of the Project's Special Areas represent key locations in the City that, with the use of design elements, such as buildings, arches, fountains, banners, signage, special lighting, landscaping and public art, have the opportunity to create a memorable impression of Cupertino. These key locations are essential for providing residents, visitors, and workers an attractive, friendly, and comfortable place with inviting active pedestrian spaces and services.

### **XIII. SUMMARY**

1. Based on the foregoing Findings and the information contained in the record, the City has made one or more of the following Findings with respect to each of the significant environmental effects of the Project:
  - a. Changes or alterations have been required in, or incorporated into, the Project that avoid or substantially lessen the significant environmental effects identified in the Final EIR.
  - b. Those changes or alterations are within the responsibility and jurisdiction of another public agency and have been, or can and should be, adopted by that other public agency.
  - c. Specific economic, legal, social, technological, or other considerations, make infeasible the mitigation measures or alternatives identified in the Final EIR

that would otherwise avoid or substantially lessen the identified significant environmental effects of the Project.

2. Based on the foregoing Findings and the information contained in the record, the City determines that:
  - a. All significant effects on the environment due to the approval of the Project have been eliminated or substantially lessened where feasible.
  - b. Any remaining significant effects on the environment found to be unavoidable are acceptable due to the factors described in the Statement of Overriding Considerations, above.

633792.9





**FILED**  
SAN MATEO COUNTY

AUG 26 2016

Clerk of the Superior Court  
By   
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN MATEO  
COMPLEX CIVIL LITIGATION

2

REDWOOD CITY RESIDENTS FOR  
RESPONSIBLE DEVELOPMENT,

Civil No. 16CIV01069  
CEQA

Petitioner,

Assigned for All Purposes to  
Hon. Marie S. Weiner, Dept. 2

vs.

**CASE MANAGEMENT ORDER #1**

CITY OF REDWOOD CITY,

Respondent,

JEFFERSON RES LLC, and DOES 1-  
25,

Real Parties in Interest.

This CEQA case is assigned for all purposes, according to Local Rule 2.1.3, to the Honorable Marie S. Weiner in Department 2, the Court's designated CEQA judge, pursuant to Public Resources Code Section 21167.1(b),

IT IS HEREBY ORDERED as follows:

**PETITIONER SHALL SERVE A COPY OF THIS ORDER UPON ALL  
RESPONDENTS AND REAL PARTIES IN INTEREST.**



1. All pleadings, motions, applications, briefs, and any and all other papers in this case shall be filed with (and related filing fees paid to) the Civil Clerk's Office located in the Hall of Justice, First Floor, Room A, 400 County Center, Redwood City, California. **One extra copy of any such filing shall be stamped "Judge's Copy" and delivered by overnight or first class mail directly to Department 2** located at Courtroom 2E, 400 County Center, Redwood City, California 94063. DO NOT LEAVE THE JUDGE'S COPY WITH THE CLERK'S OFFICE. PLEASE ADD DEPARTMENT 2 TO YOUR MAILING SERVICE LIST IN THE CASE AS TO ANY AND ALL PAPERS FILED WITH THE COURT. All motions and briefs shall conform with the California Rules of Court, especially Rule 3.1113, **and indicate on the caption page that this matter is assigned for all purposes to Department 2.** DO NOT FAX COPIES OR CORRESPONDENCE TO DEPARTMENT 2, AS THERE IS NO DEDICATED FAX LINE FOR THE CIVIL COMPLEX DEPARTMENT.

2. As to any and all motions or other matters requiring a hearing, the hearing date shall be obtained *directly* from and approved by Department 2 at **(650) 261-5102** (and *not* with the Civil Clerk's Office nor with the Research Attorney), *prior* to filing of the moving papers or other initial filings..

3. *Ex parte* applications in this matter shall heard by Department 2, **on Tuesdays and Thursday between 2:00 p.m. and 3:30 p.m.**, and the parties are required to meet the requirements of CRC Rule 3.120 *et seq.*. With the consent of counsel for *all* parties, telephone conferences on *simple* interim case management matters may be scheduled with the Court for a mutually convenient time and date – with the scheduling and logistics of such telephone conferences to be the responsibility of the requesting party/parties.

4. As to any discovery motions, the parties are relieved of the statutory obligation under CRC Rule 3.1345, and thus need *not* file a separate statement – instead the subject discovery requests (or deposition questions) and written responses (or deposition answers or objections) must be attached to the supporting declaration on the discovery motion.

5. In regard to all discovery disputes, counsel for the parties (and any involved third parties) shall meet and confer on any and all discovery disputes and, if there are remaining disputes, then counsel for each side shall serve on each other and mail/deliver *directly* to Department 2 a letter brief setting forth the dispute and attaching as *tabbed* exhibits to the letter the subject discovery requests and discovery responses (if any). At the time or prior to submitting the letter briefs, counsel for the parties shall also schedule a discovery conference with the Court to occur no sooner than five court days after *delivery* of the last letter brief to the Court, in order to discuss the dispute. **THE DISCOVERY DISPUTE LETTER BRIEFS AND THE DISCOVERY CONFERENCE SHALL BE DONE *WELL PRIOR TO* THE STATUTORY DEADLINES FOR FILING OF ANY MOTION TO COMPEL OR OTHER DISCOVERY MOTION. No discovery motion may be filed by any party unless and until there is compliance with the requirement of this Order, i.e., (i) substantive meet and confer, (ii) exchange of letter briefs, and (iii) discovery conference with the Court. This requirement does *not* constitute an extension of time for any statutory time period for filing and serving any motion under the Civil Discovery Act.**

6. Pursuant to CRC Rule 3.1113(i), the Complex Civil Department, Dept. 2, requires that if any authority other than California cases, statutes, constitutional


provisions or state or local rules are cited, a copy of that authority must be lodged (not filed) with the papers that cite that authority and tabbed as required by Rule 3.1110(f).

7. The initial Case Management Conference is set for **Friday, October 7, 2016 at 1:30 p.m.** in Department 2 of this Court, located at Courtroom 2E, 400 County Center, Redwood City, California.

8. In anticipation of the Case Management Conference, counsel for the parties should be prepared to discuss at the hearing *and* submit written case management conference statements (in prose and details, *not* using the standardized Judicial Council form) directly to Department 2 on or before **September 30, 2016**, as to the following:

- a. Status of Service upon or appearance by Respondents and Real Parties in Interest;
- b. Status of Administrative Record;
- c. Status of Settlement Conference;
- d. Status of Request for Hearing;
- e. Conclusions reached after meet and confer on all matters set forth in CRC Rule 3.750 and Rule 3.724(8);
- f. Anticipated motions and proposed briefing schedule;
- g. Setting of Briefing Schedule and Hearing/Trial;
- h. Setting of next CMC date; and
- i. Any other matters for which the parties seek Court ruling or scheduling.

DATED: August 26, 2016

  
\_\_\_\_\_  
HON. MARIE S. WEINER  
JUDGE OF THE SUPERIOR COURT

SERVICE LIST

*Redwood City Residents v. RWC and Jefferson Res.*, CEQA No. 16CIV01069  
as of August 26, 2016

Attorneys for Petitioner:

GEOFFREY CARR  
CARR YELEY & ASSOCIATES  
605 Middlefield Road  
Redwood City, CA 94063  
(650) 364-3346



ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):

Geoffrey T. Carr, SBN 88055  
CARR YELEY & ASSOCIATES  
605 Middlefield Road  
Redwood City, CA 94063

TELEPHONE NO: 650.364.3346

FAX NO: 650.365.4206

ATTORNEY FOR (Name): Petitioners 605 Middlefield, LLC, et al.

FOR COURT USE ONLY

**ENDORSED FILED**  
**SAN MATEO COUNTY**

AUG 25 2016

Clerk of the Superior Court  
By JORDAN MAXWELL  
DEPUTY CLERK

SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Mateo

STREET ADDRESS: 400 County Center

MAILING ADDRESS:

CITY AND ZIP CODE: Redwood City, CA 94063

BRANCH NAME: Southern Branch - Hall of Justice

CASE NAME:

Redwood City Residents for Resp. Dev. v. City of Redwood City

**CIVIL CASE COVER SHEET**

**Unlimited** (Amount demanded exceeds \$25,000)  
 **Limited** (Amount demanded is \$25,000 or less)

**Complex Case Designation**

**Counter**  **Joinder**

Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:

**10 CIV 01069**

JUDGE:

DEPT:

Items 1-6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:

**Auto Tort**

Auto (22)  
 Uninsured motorist (46)

**Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort**

Asbestos (04)  
 Product liability (24)  
 Medical malpractice (45)  
 Other PI/PD/WD (23)

**Non-PI/PD/WD (Other) Tort**

Business tort/unfair business practice (07)  
 Civil rights (08)  
 Defamation (13)  
 Fraud (16)  
 Intellectual property (19)  
 Professional negligence (25)  
 Other non-PI/PD/WD tort (35)

**Employment**

Wrongful termination (36)  
 Other employment (15)

**Contract**

Breach of contract/warranty (06)  
 Rule 3.740 collections (09)  
 Other collections (09)  
 Insurance coverage (18)  
 Other contract (37)

**Real Property**

Eminent domain/Inverse condemnation (14)  
 Wrongful eviction (33)  
 Other real property (26)

**Unlawful Detainer**

Commercial (31)  
 Residential (32)  
 Drugs (38)

**Judicial Review**

Asset forfeiture (05)  
 Petition re: arbitration award (11)  
 Writ of mandate (02)  
 Other judicial review (39)

**Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400-3.403)**

Antitrust/Trade regulation (03)  
 Construction defect (10)  
 Mass tort (40)  
 Securities litigation (28)  
 Environmental/Toxic tort (30)  
 Insurance coverage claims arising from the above listed provisionally complex case types (41)

**Enforcement of Judgment**

Enforcement of judgment (20)

**Miscellaneous Civil Complaint**

RICO (27)  
 Other complaint (not specified above) (42)

**Miscellaneous Civil Petition**

Partnership and corporate governance (21)  
 Other petition (not specified above) (43)

2. This case  is  is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:

- a.  Large number of separately represented parties
- b.  Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve
- c.  Substantial amount of documentary evidence
- d.  Large number of witnesses
- e.  Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court
- f.  Substantial postjudgment judicial supervision

3. Remedies sought (check all that apply): a.  monetary b.  nonmonetary; declaratory or injunctive relief c.  punitive

4. Number of causes of action (specify): 2


5. This case  is  is not a class action suit.

6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: August 25, 2016

Geoffrey T. Carr

(TYPE OR PRINT NAME)

  
(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

**NOTICE**

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

1 GEOFFREY T. CARR (SBN 88055)  
2 CARR YELEY & ASSOCIATES  
3 Attorneys at Law  
4 605 Middlefield Road  
5 Redwood City, California 94063  
6 650.364.3346; 650.365.4206 (fax)  
7 E-mail: geoffreycarr@sbcglobal.net  
8 Attorney for Petitioner

ENDORSED FILE  
SAN MATEO COUNTY  
AUG 27 2016  
Clerk of the Superior Court  
By - [Signature]  
DEPUTY CLERK

8 IN THE SUPERIOR COURT OF CALIFORNIA  
9  
10 COUNTY OF SAN MATEO

11 REDWOOD CITY RESIDENTS FOR  
12 RESPONSIBLE DEVELOPMENT;

13 Petitioner,

14 vs.

15 CITY OF REDWOOD CITY,

16 Respondent;

17  
18 JEFFERSON RES, LLC, and  
19 DOES 1 through 25, inclusive,

20 Real Parties in Interest.

Case No.: 16CIV01069

REQUEST TO PREPARE RECORD  
OF PROCEEDINGS (COST  
ESTIMATE); CONDITIONAL  
NOTICE OF ELECTION OF  
PREPARATION BY PETITIONER

(Public Res. Code § 21167.6.)

CEQA MATTER

(San Mateo Local Rule 2.1.3)

1 Pursuant to Public Resources Code section 21167.6, and Code of Civil Procedure  
2 section 1094.5(a), Petitioner REDWOOD CITY RESIDENTS FOR RESPONSIBLE  
3 DEVELOPMENT hereby requests that Respondent CITY OF REDWOOD CITY provide it  
4 with a cost estimate for preparing the administrative record in the above-captioned matter,  
5 including indexing, page-numbering, and photocopying.

6 Petitioner requests that Respondent designate in the record all documents, including  
7 all transcripts, minutes of meetings, notices, correspondence, reports, studies, proposed  
8 decisions, final decisions, findings, and any and all other documents relating to its actions  
9 made July 26, 2016 through its City Council approving a Downtown Planned Community  
10 Permit including five guideline deviations, a Tentative Map, Condominium Permit, and a  
11 Planned Development permit for a new 8-story residential condominium and retail building  
12 consisting of 91 residential units and 4,500 square feet of ground floor retail, located at 603  
13 Jefferson Avenue in the City ("Project"). The Project sponsor is Real Party In Interest  
14 JEFFERSON RES, LLC ("Jefferson")

15 Please refer to Public Resources Code section 21167.6(e) for a list of materials  
16 required to be included in the administrative record.

17 PLEASE TAKE NOTICE that pursuant to Public Resources Code section  
18 21167.6(b)(2), Petitioner hereby reserves the right to elect to prepare the record itself after  
19 receiving Respondent's cost estimate, subject to future discussion and any alternative  
20 arrangement to which the parties to this action may agree.

21  
22 Dated: August 25, 2016

CARR, YELEY & ASSOCIATES

23  
24  
25 By: 

Geoff Carr

Attorney for Petitioner  
26  
27  
28

REQUEST TO PREPARE RECORD

*Redwood City Residents for Responsible Development v. City of Redwood City*  
Case No.



1 GEOFFREY T. CARR (SBN 88055)  
2 CARR YELEY & ASSOCIATES  
3 Attorneys at Law  
4 605 Middlefield Road  
5 Redwood City, California 94063  
6 650.364.3346; 650.365.4206 (fax)  
7 E-mail: geoffreycarr@sbcglobal.net  
8 Attorney for Petitioner

FILED  
SAN MATEO COUNTY  
AUG 25 2016  
Clerk of the Superior Court  
By: LEMOBILIZADA  
D. PULY CLERK

9 IN THE SUPERIOR COURT OF CALIFORNIA  
10 COUNTY OF SAN MATEO

11 REDWOOD CITY RESIDENTS FOR  
12 RESPONSIBLE DEVELOPMENT;

Case No.: 16CIV01069

13 Petitioner,  
14 vs.

NOTICE OF COMMENCEMENT OF  
ACTION UNDER THE CALIFORNIA  
ENVIRONMENTAL QUALITY ACT

15 CITY OF REDWOOD CITY,

(Pub. Res. Code § 21167.5)

16 Respondent;

CEQA MATTER

17  
18 JEFFERSON RES, LLC, and  
19 DOES 1 through 25, inclusive,

(San Mateo Local Rule 2.1.3)

20 Real Parties in Interest.

1 Notice is hereby given to Respondent CITY OF REDWOOD CITY of  
2 commencement of this lawsuit challenging its July 25, 2016 actions approving a Downtown  
3 Planned Community Permit including five guideline deviations, a Tentative Map,  
4 Condominium Permit, and a Planned Development permit for a new 8-story residential  
5 condominium and retail building consisting of 91 residential units and 4,500 square feet of  
6 ground floor retail, located at 603 Jefferson Avenue in the City ("Project"). The Project  
7 sponsor is Real Party In Interest JEFFERSON RES, LLC ("Jefferson").

8 The action is brought by Petitioner *Redwood City Residents For Responsible*  
9 *Development* pursuant to the judicial review provisions of the California Environmental  
10 Quality Act ("CEQA"), Public Resources Code sections 21167 and 21168, and the writ of  
11 mandate provisions of Code of Civil Procedure section 1094.5.

12  
13 Dated: August 25, 2016

CARR, YELEY & ASSOCIATES

14  
15  
16 By: 

Geoff Carr

Attorney for Petitioner  
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**PROOF OF SERVICE**  
(C.C.P. § 1013(a), 2015.5)

I am employed in the County of San Mateo, California. I am over the age of eighteen years and not a party to the within action. My business address is 605 Middlefield Road, Redwood City, California 94063.

On 8/26/16 I served the attached **NOTICE OF COMMENCEMENT OF ACTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT** on the parties in this action by placing a true copy thereof in a sealed envelope, addressed as follows:

City Clerk  
City of Redwood City  
1017 Middlefield Road  
Redwood City, CA 94063

**(BY MAIL)** I placed each such sealed envelope, with postage thereon fully prepaid for first class mail, for collection and mailing at Carr, Yeley & Associates, Redwood City, California, following ordinary business practices. I am readily familiar with the practice of the firm of Carr, Yeley & Associates for collection and processing of correspondence, said practice being that in the ordinary course of business, correspondence is deposited with the United States Postal Service the same day it is placed for collection.

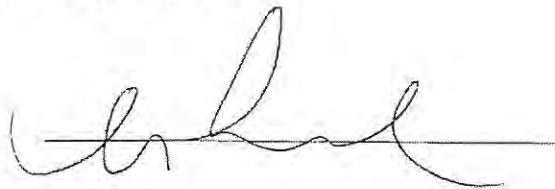
**(BY PERSONAL SERVICE)** I caused each such envelope to be delivered by hand to the addressee noted above.

**(BY FEDERAL EXPRESS)** I caused such sealed envelope to be delivered by overnight service to the addressee noted above.

**(BY FACSIMILE)** I transmitted the above described documents by facsimile machine, pursuant to Rule 2008 from Fax number (650) 365-4206 to fax number listed above. The facsimile machine that I used complied with Rule 2003(3) and no error was reported by the machine. Pursuant to Rule 2008(e)(4) I caused the machine to print a transmission record, a copy of which is attached to this declaration.

I, Manica Lal, declare under penalty of perjury under the laws of the State of California, that the foregoing is true and correct.

Executed on 8/26/16 at Redwood City, California.



1 GEOFFREY T. CARR (SBN 88055)  
2 CARR YELEY & ASSOCIATES  
3 Attorneys at Law  
4 605 Middlefield Road  
5 Redwood City, California 94063  
6 650.364.3346; 650.365.4206 (fax)  
7 E-mail: geoffreycarr@sbcglobal.net

8 Attorney for Petitioner

ENDORSED FILE  
SAN MATEO COUNTY

AUG 25 2016

Clerk of the Superior Court  
By JORDAN MARWELL  
DEPUTY CLERK

9  
10 IN THE SUPERIOR COURT OF CALIFORNIA  
11 COUNTY OF SAN MATEO

12 REDWOOD CITY RESIDENTS FOR  
13 RESPONSIBLE DEVELOPMENT;

14 Petitioner,

15 vs.

16 CITY OF REDWOOD CITY.

17 Respondent;

18 JEFFERSON RES, LLC, and  
19 DOES 1 through 25, inclusive,

20 Real Parties in Interest.

Case No.: 16CIV01069

PETITION FOR WRIT OF MANDATE

(Code Civ. Proc. §1094.5; Pub. Res. Code  
§§ 21168; 21168.5 et seq.)

CEQA MATTER

(San Mateo Local Rule 2.1.3)

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PETITION FOR WRIT OF MANDATE

*Redwood City Residents For Responsible Development v. City of Redwood City*

Case No.:

1 INTRODUCTION

2 With this lawsuit, Petitioner REDWOOD CITY RESIDENTS FOR RESPONSIBLE  
3 DEVELOPMENT (“Petitioner”) challenges the July 25, 2016 actions of Respondent CITY  
4 OF REDWOOD CITY (“City”), taken by and through its City Council, approving a  
5 Downtown Planned Community Permit including five guideline deviations, a Tentative Map,  
6 Condominium Permit, and a Planned Development permit for a new 8-story residential  
7 condominium and retail building consisting of 91 residential units and 4,500 square feet of  
8 ground floor retail, located at 603 Jefferson Avenue in the City (“Project”). The Project  
9 sponsor is Real Party In Interest JEFFERSON RES, LLC (“Jefferson”).

10 In approving the Project, the City erroneously determined it was consistent with the  
11 Downtown Precise Plan (“DTPP”) for which a Program environmental impact report  
12 (“DTPP EIR”) was certified in 2011; that the Project would have no new significant  
13 environmental impacts that were not already identified, analyzed, and mitigated in the DTPP  
14 EIR; that there is no new information that was not known at the time the DTPP EIR was  
15 certified that identifies new or more severe significant effects; and that CEQA therefore did  
16 not require preparation of any subsequent EIR.

17 Petitioner contends the City violated applicable provisions of the California  
18 Environmental Quality Act (“CEQA”) by making these determinations. Substantial  
19 evidence in the administrative record before the City shows the Project will have new and/or  
20 more severe significant environmental impacts that were not adequately identified,  
21 evaluated, or mitigated in the DTPP EIR. CEQA therefore mandated preparation of a  
22 subsequent EIR under Public Resources Code section 21166 and Sections 15162 and/or  
23 15163 of the CEQA Guidelines. Petitioner further contends the City violated the applicable  
24 provisions of the State Planning and Zoning Law, Government Code section 65000 et seq.  
25 and applicable provisions of its own Municipal Code by approving the Project despite  
26 numerous inconsistencies with governing policies and goals contained in the DTPP. The  
27 City therefore prejudicially abused its discretion by approving the Project in violation of  
28 CEQA and the State Planning and Zoning law.



1 Petitioner accordingly seeks a peremptory writ of mandate under Code of Civil  
2 Procedure section 1094.5, and Public Resources Code section 21168 and/or 21168.5,  
3 commanding the City to set aside its actions approving land use entitlements for the Project,  
4 and to reconsider its actions only after complying fully with the CEQA, the State Planning  
5 and Zoning Law, and the Redwood City Municipal Code. Petitioner further seeks a stay of  
6 the effect of the City's approvals during the pendency of these proceedings. Finally,  
7 Petitioner seeks an award of costs and attorneys fees under Code of Civil Procedure section  
8 1021.5, together with any other relief the Court deems necessary and proper.

9 In support whereof, Petitioner alleges:

10 **PARTIES**

11 **Redwood City Residents For Responsible Development**

12 1. Petitioner REDWOOD CITY RESIDENTS FOR RESPONSIBLE  
13 DEVELOPMENT is an unincorporated association of Redwood City and San Mateo County  
14 citizens and businesses organized in accordance with Public Resources Code section  
15 21177(c). Its constituent members include, but are not limited to, Kevin Frederick, Kris  
16 Johnson, Eileen Lepera, Stasha Powell, Lynn Utrecht, and Vicki Yeley, all of whom live  
17 and/or work in Redwood City.

18 2. Petitioner's members maintain a direct and regular geographic nexus with the  
19 City of Redwood City, including and especially the Downtown Area, and will suffer direct  
20 harm as a result of any adverse environmental and/or public health impacts caused by the  
21 Project. Petitioner's members have a clear and present right to, and beneficial interest in, the  
22 City's performance of its duties to comply with CEQA and the State Planning and Zoning  
23 Law, and is within the class of entities to whom the City owes such duties.

24 3. Petitioner's members presented oral and/or written comments in opposition to  
25 the Project prior to and/or during the public hearings culminating in the City's July 25, 2016  
26 approval actions, and raised or supported all objections to the Project and alleged grounds for  
27 noncompliance with CEQA and other applicable law presented herein.

1 4. By this action, Petitioner seeks to protect the interests of its members and the  
2 general public by enforcing a public duty owed to them by the City. Because the claims  
3 asserted and the relief sought in this petition are broad-based and of a public as opposed to a  
4 purely private or pecuniary nature, direct participation in this litigation by Petitioner's  
5 individual members is not necessary.

6 **City of Redwood City**

7 5. Respondent CITY OF REDWOOD CITY ("City") is a California Charter City  
8 situated in San Mateo County. On or around July 25, 2016, the City, acting through its City  
9 Council, approved the construction and operation of the Project challenged herein. At all  
10 times relevant, the City served as the "lead agency" under CEQA responsible for evaluating  
11 the environmental impacts of the Project.

12 **Jefferson Res, LLC**

13 6. Petitioner is informed and believe that Real Party in Interest JEFFERSON  
14 RES, LLC ("Jefferson"), is a Delaware limited liability company maintaining its principal  
15 place of business in Denver, Colorado.

16 7. Petitioner is informed and believe that Jefferson is the sponsor and developer  
17 of the Project, and was the applicant for and recipient of the land use entitlements challenged  
18 herein.

19 **Does**

20 8. Petitioner currently does not know the true names of Real Parties In Interest  
21 DOES 1 through 25 inclusive, and therefore names them by such fictitious names. Petitioner  
22 will seek leave from the court to amend this petition to reflect the true names and capacities  
23 of DOES 1 through 25 inclusive if and when ascertained.

24 **JURISDICTION & VENUE**

25 9. This action is brought pursuant to Public Resources Code sections 21167,  
26 21168, and 21168.5, and Code of Civil Procedure section 1094.5. Venue is proper in San  
27 Mateo County under Code of Civil Procedure section 395.  
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## FACTUAL BACKGROUND

10. On September 4, 2015, Jefferson submitted an application for a Downtown Planned Community Permit, Tentative Map, Condominium Permit, and Planned Development Permit to develop the Project.

11. The Project is within the Downtown Precise Plan Area, and therefore it is subject to the DTPP, which was approved by the City in January 2011. The DTPP contains mandatory development standards and design guidelines for development of projects within the DTPP area.

12. Jefferson's original application sought deviations from eight of the DTPP's design guidelines. On February 9, 2016, the City's Architectural Advisory Committee ("AAC") held a public hearing and recommended denial of three of the deviations. Thereafter, Jefferson modified the Project design to address the AAC's recommendation, but continued to seek approval for five deviations from the DTPP guidelines.

13. On February 11, 2015, the City's Historic Resources Advisory Committee ("HRAC") held a public hearing to consider whether the Project would create a substantial adverse change in the significance of the adjacent historic resource located at 620 Jefferson Avenue. The HRAC determined the Project would not create a substantial adverse change in the significance of the historic resource, and that the historic resource would remain eligible to be listed on the California Register.

14. On May 17, 2016, the City's Planning Commission held a public hearing on the Project, including the proposed deviations from the DTPP guidelines. Petitioner's members submitted oral and written testimony objecting to the Project prior to and/or during the public hearing before the Planning Commission.

15. After closing the hearing, a majority of the Planning Commission voted to approve the Downtown Planned Community Permit including five guideline deviations, Tentative Map, Condominium Permit, and Planned Development permit for the Project. The Planning Commission based its action in part on an initial study "checklist" prepared by the City's Planning Division. The checklist concluded the Project was within the scope of the



1 previously approved DTPP; was adequately described in the previously certified DTPP EIR  
2 for purposes of CEQA; that the Project will not result in any new environmental impact, or a  
3 substantial increase in the severity of any environmental impact, or require new mitigation  
4 measures beyond those identified in the DTPP EIR; and that no new environmental  
5 document was therefore required.

6 16. Certain of Petitioner's members timely appealed the Planning Commission's  
7 actions to the City Council in accordance with the appeal procedures contained in the City's  
8 Municipal Code.

9 17. On July 25, 2016, the City Council held a public hearing on the appeals.  
10 Petitioner's members again submitted oral and/or written testimony objecting to the Project  
11 and the Planning Commission's determinations prior to or during the City Council hearing.

12 18. After closing the public hearing, a majority of the City Council voted to deny  
13 Petitioner's members' appeals and to uphold and reaffirm the Planning Commission's  
14 approval actions in full, including the approvals of all the entitlements that Jefferson sought,  
15 the five deviations from the DTPP design guidelines, and the determination that no new  
16 environmental document was required in order to comply with CEQA.

17 19. The City posted a notice of determination in accordance with Public Resources  
18 Code section 21152 on July 26, 2016.

19 **FIRST CLAIM FOR RELIEF**

20 **(Violations of CEQA)**

21 20. Petitioner here incorporates by reference all preceding paragraphs in their  
22 entirety.

23 21. At all times relevant to this action the City was the "lead agency" responsible  
24 for the review and approval of the Project under Public Resources Code section 21067.

25 22. Public Resources Code section 21166 requires a lead agency to prepare a  
26 subsequent or supplemental EIR where one or more of the following events occurs: (a)  
27 substantial changes are proposed in the project which will require major revisions of the  
28 environmental impact report; (b) substantial changes occur with respect to the circumstances

1 under which the project is being undertaken which will require major revisions in the  
2 environmental impact report; or (c) new information, which was not known and could not  
3 have been known at the time the environmental impact report was certified as complete,  
4 becomes available. *See also* CEQA Guidelines, 15 C.C.R. §§ 15162, 15163.

5 23. There is substantial evidence in the administrative record before the City that  
6 substantial changes have occurred with respect to the circumstances under which the Project  
7 is being undertaken, including but not limited to circumstances pertaining to cumulative  
8 traffic volumes and intersection levels of service ("LOS") in the DTPP area, that will require  
9 major revisions to the DTPP EIR.

10 24. There is substantial evidence in the administrative record before the City  
11 showing that new information, which was not known and could not have been known at the  
12 time the DTPP EIR was certified as complete, showing that the Project will have new and  
13 more significant impacts on areas including, but not limited to, cumulative traffic and  
14 circulation and intersection LOS impacts in the DTPP area, had become available prior to the  
15 City's actions approving the Project.

16 25. The City therefore had a mandatory duty under Public Resources Code Section  
17 21166 and sections 15162 and 15163 of the CEQA Guidelines to prepare a subsequent or  
18 supplemental EIR before approving the Project.

19 26. The City therefore prejudicially abused its discretion by approving the Project  
20 in violation of CEQA, and by adopting findings that are not supported by substantial  
21 evidence.

## 22 SECOND CLAIM FOR RELIEF

### 23 (Violations of State Planning & Zoning Law)

24 27. Petitioner here incorporates by reference all preceding paragraphs in their  
25 entirety.

26 28. Under the State Planning and Zoning Law, Government Code section 65000 et  
27 seq., a local public agency may entitle a proposed land use only if the land use is consistent  
28

1 with the goals, policies, and objectives contained in its General Plan, any duly adopted  
2 subsidiary land use plan, and zoning ordinances.

3 29. A project that is inconsistent with an applicable General Plan or subsidiary  
4 land use plan may not be approved without an amendment to the Plan or a variance. See  
5 Gov't Code § 65860. Where a project conflicts with even a single general plan policy, its  
6 approval may be reversed. *San Bernardino County Audubon Society, Inc. v. County of San*  
7 *Bernardino* (1984) 155 Cal.App.3d 738, 753; *Families Unafraid to Uphold Rural El Dorado*  
8 *County v. Board of Supervisors of El Dorado County* (1998) 62 Cal.App.4th 1334, 1341.  
9 Consistency demands that a project both "further the objectives and policies of the general  
10 plan and not obstruct their attainment." *Families*, 62 Cal.App.4th at 1336; see *Napa*  
11 *Citizens for Honest Government v. Napa County Board of Supervisors* (2001) 91  
12 Cal.App.4th 342, 378. Accordingly, where a project opponent alleges that a project conflicts  
13 with plan policies, a court need not find an "outright conflict." *Napa Citizens* at 379. "The  
14 proper question is whether development of the [project] is compatible with and will not  
15 frustrate the General Plan's goals and policies . . . without definite affirmative commitments  
16 to mitigate the adverse effect or effects." *Id.*

17 30. The Project is substantially and materially inconsistent with several goals and  
18 policies contained in the DTPP, the General Plan and Municipal Code, including but not  
19 limited to policies pertaining to architectural design, scale, residential income mix, street  
20 design, historic resource preservation, urban place-making, and community character.

21 31. The City therefore prejudicially abused its discretion by approving the Project  
22 in violation of the State Planning and Zoning Law, and by adopted findings of DTPP  
23 consistency that are not supported by the evidence.

#### 24 EXHAUSTION OF ADMINISTRATIVE REMEDIES

25 32. This action is brought consistent with the requirements of Public Resources  
26 Code section 21177 and Code of Civil Procedure section 1094.5. Petitioner's constituent  
27 members or representatives objected to the City's approvals of the Project orally or in  
28 writing prior to the close of the final public hearing on the Project. Petitioner's constituent



1 members, representatives, and/or other agencies, organizations and individuals raised or  
2 affirmed each of the legal deficiencies asserted in this petition orally or in writing prior to the  
3 close of the public hearing on the Project.

4 33. Petitioner has performed all conditions precedent to filing this action by  
5 complying with the requirements of Public Resources Code section 21167.5 in serving notice  
6 of the commencement of this action on the City on July 24, 2016.

7 **INADEQUATE REMEDY AT LAW**

8 34. Petitioner declares that they have no plain, speedy, and adequate remedy in the  
9 ordinary course of law for the improper action of the City.

10 **NEWLY PRODUCED EVIDENCE**

11 35. In accord with Code of Civil Procedure section 1094.5(e), Petitioner may, prior  
12 to or during the hearing on this petition, offer additional relevant evidence that could not, in  
13 the exercise of reasonable diligence, have been produced at the administrative hearings  
14 before the City's Planning Commission and/or City Council.

15 **ATTORNEYS FEES**

16 36. Petitioner is entitled to recover attorneys' fees as provided under Code of Civil  
17 Procedure section 1021.5 if it prevails in this action and the Court finds that a significant  
18 benefit has been conferred on the general public or a large class of persons, and that the  
19 necessity and burden of private enforcement is such as to make an award of fees appropriate.

20 **PRAYER**

21 WHEREFORE, Petitioner prays for entry of judgment as follows:

22 1. For a peremptory writ of mandate directing the City:

23 (a) to set aside its action taken on or about July 25, 2016 approving a Downtown  
24 Planned Community Permit including five guideline deviations, a Tentative Map,  
25 Condominium Permit, and a Planned Development permit for the Project under CEQA; and

26 (b) to comply fully with CEQA and the State Planning and Zoning Law in any  
27 subsequent action or actions taken to approve the Project.  
28

1           2.     For an order staying the effect of the City's actions pending the outcome of this  
2 proceeding.

3           3.     For a preliminary and permanent injunction directing the City to cease and  
4 refrain from engaging in any action in reliance upon the approval actions challenged herein  
5 until the City takes any necessary action to bring its actions into compliance with.

6           4.     For costs of suit.

7           5.     For an award of attorneys' fees.

8           6.     For other legal or equitable relief that the court deems just and proper.

9  
10 Dated: August 25, 2016

CARR, YELEY & ASSOCIATES

11  
12  
13 By: 

14 Geoff Carr

15 Attorney for Petitioner  
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VERIFICATION

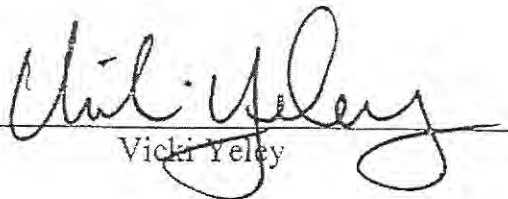
I, Vicki Yeley, declare:

I am a principal member of Redwood City Residents for Responsible Development, the Petitioner in the above-captioned action.

I have read the foregoing PETITION FOR WRIT OF MANDATE and know its contents. The statements made therein are true of my own knowledge, except as to those matters which are alleged on information and belief, and as to those matters I believe them to be true.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Dated: August 25, 2016

By:   
Vicki Yeley

## STEVENS CREEK URBAN VILLAGE OVERVIEW

- As stated in the Stevens Creek Urban Village Plan, the Urban Village boundary is a long commercial corridor currently characterized by large car dealerships and medium sized commercial buildings interspersed with smaller one- and two-story retail and service shops.
- Existing Conditions
  - 1,624 dwelling units
  - 1,584,519 SF commercial space
  - 5,281 jobs (calculated using 1 employee per 300 SF)
- Proposed increases
  - 3,860 dwelling units
  - 1,350,000 SF commercial space (calculated by using proposed jobs x 300 SF/employee)
  - 4,500 jobs
- Traffic EIR basis: 2010 Traffic Study for San Jose's Envision 2040 with counts from 2009
- Current SCUV Signature Projects in review:
  - Garden City (460,000 SF office, up to 15,000 SF retail, 871 residential units)
    - (APNs 303-25-012, 303-25-013, 303-25-016, 303-25-022, 303-25-023, 303-25-044, and 303-25-052).  
<http://www.sanjoseca.gov/index.aspx?NID=5074>
  - Fortbay (AKA Stevens Creek Promenade) (233,000 SF office, 10,000 SF retail, up to 500 residential units)
    - 4300 Stevens Creek Blvd. Mixed Use Project: <http://www.sanjoseca.gov/index.aspx?NID=5380>

## CEQA ISSUES STEVENS CREEK URBAN VILLAGE

1. Cupertino has not reviewed pending lawsuits RE City Place Santa Clara, Santana Row Expansion, and the San Jose Envision 2040 EIR which have traffic, noise, and air quality impacts reaching Cupertino.
  - a. **CITY OF SAN JOSE, Petitioner, v. CITY OF SANTA CLARA, and DOES 1-25, inclusive, Respondents RELATED COMPANIES, dba RELATED SANTA CLARA, LLC, and DOES 26-50, inclusive, Real Parties in Interest:**  
<http://media.bizj.us/view/img/10102877/city-place-complaint-filed-7-29-16.pdf>
  - b. **CITY OF SANTA CLARA, Petitioner and Plaintiff, CITY OF SAN JOSE, CITY OF SAN JOSE CITY COUNCIL; and DOES 1 through X inclusive, Respondents and Defendants, FEDERAL REALTY AND INVESTMENT TRUST, and DOES 1 through 20 inclusive, Real Parties in Interest.** <http://www.mercurynews.com/wp-content/uploads/2016/11/santana-west-lawsuit.pdf>
  - c. **CALIFORNIA CLEAN ENERGY COMMITTEE, v. CITY OF SAN JOSE, a municipal corporation, and DOES 1-50, inclusive,**  
[https://d3n8a8pro7vhm.cloudfront.net/cleanenergy/pages/22/attachments/original/1426349313/Order\\_Re\\_Petition\\_for\\_Writ\\_of\\_Mandate.pdf?1426349313](https://d3n8a8pro7vhm.cloudfront.net/cleanenergy/pages/22/attachments/original/1426349313/Order_Re_Petition_for_Writ_of_Mandate.pdf?1426349313)
    - i. Air Quality GHG Writ of Mandate must be adhered to and found fault in the Envision 2040 EIR:  
[https://d3n8a8pro7vhm.cloudfront.net/cleanenergy/pages/22/attachments/original/1426349313/Order\\_Re\\_Petition\\_for\\_Writ\\_of\\_Mandate.pdf?1426349313](https://d3n8a8pro7vhm.cloudfront.net/cleanenergy/pages/22/attachments/original/1426349313/Order_Re_Petition_for_Writ_of_Mandate.pdf?1426349313)
    - ii. "CCEC has argued (and the City did not dispute the calculations) that if present emissions data is compared to that allowed by the proposed General Plan update as required by Guidelines § 15064.4, GHG emissions will increase by 2.7 MNT or 36 percent by 2020 (from the approximate 2008 figure of 7.6 to the estimated 10.3). This is "substantially different information" that was not provided to the public. This failure to provide relevant information was prejudicial as the failure "**deprived the public and decision makers of substantial relevant information about the project's likely adverse impacts.**" Smart Rail, supra, at 463." "That said, given that the failure to state the "present" GHG emissions affects the Project baseline and all comparisons and determinations made using the baseline, and the City's stated intention to tier other projects off this defective EIR, a limited order may not be possible."
    - iii. San Jose did not present Cupertino with the myriad lower growth alternatives presented to comply with the above Writ of Mandate and evaluated here showing multiple alternatives with fewer jobs and housing along the Stevens Creek Boulevard corridor: <http://www.sanjoseca.gov/DocumentCenter/View/46547>

*Envision San Jose 2040 General Plan Supplemental Program EIR - Greenhouse Gas Emission Analysis  
File Nos. PP15-060 and GPT15-002*

*The City has prepared a Draft Supplemental Program Environmental Impact Report (Draft Supplemental PEIR) to the Envision San Jose 2040 General Plan to provide additional analysis and information on greenhouse gas emissions to supplement the Envision San Jose 2040 General Plan Program EIR (State Clearinghouse No. 2009072096) certified by the City of San Jose on November 1, 2011. The Draft Supplemental PEIR is intended to inform the decision makers and the general public of the environmental effects of greenhouse gas emissions and global climate change associated with continued implementation of the Envision San Jose 2040 General Plan. Discretionary approvals to implement the project consist of text revisions to the Envision San Jose 2040 General Plan, including, but not limited to, the update and re-adoption of the City's Greenhouse Gas Reduction Strategy. <http://www.sanjoseca.gov/index.aspx?NID=4940>*

2. Stevens Creek Urban Village area consists of multiple auto dealerships, dry cleaners, and auto maintenance facilities which have an unknown potential for soil and groundwater contamination along with impacts during demolition. Future residents may have unknown soil contamination. Potential for exposure to current residents during construction. Area is in a groundwater aquifer supplying the east side of Cupertino. The dry wells indicated in the below studies may have been filled due to the 2016-2017 significant rainfall moving the contamination plumes.
  - a. Garden City Signature Project contamination:  
[http://geotracker.waterboards.ca.gov/profile\\_report.asp?global\\_id=SL1823R923](http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=SL1823R923)
    - i. PCE is reasonably anticipated carcinogen:  
<https://www.environmentalpollutioncenters.org/perchloroethylene/>
    - ii. TPH-g 2,200 ppb benzene 59 ppb MTBE 27 ppb found:  
[http://geotracker.waterboards.ca.gov/profile\\_report?global\\_id=T0608500255&cmd=closurereview](http://geotracker.waterboards.ca.gov/profile_report?global_id=T0608500255&cmd=closurereview)
    - iii. Contamination plume monitoring has been incomplete:  
[http://geotracker.waterboards.ca.gov/regulators/deliverable\\_documents/8483994007/07S1W16J03f.pdf](http://geotracker.waterboards.ca.gov/regulators/deliverable_documents/8483994007/07S1W16J03f.pdf)
    - iv. 5 impediments to path to closure:  
[http://geotracker.waterboards.ca.gov/profile\\_report?global\\_id=T0608500255&cmd=ptcpreport&ltcp\\_id=106172](http://geotracker.waterboards.ca.gov/profile_report?global_id=T0608500255&cmd=ptcpreport&ltcp_id=106172)
  - b. 3960 Stevens Creek Blvd. Texaco contamination:  
[http://geotracker.waterboards.ca.gov/profile\\_report?global\\_id=T0608501423](http://geotracker.waterboards.ca.gov/profile_report?global_id=T0608501423)
    - i. Potential contaminants of concern: GASOLINE
    - ii. 5 impediments to path to closure:  
[http://geotracker.waterboards.ca.gov/profile\\_report?global\\_id=T0608501423&cmd=ptcpreport&ltcp\\_id=100707](http://geotracker.waterboards.ca.gov/profile_report?global_id=T0608501423&cmd=ptcpreport&ltcp_id=100707)
  - c. 1704 Saratoga Avenue contamination:  
[http://geotracker.waterboards.ca.gov/profile\\_report?global\\_id=T0608509697](http://geotracker.waterboards.ca.gov/profile_report?global_id=T0608509697)
    - i. Potential contaminants of concern: GASOLINE, MTBE / TBA / OTHER FUEL OXYGENATES
    - ii. **AQUIFER USED FOR DRINKING WATER SUPPLY**
  - d. 404 Saratoga Avenue contamination:  
[http://geotracker.waterboards.ca.gov/profile\\_report?global\\_id=T0608500255](http://geotracker.waterboards.ca.gov/profile_report?global_id=T0608500255)
    - i. Potential Contaminants of concern: BENZENE, GASOLINE, MTBE / TBA / OTHER FUEL OXYGENATES, TOLUENE, XYLENE
    - ii. 5 impediments to path to closure:  
[http://geotracker.waterboards.ca.gov/profile\\_report?global\\_id=T0608500255&cmd=ptcpreport&ltcp\\_id=106172](http://geotracker.waterboards.ca.gov/profile_report?global_id=T0608500255&cmd=ptcpreport&ltcp_id=106172)
    - iii. **AQUIFER USED FOR DRINKING WATER SUPPLY**
3. Fortbay Signature Project letters to San Jose: <https://www.sanjoseca.gov/DocumentCenter/View/69230>
4. Garden City Signature Project letters to San Jose: <http://www.sanjoseca.gov/DocumentCenter/View/59361>



5. Projects in the Santana Row area including Volar, Santana Row West (under litigation from Santa Clara), and Santana Row Expansion (AKA lots 9 and 17) were not included in the Traffic EIR from 2010 for Envision 2040. Pending projects at Vallco, Cupertino and City Place Santa Clara, were not included.
6. "Santa Clara has grave concerns about the impact this increased intensity of use will have on the already congested transportation system the two cities share" – excerpt from Santa Clara City Manager Letter to San Jose <https://files.acrobat.com/a/preview/d56fddac-5752-453e-a62b-a5d76ed08f98>
7. VTA Transportation Impact Analysis Guidelines 12.2, 12.3, and 12.4 have not been adequately adhered to: <http://www.vta.org/sfc/servlet.shepherd/document/download/069A0000001frgSIAQ>
  - a. 12.2 Projects on a Jurisdiction Border: "...coordinate with the adjacent jurisdiction(s) to discuss transportation related issues such as assessment of existing conditions, trip assignment, trip distribution, and mitigation measures and improvements as appropriate."
  - b. 12.3 Multi-Agency Projects: "For projects that extend in multiple jurisdictions such as shopping centers or large developments, the Lead Agency should facilitate early coordination with the participating agencies." Minimal coordination and explanation of project took place.
  - c. 12.4: "If the new transit ridership generated by the project causes the load factor of one or more transit routes to exceed the standard established by the applicable transit agency, the project should contribute to transit improvements to enhance the capacity of the affected route or provide alternative facilities."  
"If the additional bicycle or pedestrian volumes generated by the project would unreasonably degrade conditions on bicycle and pedestrian facilities, the project should contribute to improvements to the conditions of the affected facility or provide alternative facilities."
  - d. 12.5 Transit Delay: "If increased transit vehicle delay is found in this analysis, the Lead Agency should work with VTA to identify feasible transit priority measures near the affected facility and include contributions to any applicable projects that improve transit speed and reliability in the TIA. Refer to Section 10.2 for more information on improvements to address congestion effects on transit travel times."
    - i. The Volar, San Jose TIA indicates transit delay issues are anticipated on Stevens Creek Blvd. Excerpt: "*Both the Stevens Creek/Winchester and Stevens Creek/Monroe intersections are currently Protected Intersections, per City policy, meaning that the City would accept offsetting transportation system improvements to enhance pedestrian, bicycle, and transit facilities as required by the development in order for the City to approve the project. VTA supports the idea of designating Protected Intersections to encourage development in locations conducive to walking, bicycling and transit in order to reduce vehicle miles traveled and greenhouse gas emissions. However, increased congestion at this intersection could result in delay to transit vehicles on Stevens Creek Boulevard, including the Local 23, Limited 323 and future Bus Rapid Transit (BRT) service, which could degrade schedule reliability and increase operating costs.*" See P. 7, no actual mitigation measures to be implemented, "The Improvements provided by VTA in the comment letter will also be incorporated into the project's list for future off-setting improvements."

First Amendment to the Draft Environmental Impact Report 350 Winchester Mixed Use Project (Volar) May, 2017: <http://sanjoseca.gov/DocumentCenter/View/68773>

8. Land Use has no percentage requirements in the mixed used urban villages. Density ranges are given with multiple options. Urban Residential land use may ultimately be commercial space over a parking garage for example, further impacting traffic. Land Use definitions and density, Chapter 3 - Land Use: <http://www.sanjoseca.gov/DocumentCenter/View/68867>
9. No parkland will be purchased for the total 5,484 housing units, placing the crowding impact and maintenance cost on surrounding parks from Santa Clara and Cupertino.
  - a. San Jose has a "Service Level Objective" for parkland. San Jose's objective is to provide 3.5 acres of parkland for every 1,000 residents.
  - b. <https://www.sanjoseca.gov/DocumentCenter/Home/View/32>
10. Housing unit and job increases appear to have no logical basis. 300 SF/ Employee results in a total existing plus proposed of 9,781 jobs in the SCUUV area vs. 11,738 employees when 250 SF/employee is used. San Jose did not research the actual number of employees in the area to determine trips they may currently be generating, but instead calculated the number

of employees based on square footage (300 SF/employee) which is likely too high considering the number of car dealerships with large parking lots and show rooms along the Stevens Creek Corridor.

11. San Tomas Expressway and Stevens Creek Boulevard is an intersection in multiple area traffic studies and is symptomatic of the traffic degradation which will occur. Traffic studies reviewed for impacts to this intersection show excessive impacts from various developments:
  - a. Santana Row Lots 9 and 17 (Expansion) resulted in LOS E AM/E PM contributing to 22% of the AM delay and 24% of the PM delay at this intersection.
  - b. Volar project resulted in LOS F AM/E PM contributing 7% to the AM delay.
  - c. Santana Row West resulted in LOS F AM/E PM contributing 34% to the AM delay.
  - d. City Place Santa Clara (AKA Related Urban, under CEQA litigation) resulted in LOS F AM/F PM contributing 1.6% and 2.0% to the AM/PM delays respectively.
  - e. Apple Campus 2 resulted in LOS E+ AM/LOS F PM contributing 1.0% and 2.4% to the AM/PM critical delays respectively. (Santana Row initial Expansion <http://www.sanjoseca.gov/DocumentCenter/View/45185> was included in AC2's study, the 4 other projects listed above were not).
  - f. No comprehensive study has been done for the Stevens Creek Urban Village. Litigation between the cities cannot be relied on to remove projects from cumulative.
12. Traffic Mitigation in multi-jurisdiction areas must be coordinated. Funding mechanisms require environmental review per Santa Clara Manager's office letter to San Jose, dated May 24, 2017.
13. No comprehensive study has addressed traffic, water treatment, wastewater treatment, emergency access, and noise impacts related to the combined developments at Santana Row with Stevens Creek Urban Village and due to these development areas being adjacent to one another, the arbitrary exclusion of Santana Row area when the traffic studies in that area show impacts on the Stevens Creek corridor into Cupertino, prevents a proper study. Santana Row must be included in a comprehensive traffic study.
14. No mitigation of the proposed Rapid Transit Bus line will result in significant delays to vehicular traffic and vice versa.
15. Proposed traffic mitigation to improve alternative mobilities will cause significant impacts to alternative residential areas. Proposed Tisch Road I-280 NB ramp has been deemed non-viable by Caltrans.
16. San Jose is in discussion to create 20,000 jobs in the Diridon vicinity which was not evaluated in Envision 2040 EIR. San Jose's lawsuit filed against Santa Clara's City Place highlights the proposed 24,760 jobs the City Place project anticipates, yet proposes 20,000 near Diridon and a minimum of 9,781 in the SCUV area, exceeding Santa Clara's proposal.
17. The San Jose lawsuit against Santa Clara's City Place acknowledges that City Place was not included in their GP EIR:

"21. On November 16, 2010, the Santa Clara City Council adopted the 2010-2035 General Plan after completing a comprehensive environmental review process that began in 2008 and culminated with an EIR, which the Council certified on November 16, 2010. The adopted General Plan did not anticipate, or accommodate, the project on the selected site."

"In fact, the project conflicts with the General Plan in numerous respects and violates consistency requirements imposed by the California Government Code. For example, the project creates an imbalance in Respondent's jobs/housing ratio by creating almost 25,000 jobs while adding a minimum of 200 housing units and no more than 1,360 housing units." - <http://media.bizj.us/view/img/10102877/city-place-complaint-filed-7-29-16.pdf>

18. No existing baseline counts were provided for the Santana Row Expansion (Lots 9 and 17) or Santana Row West TIA. See Sunnyvale West Neighborhood Association v. City of Sunnyvale, invalidating an environmental impact report (EIR) for a major roadway extension project. <http://www.jmbm.com/docs/changestoceqa.pdf>
  - a. The EIRs used faulty baselines for their traffic and transportation analysis, failed to identify and analyze intersections impacted by the project, failed to identify and analyze the project impacts on transit operations, and failed to identify and analyze enforceable measures to mitigate the traffic, transportation, noise, and transit impacts attributable to the projects.
19. TIA studies for Volar, Santana Row West, and Santana Row Expansion (lots 9 and 17) required Caltrans TIS (Traffic Impact Study) due to excessive trips impacting Caltrans' jurisdiction roadways. Caltrans does not allow the maximum trip

reductions used in all three of these studies. Studies maximized retail pass-by trips as well as a reduction of 25%. Santana Row West TIA used a 43% restaurant pass by trip reduction.

20. Counts for Santana Row West conducted on Valentines' Day 2/14/2013 must be discarded. Several counts for the same intersection for AM and PM are shown 5 months apart must be justified. (See Santana Row West Lots 9 and 17 TIA p. 17).
21. Air Quality GHG Writ of Mandate must be adhered to regarding San Jose's Envision 2040 EIR:  
[https://d3n8a8pro7vhmx.cloudfront.net/cleanenergy/pages/22/attachments/original/1426349313/Order\\_Re\\_Petition\\_for\\_Writ\\_of\\_Mandate.pdf?1426349313](https://d3n8a8pro7vhmx.cloudfront.net/cleanenergy/pages/22/attachments/original/1426349313/Order_Re_Petition_for_Writ_of_Mandate.pdf?1426349313)
  - a. "CCEC has argued (and the City did not dispute the calculations) that if present emissions data is compared to that allowed by the proposed General Plan update as required by Guidelines § 15064.4, GHG emissions will increase by 2.7 MMT or 36 percent by 2020 (from the approximate 2008 figure of 7.6 to the estimated 10.3). This is "substantially different information" that was not provided to the public. This failure to provide relevant information was prejudicial as the failure **"deprived the public and decision makers of substantial relevant information about the project's likely adverse impacts."** Smart Rail, supra, at 463."  
  
"That said, given that the failure to state the "present" GHG emissions affects the Project baseline and all comparisons and determinations made using the baseline, and the City's stated intention to tier other projects off this defective EIR, a limited order may not be possible."
22. The Cupertino Vision 2040 GP EIR <http://www.cupertino.org/documents/view/211> using traffic data primarily from 2011 and 2012 indicates: that 11 of 16 intersections would operate at unacceptable level of service due to the proposed project. 9 out of 16 intersections are outside of Cupertino jurisdiction and will impact San Jose. Cupertino's GP EIR was certified December 4, 2014 making the traffic counts too old according to VTA TIA guidelines.
23. The San Jose Envision 2040 EIR <http://www.sanjoseca.gov/DocumentCenter/View/2198> is a broad-brush program-level traffic study using traffic counts from 2009 showing 73% of Cupertino's lane miles are impacted by San Jose's GP and 100% of Santa Clara's. Stevens Creek Blvd. will be deficient. San Jose indicates in their traffic study that they altered their policy to no longer consider driver comfort and convenience, yet this is not holding up to CEQA scrutiny due to other concerns such as greenhouse gas emissions (see CALIFORNIA CLEAN ENERGY COMMITTEE, v. CITY OF SAN JOSE, a municipal corporation, and DOES 1-50. Inclusive, above)
24. Schools and Education services impact: multiple daycare facilities, preschools, and elementary schools will be negatively impacted. During construction children may be exposed to excessive contaminants. Facilities will be forced to close due to construction at their own sites and newly constructed sites may be cost prohibitive for returning centers. The project area feeds Cupertino Union School District and Fremont Union School District schools. Hyde Middle School (Cupertino) and Cupertino High School are at capacity. Relocating students will increase vehicle trips.
25. Attorney correspondence dated May 24, 2017 RE Volar project, 350 S. Winchester San Jose:  
<https://files.acrobat.com/a/preview/ea9d4530-bc9f-46de-b41c-73d1fc9b2641> Attorney states:
  - a. "The Project Conflicts with the General Plan."
  - b. There is no indication in the General Plan that Signature Projects can exist in a legal gray area where no land use designation fully applies. In fact, in order to qualify as a Signature Project, the City must find that the project conforms to the Land Use/ Transportation Diagram.<sup>11</sup>
  - c. The DEIR Contains an Inadequate Analysis of Impacts from Greenhouse Gas Emissions
  - d. Because the General Plan, and thereby the GHG Reduction Plan, did not anticipate the density and timing of this development, additional mitigation is needed to reduce GHG impacts to a less than significant level. The City should enforce the voluntary criteria contained in the GHG Reduction Plan as binding mitigation.
  - e. As demonstrated above, approving this Project would violate CEQA and be inconsistent with the General Plan.
26. Air pollution has not been studied along Stevens Creek or for the proposed Freeway Cap park. Research indicates the Freeway Cap park would have no mitigations. Only limited mitigations exist for homes near Stevens Creek Blvd. from the air pollution. The proposed Freeway Cap Park is an unacceptable alternative to purchasing parkland. Source:  
<https://www.arb.ca.gov/research/health/traff-eff/research%20status%20-reducing%20exposure%20to%20traffic%20pollution.pdf>

## CEQA LAWSUITS ONGOING BETWEEN SAN JOSE – SANTA CLARA

**San Jose sues Santa Clara over City Place (AKA Related Urban):** <http://media.bizj.us/view/img/10102877/city-place-complaint-filed-7-29-16.pdf>

This lawsuit has moved to San Mateo County and will have a hearing in August.

**Santa Clara sues San Jose over Santana Row Expansion (AKA Lots 9 and 17):** <http://www.mercurynews.com/wp-content/uploads/2016/11/santana-west-lawsuit.pdf>

Progress article: <http://www.mercurynews.com/2017/06/09/internal-affairs-san-jose-v-santa-clara-round-one-goes-to-santa-clara/>

## CITIES' CORRESPONDENCE RE STEVENS CREEK URBAN VILLAGES

**Letter from Santa Clara to San Jose RE Stevens Creek Urban Village:**

<https://files.acrobat.com/a/preview/d56fddac-5752-453e-a62b-a5d76ed08f98>

**Letter from Cupertino Mayor to San Jose:**

<https://files.acrobat.com/a/preview/f0935275-a2bc-4c80-9aea-d8b9c4b382c0>

## VARIOUS TRAFFIC STUDIES IMPACTING STEVENS CREEK BLVD.

Santana Row Lots 9 and 17 AKA Santana Row Expansion Traffic EIR: <https://www.sanjoseca.gov/DocumentCenter/View/41531>

Volar Traffic EIR: <http://sanjoseca.gov/DocumentCenter/View/68773>

Santana Row West Traffic EIR: <http://www.sanjoseca.gov/DocumentCenter/View/57720>

Apple Campus 2 Traffic EIR: <https://s3.amazonaws.com/Apple-Campus2-DEIR/Appendix-B-Transportation-Impact-Analysis.pdf>

City Place Santa Clara (Under CEQA Litigation):

Chapter 03-03 - Transportation, Part 1 (PDF) <http://santaclaraca.gov/home/showdocument?id=15536>

Chapter 03-03 - Transportation, Part 2 (PDF) <http://santaclaraca.gov/home/showdocument?id=15538>

Cupertino General Plan 2040 Vision Traffic EIR: <http://www.cupertino.org/documents/view/211>

San Jose General Plan Envision 2040 Traffic EIR: <http://www.sanjoseca.gov/DocumentCenter/View/2198>

## SUPPORTING DOCUMENTS FROM TRAFFIC STUDIES

### SANTANA ROW LOTS 9 AND 17 AKA SANTANA ROW EXPANSION TRAFFIC EIR:

- <https://www.sanjoseca.gov/DocumentCenter/View/41531>
- Counts from 2012 and 2013
- See Lawsuit link above or here: <http://www.mercurynews.com/wp-content/uploads/2016/11/santana-west-lawsuit.pdf>

- Trip Generation Table 8 Issues:
  - Low movie theater Daily Trip Rate in Table 8 p. 41 does not match ITE Trip Generation Handbook rates for Movie Theaters, and employee count was omitted
  - No baseline counts made for existing Dudley Apartments, used ITE Trip Generation Rate instead
  - Approved 69,491 SF Office (approved) has generated trips subtracted from 510,000 SF total which appears to be an error if these are not existing. If existing, a traffic count should have been made.
- Project Meets the threshold requirements for a Caltrans Traffic Impact Study.
 

[http://www.dot.ca.gov/hq/tpp/offices/ocp/igr\\_ceqa\\_files/tisguide.pdf](http://www.dot.ca.gov/hq/tpp/offices/ocp/igr_ceqa_files/tisguide.pdf)

  - Used Maximum ITE Trip Reductions for Mixed Use BUT Caltrans TIS Guidelines p. 4 require that using the maximum reductions be justified:
    - 3. Captured Trips7 – Captured trip reductions greater than 5% requires consultation and acceptance by Caltrans. The justification for exceeding a 5% reduction should be discussed in the TIS.
- Traffic counts include intersections with up to five months separation in count dates and multiple counts were done on 2/14/2013 which is Valentine’s Day, near Valley Fair Mall. Traffic patterns may have been significantly altered.



Figure 2  
Project Components



**ITE Trip Generation Rates - 9th Edition**  
**Pass-by rates from ITE Trip Generation Handbook - 2nd Edition**  
(copyrights, Insitute of Transportation Engineers)

Description/ITE Code	Units	ITE Vehicle Trip Generation Rates							
		(peak hours are for peak hour of adjacent street traffic unless highlighted)							
		Weekday	AM	PM	Pass-By	AM In	AM Out	PM In	PM Out
Live Theater 441	Seats	NA	NA	0.02		NA	NA	50%	50%
Movie Theater w/o matinee 443	KSF <sup>2</sup>	78.06	0.22	6.16		NA	NA	94%	6%
Movie Theater w/o matinee 443	Movie Screens	220.00	NA	24.00		NA	NA	41%	59%
Movie Theater w/o matinee 443	Seats	1.76	0.01	0.07		NA	NA	75%	25%
Movie Theater w/o matinee 443	Employees	53.12	0.15	4.20		NA	NA	NA	NA
Movie Theater w/ matinee 444	KSF <sup>2</sup>	99.28	NA	3.80		NA	NA	64%	36%
Movie Theater w/ matinee 444	Movie Screens	546.86	NA	20.22		NA	NA	40%	60%
Movie Theater w/ matinee 444	Seats	2.24	NA	0.07		NA	NA	39%	61%
Multiplex Movie Theater 445	KSF <sup>2</sup>	NA	NA	4.91		NA	NA	62%	38%
Multiplex Movie Theater 445	Movie Screens	NA	NA	13.64		NA	NA	45%	55%
Multiplex Movie Theater 445	Seats	NA	NA	0.08		NA	NA	36%	64%

**Table 8**  
**Background Plus Project Trip Generation Estimates**

Land Use	Size	Daily Trip Rate	Daily Trips	AM Peak Hour						PM Peak Hour							
				Pk-Hr %	Internal Red.	Splits		Trips		Pk-Hr %	Internal Red.	Splits		Trips			
						In	Out	In	Out			In	Out	In	Out	Total	
<b>Proposed Land Uses</b>																	
Parcel 9 & 17 Office /a/	510,000 s.f.	11.00	5,610	14%		88%	12%	691	94	785	14%		17%	83%	133	652	785
Mixed-Used Reductions /b/			-168		3%			-21	-3	-24		13%			-17	-85	-102
<b>Sub-Total</b>			<b>5,442</b>					<b>670</b>	<b>91</b>	<b>761</b>				<b>116</b>	<b>567</b>	<b>683</b>	
Movie Theater /a/	7 screens	154.00	1,078	0%		0%	0%	0	0	0	12.4%		60%	40%	80	54	134
Mixed-Used Reductions /b/			-129		12%			0	0	0		12%			-10	-6	-16
<b>Sub-Total</b>			<b>949</b>					<b>0</b>	<b>0</b>	<b>0</b>				<b>70</b>	<b>48</b>	<b>118</b>	
Hotel Rooms /a/	6 rooms	9.00	54	8%		60%	40%	2	2	4	9%		60%	40%	3	2	5
Mixed-Used Reductions /b/			-6		12%			0	0	0		12%			0	0	0
<b>Sub-Total</b>			<b>48</b>					<b>2</b>	<b>2</b>	<b>4</b>				<b>3</b>	<b>2</b>	<b>5</b>	
<b>Total Proposed Project Trips</b>			<b>6,438</b>					<b>672</b>	<b>93</b>	<b>765</b>				<b>189</b>	<b>617</b>	<b>806</b>	
<b>Existing/Approved Land Uses</b>																	
Dudley Apartments	47 units	6.00	-282	10%		35%	65%	-10	-18	-28	10%		65%	35%	-18	-10	-28
Mixed-Used Reductions /b/			28		10%			1	2	3		38%			7	4	11
<b>Sub-Total</b>			<b>-254</b>					<b>-9</b>	<b>-16</b>	<b>-25</b>				<b>-11</b>	<b>-6</b>	<b>-17</b>	
Lot 17 Approved Office	69,491 s.f.	11.00	-764	14%		88%	12%	-94	-13	-107	14%		17%	83%	-18	-89	-107
Mixed-Used Reductions /b/			23		3%			3	0	3		13%			2	12	14
<b>Sub-Total</b>			<b>-741</b>					<b>-91</b>	<b>-13</b>	<b>-104</b>				<b>-16</b>	<b>-77</b>	<b>-93</b>	
<b>Total Existing/Approved Project Trips</b>			<b>-1,023</b>					<b>-100</b>	<b>-29</b>	<b>-129</b>				<b>-27</b>	<b>-83</b>	<b>-110</b>	
<b>Net Project Trips</b>			<b>5,415</b>					<b>572</b>	<b>64</b>	<b>635</b>				<b>162</b>	<b>534</b>	<b>696</b>	

/a/ City of San Jose Traffic Impact Analysis Handbook: Volume 1 - Methodologies and Requirements, 2009.  
/b/ Mixed-use reductions estimated based on ITE mixed-used reduction methodology, ITE Trip Generation Handbook.

**Table ES 2  
Freeway Segment Level of Service Summary**

Freeway	Segment	Direction	Peak Hour	Mixed-Flow Lane						Existing Plus Project						Project Trips			
				Avg. Speed <sup>a/</sup>	# of Lanes	Capacity (vph)	Volume <sup>a/</sup>	Density	LOS	Avg. Speed <sup>a/</sup>	# of Lanes	Capacity (vph)	Volume <sup>a/</sup>	Density	LOS	Mixed-Flow Lane	HOV Lane	% of Capacity	% of Capacity
SR 17	Hamilton to I-280	NB	AM	23.0	3.0	6,900	5,306	77	F	--	--	--	--	--	58	0.8%	--	--	
			PM	65.0	3.0	6,900	5,677	29	D	--	--	--	--	--	17	0.2%	--	--	
I-880	I-280 to Stevens Cr	NB	AM	18.0	3.0	6,900	4,613	66	F	--	--	--	--	--	143	2.1%	--	--	
			PM	66.5	3.0	6,900	3,441	17	B	--	--	--	--	--	41	0.6%	--	--	
I-880	Stevens Cr to N. Bascom Ave	NB	AM	26.0	3.0	6,900	5,466	70	F	--	--	--	--	--	6	0.1%	--	--	
			PM	65.0	3.0	6,900	5,929	30	D	--	--	--	--	--	79	1.1%	--	--	
I-880	N. Bascom Ave to The Alameda	NB	AM	36.0	3.0	6,900	6,056	56	E	--	--	--	--	--	6	0.1%	--	--	
			PM	65.5	3.0	6,900	5,389	27	D	--	--	--	--	--	79	1.1%	--	--	
I-280	Lawrence Epwy to Saratoga Ave	EB	AM	61.0	3.0	6,900	6,640	36	D	67.0	1.0	1,650	816	12	B	50	0.7%	6	0.4%
			PM	32.0	3.0	6,900	5,971	62	F	60.0	1.0	1,650	2,224	37	D	11	0.2%	4	0.2%
I-280	Saratoga Ave to Winchester Blvd	EB	AM	59.0	3.0	6,900	6,800	37	D	67.0	1.0	1,650	746	11	A	50	0.7%	6	0.3%
			PM	45.0	3.0	6,900	6,491	48	E	70.0	1.0	1,650	2,034	29	D	11	0.2%	4	0.2%
I-280	Winchester Blvd to I-880	EB	AM	66.0	3.0	6,900	5,150	26	C	67.0	1.0	1,650	940	14	B	0	0.0%	0	0.0%
			PM	52.0	3.0	6,900	6,560	42	D	70.0	1.0	1,650	1,470	21	C	0	0.0%	0	0.0%
I-280	I-880 to Meridian Ave	EB	AM	65.5	3.0	6,900	5,319	27	D	67.0	1.0	1,650	671	10	A	9	0.1%	1	0.1%
			PM	25.0	3.0	6,900	5,538	74	F	70.0	1.0	1,650	2,122	30	D	58	0.8%	22	1.3%
I-280	Meridian Ave to Bird Ave	EB	AM	46.0	4.0	9,200	8,660	47	E	--	--	--	--	--	10	0.1%	--	--	
			PM	28.0	4.0	9,200	7,550	68	F	--	--	--	--	--	80	0.9%	--	--	
I-280	Bird Ave to Meridian Ave	WB	AM	13.0	4.0	9,200	5,466	106	F	--	--	--	--	--	86	0.9%	--	--	
			PM	59.0	4.0	9,200	8,844	38	D	--	--	--	--	--	24	0.3%	--	--	
I-280	Meridian Ave to I-880	WB	AM	7.0	3.4	7,820	3,134	132	F	27.0	1.0	1,650	1,872	6	E	54	0.7%	32	1.6%
			PM	66.0	3.4	7,820	5,189	23	C	70.0	1.0	1,650	1,265	18	B	19	0.2%	5	0.3%
I-280	I-880 to Winchester Blvd	WB	AM	18.0	3.0	6,900	4,520	94	F	42.0	1.0	1,650	2,100	50	E	0	0.0%	0	0.0%
			PM	65.5	3.0	6,900	5,310	27	D	70.0	1.0	1,650	1,470	21	C	0	0.0%	0	0.0%
I-280	Winchester Blvd to Saratoga Ave	WB	AM	12.0	3.0	6,900	3,893	108	F	45.0	1.0	1,650	2,161	48	E	3	0.0%	1	0.1%
			PM	62.0	3.0	6,900	6,554	35	D	70.0	1.0	1,650	1,269	18	B	44	0.6%	9	0.5%
I-280	Saratoga Ave to Lawrence Epwy	WB	AM	16.0	3.0	6,900	4,423	92	F	36.0	1.0	1,650	2,061	57	E	3	0.0%	1	0.1%
			PM	65.5	3.0	6,900	5,357	27	D	70.0	1.0	1,650	636	9	A	47	0.7%	6	0.3%
I-880	The Alameda to N. Bascom Ave	SB	AM	66.0	3.0	6,900	5,234	26	C	--	--	--	--	--	84	1.2%	--	--	
			PM	25.0	3.0	6,900	5,502	73	F	--	--	--	--	--	22	0.3%	--	--	
I-880	N. Bascom Ave to Stevens Cr	SB	AM	24.0	3.0	6,900	5,414	75	F	--	--	--	--	--	84	1.2%	--	--	
			PM	30.0	3.0	6,900	5,782	64	F	--	--	--	--	--	22	0.3%	--	--	
I-880	Stevens Cr to I-280	SB	AM	66.0	3.0	6,900	5,167	26	C	--	--	--	--	--	17	0.2%	--	--	
			PM	65.0	3.0	6,900	5,964	31	D	--	--	--	--	--	134	1.9%	--	--	
SR 17	I-280 to Hamilton	SB	AM	66.0	3.0	6,900	4,367	22	C	--	--	--	--	--	7	0.1%	--	--	
			PM	61.0	3.0	6,900	6,644	36	D	--	--	--	--	--	54	0.8%	--	--	

<sup>a/</sup> Source: Santa Clara Valley Transportation Authority Congestion Management Program Monitoring Study, 2012.  
  - Denotes significant impact



**Table 3**  
**Existing Intersection Levels of Service**

Study Number	Intersection	Jurisdiction	Peak Hour	Count Date	Avg. Delay	LOS
1	Winchester Boulevard and Stevens Creek Boulevard *	San Jose	AM	02/27/13	35.5	D
			PM	09/18/12	50.7	D
2	Santana Row and Stevens Creek Boulevard	San Jose	AM	02/13/13	15.1	B
			PM	02/13/13	29.7	C
3	Redwood Avenue and Stevens Creek Boulevard	San Jose	AM	02/13/13	8.2	A
			PM	02/13/13	22.0	C
4	Monroe Street and Stevens Creek Boulevard	San Jose	AM	02/13/13	28.8	C
			PM	02/13/13	38.6	D
5	I-880 SB off-ramp and Stevens Creek Boulevard *	San Jose	AM	02/13/13	23.8	C
			PM	09/18/12	21.8	C
6	Bascom Avenue and San Carlos Street	San Jose	AM	02/14/13	41.9	D
			PM	02/14/13	51.3	D
7	Meridian Avenue and San Carlos Street	San Jose	AM	02/14/13	39.4	D
			PM	02/14/13	46.4	D
8	Lincoln Avenue and San Carlos Street	San Jose	AM	02/14/13	35.3	D
			PM	02/14/13	39.0	D
9	Bird Avenue and San Carlos Street *	San Jose	AM	04/18/13	33.0	C
			PM	09/18/12	39.0	D
10	Monroe Street and Forest Street	San Jose	AM	02/14/13	17.4	B
			PM	02/14/13	20.2	C
11	Monroe Street and Hedding Street	San Jose	AM	02/14/13	35.7	D
			PM	05/07/13	37.3	D
12	Monroe Street and Newhall Street	San Jose	AM	02/14/13	26.6	C
			PM	02/14/13	27.0	C
13	Winchester Boulevard and Hedding Street	San Jose	AM	02/14/13	31.0	C
			PM	02/14/13	35.9	D
14	Winchester Boulevard and Forest Street	San Jose	AM	02/14/13	15.4	B
			PM	02/14/13	21.5	C
15	San Tomas Expressway and Stevens Creek Boulevard *	San Jose	AM	02/26/13	51.1	D
			PM	09/11/12	<b>68.2</b>	<b>E</b>
16	Saratoga Avenue and Stevens Creek Boulevard *	San Jose	AM	02/26/13	34.8	C
			PM	09/25/12	38.1	D
17	Kiely Boulevard and Stevens Creek Boulevard *	San Jose	AM	04/16/13	37.9	D
			PM	09/19/12	37.1	D
18	Saratoga Avenue and Kiely Boulevard *	San Jose	AM	04/17/13	45.2	D
			PM	09/19/12	41.0	D
19	Saratoga Avenue and I-280 (North) *	San Jose	AM	04/18/13	23.4	C
			PM	09/19/12	21.9	C
20	Saratoga Avenue and I-280 (South) *	San Jose	AM	04/18/13	40.7	D
			PM	09/19/12	34.5	C
21	Saratoga Avenue and Moorpark Avenue *	San Jose	AM	04/18/13	41.5	D
			PM	09/19/12	44.1	D
22	San Tomas Expressway and Moorpark Avenue *	San Jose	AM	03/07/13	51.8	D
			PM	09/06/12	52.8	D
23	Winchester Boulevard and Olin Avenue	San Jose	AM	02/13/13	17.6	B
			PM	02/13/13	21.5	C

**Table 11**  
**Cumulative Conditions Intersection Levels of Service**

Study Number	Intersection	Jurisdiction	Peak Hour	Background		Cumulative				% of Project Contribution
				Delay	LOS	Delay	LOS	Incr. In Crit. Delay	Incr. In Crit. V/C	
1	Winchester Boulevard and Stevens Creek Boulevard *	San Jose	AM	36.1	D	68.8	E	82.8	0.587	10%
			PM	60.1	E	191.9	F	273.9	0.699	
2	Santana Row and Stevens Creek Boulevard	San Jose	AM	15.0	B	14.7	B	2.3	0.183	
			PM	31.0	C	28.5	C	-2.3	0.137	
3	Redwood Avenue and Stevens Creek Boulevard	San Jose	AM	9.8	A	10.4	B	0.5	0.173	
			PM	29.7	C	29.4	C	1.9	0.169	
4	Monroe Street and Stevens Creek Boulevard	San Jose	AM	34.1	C	43.5	D	14.6	0.210	25%
			PM	83.6	F	172.2	F	126.9	0.304	
5	I-880 SB off-ramp and Stevens Creek Boulevard *	San Jose	AM	23.0	C	26.5	C	-6.4	0.225	
			PM	18.7	B	21.5	C	3.2	0.148	
6	Bascom Avenue and San Carlos Street	San Jose	AM	43.0	D	45.0	D	3.3	0.062	
			PM	52.6	D	54.5	D	2.0	0.061	
7	Meridian Avenue and San Carlos Street	San Jose	AM	40.3	D	40.9	D	0.9	0.047	
			PM	52.2	D	54.0	D	2.9	0.032	
8	Lincoln Avenue and San Carlos Street	San Jose	AM	37.2	D	37.4	D	0.6	0.041	
			PM	41.7	D	41.6	D	0.6	0.028	
9	Bird Avenue and San Carlos Street *	San Jose	AM	35.7	D	36.4	D	1.0	0.016	
			PM	42.4	D	43.1	D	1.1	0.016	
10	Monroe Street and Forest Street	San Jose	AM	17.8	B	17.8	B	0.1	0.016	
			PM	21.1	C	21.3	C	0.4	0.010	
11	Monroe Street and Hedding Street	San Jose	AM	36.0	D	36.4	D	0.2	0.007	
			PM	37.6	D	37.8	D	-0.7	0.018	
12	Monroe Street and Newhall Street	San Jose	AM	26.9	C	27.1	C	-0.1	0.018	
			PM	27.1	C	27.5	C	0.3	0.022	
13	Winchester Boulevard and Hedding Street	San Jose	AM	31.7	C	33.7	C	6.2	0.117	
			PM	38.3	D	39.6	D	3.5	0.054	
14	Winchester Boulevard and Forest Street	San Jose	AM	20.2	C	21.9	C	1.0	0.029	
			PM	20.5	C	24.6	C	4.2	0.080	
15	San Tomas Expressway and Stevens Creek Boulevard *	San Jose	AM	54.2	D	59.9	E	8.0	0.046	22%
			PM	74.8	E	79.0	E	5.9	0.012	
16	Saratoga Avenue and Stevens Creek Boulevard *	San Jose	AM	38.8	D	39.8	D	3.8	0.067	
			PM	38.5	D	39.5	D	2.0	0.044	
17	Kiely Boulevard and Stevens Creek Boulevard *	San Jose	AM	37.8	D	37.7	D	0.0	0.004	
			PM	37.0	D	36.8	D	-0.1	0.005	
18	Saratoga Avenue and Kiely Boulevard *	San Jose	AM	45.0	D	45.0	D	0.1	0.002	
			PM	41.1	D	41.3	D	0.5	0.012	
19	Saratoga Avenue and I-280 (North) *	San Jose	AM	23.3	C	23.1	C	0.0	0.004	
			PM	21.8	C	21.6	C	-0.3	0.013	
20	Saratoga Avenue and I-280 (South) *	San Jose	AM	42.2	D	42.2	D	0.1	0.000	
			PM	34.6	C	34.8	C	0.6	0.004	
21	Saratoga Avenue and Moorpark Avenue *	San Jose	AM	41.8	D	42.9	D	1.1	0.024	
			PM	44.7	D	45.1	D	0.3	0.013	
22	San Tomas Expressway and Moorpark Avenue *	San Jose	AM	52.9	D	53.3	D	0.7	0.005	
			PM	54.9	D	61.7	E	11.6	0.049	
23	Winchester Boulevard and Olin Avenue	San Jose	AM	17.5	B	20.5	C	7.0	0.405	9%
			PM	20.4	C	58.8	E	49.4	0.540	

VOLAR:

TIA, traffic study: <http://www.sanjoseca.gov/DocumentCenter/View/65247>

Comments from VTA RE Draft EIR: <http://sanjoseca.gov/DocumentCenter/View/68773>

Excerpt: *“Both the Stevens Creek/Winchester and Stevens Creek/Monroe intersections are currently Protected Intersections, per City policy, meaning that the City would accept offsetting transportation system improvements to enhance pedestrian, bicycle, and transit facilities as required by the development in order for the City to approve the project. VTA supports the idea of designating Protected Intersections to encourage development in locations conducive to walking, bicycling and transit in order to reduce vehicle miles traveled and greenhouse gas emissions. However, increased congestion at this intersection could result in delay to transit vehicles on Stevens Creek Boulevard, including the Local 23, Limited 323 and future Bus Rapid Transit (BRT) service, which could degrade schedule reliability and increase operating costs.”*

- Project Meets the threshold requirements for a Caltrans Traffic Impact Study.  
[http://www.dot.ca.gov/hq/tpp/offices/ocp/igr\\_cega\\_files/tisguide.pdf](http://www.dot.ca.gov/hq/tpp/offices/ocp/igr_cega_files/tisguide.pdf)
  - Used Maximum ITE Trip Reductions for Mixed Use BUT Caltrans TIS Guidelines p. 4 require that using the maximum reductions be justified:
    - *3. Captured Trips7 – Captured trip reductions greater than 5% requires consultation and acceptance by Caltrans. The justification for exceeding a 5% reduction should be discussed in the TIS.*
- Counts from 2014 & 2015



**Table 3  
Trip Generation Estimates**

Land Use	ITE Land Use Code	% Trip Reduction	Size	Daily Rate <sup>1</sup>	Daily Trips	AM Peak Hour					PM Peak Hour						
						Pk-Hr Rate <sup>1</sup>	Spills In	Spills Out	Trips In	Trips Out	Trips Total	Pk-Hr Rate <sup>1</sup>	Spills In	Spills Out	Trips In	Trips Out	Trips Total
<b>Proposed Land Uses</b>																	
Residential	230 - Condo/Townhouse		307 units	5.81	1,784	0.44	17%	83%	23	112	135	0.52	67%	33%	107	53	160
	housing and retail mixed-use reduction <sup>2</sup>	15%			-173				-2	-2	-4				-8	-7	-15
	housing and employment mixed-use reduction <sup>4</sup>	3%			-5				0	-1	-1				-1	0	-1
	housing near a major bus stop reduction <sup>5</sup>	2%			-32				0	-2	-2				-2	-1	-3
Retail	820 - Shopping Center		26,999 s.f.	42.70	1,153	0.96	62%	38%	16	10	26	3.71	48%	52%	48	52	100
	housing and retail mixed-use reduction <sup>2</sup>	15%			-173				-2	-2	-4				-7	-8	-15
	employment and employee-serving retail mixed-use reduction <sup>3</sup>	3%			-5				0	-1	-1				-1	0	-1
	pass-by reduction <sup>6</sup>	25%			-21				0	0	0				-10	-11	-21
Office	710 - General Office Building		16,516 s.f.	11.03	182	1.56	88%	12%	23	3	26	1.49	17%	83%	4	21	25
	housing and employment mixed-use reduction <sup>4</sup>	3%			-5				-1	0	-1				0	-1	-1
	employment and employee-serving retail mixed-use reduction <sup>3</sup>	3%			-5				-1	0	-1				0	-1	-1
	employment near a major bus stop reduction <sup>5</sup>	2%			-3				0	0	0				0	0	0
Restaurant	931 - Quality Restaurant		8,652 s.f.	89.95	778	0.81	50%	50%	4	3	7	7.49	67%	33%	44	21	65
Total project trips after reductions					3,475				60	120	180				174	118	292
<b>Existing Land Use</b>																	
Driveway Counts (January 21, 2016)			26,774 s.f.	19.53	523	0.45	83%	17%	10	2	12	1.23	42%	58%	14	19	33
	pass-by reduction <sup>7</sup>	25%			-9				0	0	0				-4	-5	-9
Total project trips after reductions					514				10	2	12				10	14	24
<b>Net Project Trips (Proposed - Existing Land Uses)</b>					<b>2,961</b>				<b>50</b>	<b>118</b>	<b>168</b>				<b>164</b>	<b>104</b>	<b>268</b>
<p>Source: ITE Trip Generation, 9th Edition, 2012.</p> <p><sup>1</sup>The average trip generation rate from the ITE Trip Generation Manual was used.</p> <p><sup>2</sup>As prescribed by the VTA Transportation Impact Analysis Guidelines (October 2014), the maximum trip reduction for a mixed-use development project with housing and retail components is equal to 15% off the smaller trip generator (retail component generates less trips than the housing component).</p> <p><sup>3</sup>As prescribed by the VTA Transportation Impact Analysis Guidelines (October 2014), the maximum trip reduction for a mixed-use development project with employment and employee-serving retail components is equal to 3% off the employment component.</p> <p><sup>4</sup>As prescribed by the VTA Transportation Impact Analysis Guidelines (October 2014), the maximum trip reduction for a mixed-use development project with housing and employment components is equal to 3% off the smaller trip generator (employment component generates less trips than the housing component).</p> <p><sup>5</sup>As prescribed by the VTA Transportation Impact Analysis Guidelines (October 2014), the maximum trip reduction for employment and housing located near a major bus stop is equal to 2% of the employment and housing components.</p> <p><sup>6</sup>A 25% PM pass-by reduction is typically applied for retail development within Santa Clara County.</p>																	

**Table 9  
Cumulative Conditions Intersection Levels of Service**

Study Number	Intersection	Peak Hour	Background		Cumulative				
			Avg. Delay	LOS	Avg. Delay	LOS	Incr. In Crit. Delay	Incr. In Crit. V/C	% of Project Contribution
1	Winchester Boulevard and Stevens Creek Boulevard *	AM	39.7	D	40.6	D	1.0	0.021	67%
		PM	76.1	E	90.6	F	35.1	0.090	
2	Santana Row and Stevens Creek Boulevard	AM	12.9	B	12.9	B	0.2	0.020	
		PM	29.3	C	28.8	C	-0.3	0.023	
3	Redwood Avenue and Stevens Creek Boulevard	AM	18.8	B	19.2	B	0.0	0.019	
		PM	49.4	D	52.2	D	6.7	0.038	
4	Monroe Street and Stevens Creek Boulevard	AM	40.2	D	42.3	D	2.0	0.024	52%
		PM	148.3	F	157.3	F	13.3	0.031	
5	I-880 SB Ramps and Stevens Creek Boulevard *	AM	27.1	C	28.2	C	1.5	0.032	
		PM	25.4	C	27.2	C	1.9	0.044	
6	I-880 NB Ramps and Stevens Creek Boulevard	AM	23.9	C	24.1	C	0.2	0.011	
		PM	25.5	C	26.0	C	0.4	0.015	
7	Winchester Boulevard and Olin Avenue	AM	19.2	B	19.2	B	-0.1	0.006	
		PM	33.0	C	34.3	C	3.2	0.052	
8	Winchester Boulevard and Olsen Drive	AM	26.8	C	26.6	C	-0.1	0.006	
		PM	46.9	D	47.0	D	0.2	0.009	
9	Winchester Boulevard and I-280 WB on-ramp/Tisch Way	AM	52.6	D	55.8	E	8.1	0.027	43%
		PM	69.1	E	75.3	E	10.0	0.029	
10	Winchester Boulevard and Moorpark Avenue	AM	48.2	D	49.5	D	2.1	0.013	
		PM	43.6	D	43.9	D	0.3	0.007	
11	I-280 EB off-ramp and Moorpark Avenue *	AM	12.2	B	12.3	B	0.0	0.007	
		PM	13.6	B	13.7	B	0.1	0.011	
12	San Tomas Expressway and Stevens Creek Boulevard *	AM	90.4	F	99.3	F	12.9	0.041	7%
		PM	68.5	E	71.5	E	2.3	0.018	

\* Denotes CMP Intersection  
 Bold indicates unacceptable level of service.  
 Bold and boxed indicate significant impact.

proposed project's contribution to traffic growth at this intersection would be 25 percent or more during the PM peak hour.

**Mitigation Measure.** The intersection of Winchester Boulevard and Stevens Creek Boulevard has been identified as a City of San Jose Protected Intersection. Thus, in lieu of physical mitigations at the Winchester Boulevard and Stevens Creek Boulevard intersection, the project will construct offsetting improvements to other parts of the citywide transportation system to improve system-wide roadway capacity or to enhance non-auto travel modes in furtherance of the General Plan goals and policies.

**(4) Monroe Street and Stevens Creek Boulevard**

**Impact:** This intersection would operate at LOS F during the PM peak hour under background conditions, and the added trips as a result of the proposed and pending projects would cause the intersection's critical-movement delay to increase by two or more seconds and the demand-to-capacity ratio (V/C) to increase by 0.005 or more during the PM peak hour. Based on City of San Jose level of service impact criteria, this constitutes a significant impact. The proposed project's contribution to traffic growth at this intersection would be 25 percent or more during the PM peak hour.

**Mitigation Measure.** The intersection of Monroe Street and Stevens Creek Boulevard has been identified as a City of San Jose Protected Intersection. Thus, in lieu of physical mitigations at the Monroe Street and Stevens Creek Boulevard intersection, the project will construct offsetting improvements to other

**Santana West:**

- TIA, traffic study: <http://www.sanjoseca.gov/DocumentCenter/View/57720>
- Counts from 2014 & 2015
- Project Meets the threshold requirements for a Caltrans Traffic Impact Study. [http://www.dot.ca.gov/hq/tpp/offices/ocp/igr\\_ceqa\\_files/tisguide.pdf](http://www.dot.ca.gov/hq/tpp/offices/ocp/igr_ceqa_files/tisguide.pdf)
  - Used Maximum ITE Trip Reductions for Mixed Use BUT Caltrans TIS Guidelines p. 4 require that using the maximum reductions be justified:
    - 3. Captured Trips7 – Captured trip reductions greater than 5% requires consultation and acceptance by Caltrans. The justification for exceeding a 5% reduction should be discussed in the TIS.

**Table 7  
Project Trip Generation Estimates**

Land Use	ITE Land Use Code	% Trip Reduction	Size	Daily		AM Peak Hour					PM Peak Hour						
				Rate <sup>1</sup>	Trips	Rate <sup>1</sup>	Splits	Trips			Rate <sup>1</sup>	Splits	Trips				
						In	Out	In	Out	Total	In	Out	In	Out	Total		
<b>Proposed Land Uses</b>																	
Office	710		969,051 s.f.	11.03	10,689	1.56	88%	12%	1,331	181	1,512	1.49	17%	83%	245	1,199	1,444
employment near a major bus stop reduction <sup>4</sup>		2%			-214				-27	-4	-31				-5	-24	-29
project-funded dedicated shuttle reduction <sup>5</sup>		3%			-321				-40	-5	-45				-7	-36	-43
Retail	820		29,000 s.f.	42.70	1,238	0.96	62%	38%	17	11	28	3.71	48%	52%	52	56	108
retail pass-by reduction <sup>2</sup>		25%			-27				0	0	0				-13	-14	-27
<b>Total project trips after reductions</b>					<b>11,365</b>				<b>1,281</b>	<b>183</b>	<b>1,464</b>				<b>272</b>	<b>1,181</b>	<b>1,453</b>
<b>Existing Land Uses</b>																	
Movie Theaters (Century 22 and 23) <sup>6</sup>	444		5 screens	214.36	1,072	0.00	0%	0%	0	0	0	20.22	40%	60%	40	61	101
Flame Coffee Shop & Bakery	932		6,800 s.f.	127.15	865	10.81	55%	45%	41	33	74	9.85	60%	40%	40	27	67
restaurant pass-by reduction <sup>3</sup>		43%			-29				0	0	0				-17	-12	-29
<b>Total project trips after reductions</b>					<b>1,908</b>				<b>41</b>	<b>33</b>	<b>74</b>				<b>63</b>	<b>76</b>	<b>139</b>
<b>Net Project Trips (Proposed - Existing Land Uses)</b>					<b>9,457</b>				<b>1,240</b>	<b>150</b>	<b>1,390</b>				<b>209</b>	<b>1,105</b>	<b>1,314</b>
Source: ITE Trip Generation, 9th Edition, 2012. ITE Land Use 710 - General Office Building ITE Land Use 820 - Shopping Center ITE Land Use 444 - Movie Theater with Matinee ITE Land Use 932 - High-Turnover (Sit-Down) Restaurant <sup>1</sup> The average trip generation rate from the ITE Trip Generation Manual was used. <sup>2</sup> A 25% PM pass-by reduction is typically applied for retail development within Santa Clara County. <sup>3</sup> ITE data show that high-turnover (sit-down) restaurants have average pass-by trip reduction of 43% in the PM peak hour. <sup>4</sup> As prescribed by the VTA Transportation Impact Analysis Guidelines (October 2014), the maximum trip reduction for employment and housing located within 2,000-foot walk of a major bus stop is equal to 2% of the employment components. (The project is located close to the Valley Fair Transit Center on Forest Avenue). <sup>5</sup> As prescribed by the VTA Transportation Impact Analysis Guidelines (October 2014), the maximum trip reduction for employment with project-funded dedicated shuttle is equal to 3% of the employment component. (The project is proposing a project-funded dedicated shuttle to serve project traffic). <sup>6</sup> Weekday daily rate was derived using Friday daily rate and multiplying by the ratio of daily traffic variation between Tuesday and Friday.																	



**Table 3**  
**Existing Intersection Levels of Service**

Study Number	Intersection	Location	Peak Hour	Count Date	Avg. Delay	LOS
1	Winchester Boulevard and Stevens Creek Boulevard *	San Jose	AM	10/21/15	35.2	D
			PM	10/21/15	46.6	D
2	Santana Row and Stevens Creek Boulevard	San Jose	AM	10/21/15	13.7	B
			PM	10/21/15	30.8	C
3	Redwood Avenue and Stevens Creek Boulevard	San Jose	AM	10/21/15	7.5	A
			PM	10/21/15	23.0	C
4	Monroe Street and Stevens Creek Boulevard	San Jose	AM	10/21/15	29.8	C
			PM	10/21/15	35.4	D
5	I-880 SB Ramps and Stevens Creek Boulevard *	San Jose	AM	10/21/15	24.7	C
			PM	10/20/15	23.7	C
6	Bascom Avenue and San Carlos Street	San Jose	AM	10/21/15	41.1	D
			PM	10/21/15	48.7	D
7	Meridian Avenue and San Carlos Street	San Jose	AM	03/12/15	37.8	D
			PM	03/12/15	48.2	D
8	Lincoln Avenue and San Carlos Street	San Jose	AM	05/12/15	34.2	C
			PM	05/12/15	34.1	C
9	Bird Avenue and San Carlos Street *	San Jose	AM	10/14/14	32.9	C
			PM	09/18/14	39.6	D
10	Monroe Street and Forest Street	San Jose	AM	10/21/15	16.4	B
			PM	10/20/15	20.0	B
11	Monroe Street and Hedding Street	San Jose	AM	10/20/15	32.0	C
			PM	10/20/15	32.8	C
12	Monroe Street and Newhall Street	San Jose	AM	10/20/15	27.2	C
			PM	10/20/15	29.1	C
13	Winchester Boulevard and Hedding Street/Pruneridge Avenue	San Jose	AM	10/20/15	29.6	C
			PM	10/20/15	35.6	D
14	Winchester Boulevard and Forest Street/Worthington Circle	San Jose	AM	10/20/15	24.2	C
			PM	10/20/15	24.9	C
15	San Tomas Expressway and Stevens Creek Boulevard *	San Jose	AM	05/27/15	<b>81.8</b>	<b>F</b>
			PM	09/24/14	<b>64.1</b>	<b>E</b>
16	Saratoga Avenue and Stevens Creek Boulevard *	San Jose	AM	10/21/14	35.5	D
			PM	09/17/14	38.8	D
17	Kiely Boulevard and Stevens Creek Boulevard *	San Jose	AM	10/21/14	37.5	D
			PM	09/17/14	37.7	D
18	Saratoga Avenue and Kiely Boulevard *	San Jose	AM	10/21/14	35.6	D
			PM	09/18/14	41.0	D
19	Saratoga Avenue and I-280 (North) *	San Jose	AM	10/21/15	29.7	C
			PM	09/24/14	23.9	C
20	Saratoga Avenue and I-280 (South) *	San Jose	AM	10/21/14	34.1	C
			PM	09/24/14	33.2	C
21	Saratoga Avenue and Moorpark Avenue *	San Jose	AM	10/21/14	45.9	D
			PM	09/18/14	45.3	D
22	San Tomas Expressway and Moorpark Avenue *	San Jose	AM	10/20/15	<b>85.3</b>	<b>F</b>
			PM	09/24/14	46.9	D
23	Winchester Boulevard and Olin Avenue	San Jose	AM	10/20/15	18.6	B
			PM	10/20/15	20.4	C
24	Winchester Boulevard and Olsen Drive	San Jose	AM	10/20/15	14.0	B
			PM	10/20/15	19.6	B
25	Winchester Boulevard and I-280 WB on-ramp/Tisch Way	San Jose	AM	10/20/15	25.6	C
			PM	10/20/15	34.6	C
26	Winchester Boulevard and Moorpark Avenue	San Jose	AM	10/20/15	38.6	D
			PM	10/20/15	42.1	D



**Table 11  
Cumulative Conditions Intersection Levels of Service**

Study Number	Intersection	Location	Peak Hour	Background		Cumulative No Project		Cumulative with Project				
				Avg. Delay	LOS	Avg. Delay	LOS	Avg. Delay	LOS	Incr. In Crit. Delay	Incr. In V/C	% of Project Contribution
1	Winchester Boulevard and Stevens Creek Boulevard *	San Jose	AM	36.4	D	37.3	D	40.7	D	14.2	0.232	
			PM	52.7	D	59.1	E	90.0	F	99.3	0.334	68%
2	Santana Row and Stevens Creek Boulevard	San Jose	AM	12.9	B	12.7	B	12.9	B	0.8	0.096	
			PM	30.8	C	30.0	C	28.8	C	-1.9	0.089	
3	Redwood Avenue and Stevens Creek Boulevard	San Jose	AM	19.6	B	19.9	B	19.2	B	-0.4	0.094	
			PM	48.0	D	49.1	D	52.2	D	11.9	0.104	
4	Monroe Street and Stevens Creek Boulevard	San Jose	AM	36.0	D	36.7	D	42.3	D	6.9	0.121	
			PM	88.3	F	95.1	F	157.0	F	99.6	0.240	70%
5	I-880 SB Ramps and Stevens Creek Boulevard *	San Jose	AM	25.5	C	26.4	C	28.2	C	4.4	0.164	
			PM	25.4	C	27.3	C	27.4	C	2.0	0.111	
6	Bascom Avenue and San Carlos Street	San Jose	AM	42.6	D	72.2	E	79.3	E	60.4	0.348	8%
			PM	50.7	D	104.6	F	112.6	F	101.6	0.483	8%
7	Meridian Avenue and San Carlos Street	San Jose	AM	39.0	D	57.7	E	62.2	E	33.4	0.360	6%
			PM	53.6	D	98.5	F	102.8	F	60.9	0.269	4%
8	Lincoln Avenue and San Carlos Street	San Jose	AM	37.2	D	40.9	D	41.3	D	5.8	0.193	
			PM	36.9	D	96.5	F	99.3	F	100.7	0.515	3%
9	Bird Avenue and San Carlos Street *	San Jose	AM	35.8	D	61.6	E	63.4	E	41.5	0.387	3%
			PM	43.8	D	174.4	F	177.4	F	213.8	0.648	2%
10	Monroe Street and Forest Street	San Jose	AM	17.6	B	17.7	B	17.7	B	0.1	0.010	
			PM	19.9	B	20.0	B	20.0	B	0.1	0.011	
11	Monroe Street and Hedding Street	San Jose	AM	32.3	C	32.5	C	32.6	C	0.2	0.014	
			PM	33.2	C	33.3	C	33.3	C	0.5	0.020	
12	Monroe Street and Newhall Street	San Jose	AM	27.4	C	27.5	C	27.6	C	0.2	0.019	
			PM	29.5	C	29.7	C	29.9	C	0.4	0.024	
13	Winchester Boulevard and Hedding Street/Pruneridge Avenue	San Jose	AM	30.6	C	32.2	C	32.7	C	7.2	0.081	
			PM	38.6	D	39.0	D	39.8	D	2.6	0.037	
14	Winchester Boulevard and Forest Street/Worthington Circle	San Jose	AM	26.6	C	26.4	C	25.8	C	-0.2	0.014	
			PM	51.1	C	51.3	C	51.7	C	1.0	0.034	
15	San Tomas Expressway and Stevens Creek Boulevard *	San Jose	AM	88.4	F	97.2	F	99.4	F	16.1	0.063	34%
			PM	67.5	E	70.3	E	71.5	E	2.7	0.023	
16	Saratoga Avenue and Stevens Creek Boulevard *	San Jose	AM	35.7	D	38.1	D	38.0	D	5.9	0.055	
			PM	39.7	D	40.6	D	41.3	D	3.6	0.057	
17	Kiely Boulevard and Stevens Creek Boulevard *	San Jose	AM	37.5	D	37.1	D	37.0	D	0.1	0.032	
			PM	37.6	D	37.7	D	37.6	D	0.3	0.023	
18	Saratoga Avenue and Kiely Boulevard *	San Jose	AM	35.1	D	38.2	D	38.1	D	9.2	0.065	
			PM	41.2	D	48.7	D	48.8	D	6.8	0.084	
19	Saratoga Avenue and I-280 (North) *	San Jose	AM	29.5	C	27.8	C	27.7	C	-23.5	0.038	
			PM	23.7	C	23.0	C	22.9	C	-1.3	0.035	
20	Saratoga Avenue and I-280 (South) *	San Jose	AM	34.6	C	39.9	D	40.2	D	9.2	0.055	
			PM	33.2	C	35.7	D	35.7	D	4.3	0.051	
21	Saratoga Avenue and Moorpark Avenue *	San Jose	AM	46.8	D	47.2	D	47.7	D	1.1	0.037	
			PM	46.3	D	46.7	D	46.8	D	1.0	0.031	
22	San Tomas Expressway and Moorpark Avenue *	San Jose	AM	87.6	F	92.5	F	92.2	F	8.2	0.023	36%
			PM	48.7	D	49.5	D	51.6	D	5.6	0.030	
23	Winchester Boulevard and Olin Avenue	San Jose	AM	17.9	B	18.4	B	21.2	C	7.4	0.207	
			PM	19.5	B	22.5	C	33.8	C	25.2	0.291	
24	Winchester Boulevard and Olsen Drive	San Jose	AM	22.9	C	22.5	C	26.6	C	5.3	0.073	
			PM	32.5	C	32.2	C	47.0	D	18.3	0.283	
25	Winchester Boulevard and I-280 WB on-ramp/Tisch Way	San Jose	AM	32.7	C	34.2	C	56.3	E	43.0	0.197	85%
			PM	52.5	D	56.7	E	75.1	E	29.1	0.103	81%
26	Winchester Boulevard and Moorpark Avenue	San Jose	AM	42.4	D	43.1	D	49.6	D	11.8	0.103	
			PM	43.5	D	43.8	D	43.9	D	1.0	0.007	
27	I-280 EB off-ramp and Moorpark Avenue *	San Jose	AM	11.8	B	11.8	B	12.3	B	0.2	0.037	
			PM	13.5	B	13.6	B	13.7	B	0.1	0.019	
28	Winchester Boulevard and Williams Road	San Jose	AM	35.5	D	35.5	D	35.8	D	0.5	0.032	
			PM	36.2	D	36.1	D	35.9	D	-0.6	0.016	
29	Winchester Boulevard and Payne Avenue	San Jose	AM	38.6	D	38.5	D	38.5	D	0.1	0.023	
			PM	38.5	D	38.5	D	38.2	D	-0.6	0.016	
30	I-880 NB Ramps and Stevens Creek Boulevard	San Jose	AM	22.4	C	22.6	C	24.1	C	1.7	0.110	
			PM	24.9	C	25.3	C	25.9	C	1.3	0.059	
31	Delmas Avenue and San Carlos Street	San Jose	AM	15.0	B	14.7	B	14.8	B	1.2	0.218	
			PM	22.0	C	37.0	D	38.2	D	22.1	0.309	
32	Woz Way and San Carlos Street	San Jose	AM	32.9	C	46.6	D	46.8	D	17.7	0.382	
			PM	35.0	D	151.1	F	151.6	F	140.8	0.678	1%
33	Bascom Avenue and I-880 (N) *	San Jose	AM	11.2	B	11.5	B	11.4	B	0.3	0.010	
			PM	10.3	B	10.8	B	10.8	B	0.4	0.020	
34	Bascom Avenue and I-880 (S) *	San Jose	AM	9.2	A	9.3	A	9.2	A	0.2	0.009	
			PM	6.6	A	6.6	A	6.6	A	0.2	0.006	
35	San Tomas Expressway and Williams Road	San Jose	AM	64.6	E	68.4	E	71.0	E	11.1	0.025	32%

## FORTBAY

**FILE NO: PDC16-036**

**PROJECT APPLICANT: FORTBAY, LLC**

**PROJECT LOCATION: 4300-4340 Stevens Creek Blvd.**

**Project Description:** The project is a Planned Development Rezoning of a 9.9-acre site to allow a mixed-use commercial/residential project. The project includes demolition of the existing buildings, construction of two seven-story residential buildings (Building A and B) to allow up to 500 residential units with approximately 11,500 square feet of ground floor retail within Building A, a six-story approximately 244,000 square foot office building, and a six-story parking garage with up to 1,089 parking spaces. Additionally, the project may relocate an existing public right-of-way (Lopina Way), to the east property line; include two new driveways along Albany Drive to provide access to the proposed office parking garage and Building B; and relocate the existing driveways along Stevens Creek Boulevard. Residential parking would be provided within both residential buildings, and the existing Lopina Way right-of-way will be replaced with a landscaped promenade.

## APPLE CAMPUS 2:

TIA traffic study for EIR:

<https://s3.amazonaws.com/Apple-Campus2-DEIR/Appendix-B-Transportation-Impact-Analysis.pdf>

**Table V.I-9: Levels of Service for Intersections Operating Unacceptably under Existing Plus Project Conditions**

Intersection	Peak Hour <sup>a</sup>	Jurisdiction <sup>b</sup>	Inter-section Control	Existing Conditions		Existing Plus Project Conditions			
				Delay <sup>c</sup>	LOS <sup>d</sup>	Delay <sup>c</sup>	LOS <sup>d</sup>	Change in Crit. V/C <sup>e</sup>	Change in Crit. Delay <sup>f</sup>
21 Wolfe Road/I-280 Northbound Ramp	AM PM	CUP	Signal	12.8	B	<b>61.7</b>	E	+0.376	+69.7
				13.4	B	26.0	C	+0.124	+16.5
31 Tantau Avenue/Vallco Parkway <sup>g</sup>	AM PM	CUP	Signal	24.1	C	<b>55.1</b>	E+	+0.454	+48.8
				27.8	C	23.5	C	+0.149	-6.1
36 Stevens Creek Boulevard/Calvert Drive/I-280 Ramps (West)	AM PM	CMP	Signal	27.6	C	27.1	C	+0.116	-3.9
				44.1	D	<b>85.5</b>	F	<b>+0.207</b>	<b>+78.5</b>
52 Stevens Creek Boulevard/San Tomas Expressway	AM PM	CMP	Signal	51.2 <b>80.5</b>	D- <b>F</b>	51.5 <b>82.0</b>	D- <b>F</b>	+0.004 <b>+0.007</b>	+0.5 <b>+2.8</b>

Notes:

<sup>a</sup> AM = morning peak hour; PM = afternoon peak hour

<sup>b</sup> Intersection Jurisdictions: CUP = City of Cupertino Intersection (LOS D threshold); CMP = CMP Intersection (LOS E threshold)

<sup>c</sup> Whole intersection weighted average control delay expressed in seconds per vehicle

<sup>d</sup> LOS = Level of Service

<sup>e</sup> Change in the critical volume-to-capacity ratio (V/C) between Existing and Existing Plus Project Conditions

<sup>f</sup> Change in critical movement delay between Existing and Existing Plus Project Conditions

<sup>g</sup> It should be noted that the delay would improve during the PM peak hour due to the project proposed improvement on the eastbound approach of the intersection (convert eastbound through lane to shared left-turn/through lane).

**Bold** indicates unacceptable intersection operations. **Bold and highlighted** indicates significant impacts.

Source: Fehr & Peers, May 2013.

The addition of project traffic would exacerbate unacceptable LOS F operations at the intersection of Stevens Creek Boulevard/San Tomas Expressway in the PM peak hour under Existing Plus Project Conditions. However, the critical delay is not projected to increase by more than 4 seconds (2.8 seconds) and the critical V/C ratio is not projected to increase by more than 0.01 (0.007) between the Existing and Existing Plus Project scenarios; therefore the project is considered to have a less-than-significant impact at the Stevens Creek Boulevard/San Tomas Expressway intersection based on VTA's impact criteria.

The proposed project would result in significant intersection impacts under Existing plus Project Conditions, as discussed below.

The project would exacerbate unacceptable conditions or cause unacceptable operating conditions at the following intersections, and these changes would be considered a significant impact.

- Int. 21. Wolfe Road/I-280 Northbound Ramps (Cupertino)
- Int. 31. Tantau Avenue/Vallco Parkway (Cupertino)
- Int. 36. Stevens Creek Boulevard/Calvert Drive/I-280 Ramps (west) (CMP)



**Table V.I-12: Levels of Service for Intersections Operating Unacceptably under Cumulative Plus Project Conditions**

Intersection	Peak Hour <sup>a</sup>	Jurisdiction <sup>b</sup>	Intersection Control	Cumulative Conditions		Cumulative Plus Project Conditions			
				Delay <sup>c</sup>	LOS <sup>d</sup>	Delay <sup>c</sup>	LOS <sup>d</sup>	Change in Crit. V/C <sup>e</sup>	Change in Crit. Delay <sup>f</sup>
3 Stevens Creek Boulevard/Stelling Road	AM PM	CUP	Signal	44.3 <b>62.2</b>	D E	44.4 <b>62.7</b>	D E	+0.002 <b>+0.005</b>	+0.1 <b>+0.8</b>
5 De Anza Boulevard/Homestead Road	AM PM	CUP	Signal	45.6 <b>61.4</b>	D E	46.5 <b>64.2</b>	D E	+0.002 <b>+0.014</b>	+0.2 <b>+4.0</b>
8 De Anza Boulevard/Stevens Creek Blvd	AM PM	CUP	Signal	40.0 <b>58.6</b>	D E+	40.4 <b>62.5</b>	D E	+0.015 <b>+0.047</b>	+0.9 <b>+11.3</b>
9 De Anza Boulevard/McClellan Road	AM PM	CUP	Signal	31.2 <b>61.0</b>	C E	31.4 <b>62.7</b>	C E	+0.020 <b>+0.012</b>	+0.3 <b>+2.6</b>
15 Wolfe Road/Fremont Avenue	AM PM	SUN	Signal	46.4 <b>58.0</b>	D E+	47.3 <b>60.4</b>	D E	+0.021 <b>+0.033</b>	+0.4 <b>+3.1</b>
21 Wolfe Road/I-280 Northbound Ramps	AM PM	CUP	Signal	13.3 15.7	B B	<b>69.9</b> 32.1	E C-	<b>+0.389</b> +0.092	<b>+82.7</b> +20.9
23 Wolfe Road/Vallco Parkway	AM PM	CUP	Signal	25.9 <b>64.6</b>	C E	31.3 <b>93.9</b>	C- F	+0.159 <b>+0.117</b>	+6.9 <b>+42.7</b>
27 Tantau Avenue/Homestead Road	AM PM	CUP	Signal	36.3 36.9	D+ D+	<b>64.7</b> 49.9	E D	<b>+0.350</b> +0.204	<b>+37.8</b> +13.9
31 Tantau Avenue/Vallco Parkway	AM PM	CUP	Signal	28.7 35.3	C D+	<b>56.8</b> 35.4	E+ D+	<b>+0.453</b> +0.170	<b>+49.1</b> +0.9
32 Tantau Avenue/Stevens Creek Blvd	AM PM	CUP	Signal	41.4 52.1	D D-	48.6 <b>83.4</b>	D F	+0.135 <b>+0.148</b>	+11.4 <b>+48.0</b>
36 Stevens Creek Blvd/Calvert Drive/I-280 Ramps (West)	AM PM	CMP	Signal	28.2 <b>98.1</b>	C F	29.3 <b>151.4</b>	C F	+0.144 <b>+0.216</b>	+3.4 <b>+106.0</b>
40 Stevens Creek Blvd/Lawrence Ex Ramps (east)	AM PM	CMP	Signal	43.7 33.8	D C-	<b>84.6</b> 36.3	F D+	<b>+0.188</b> +0.043	<b>+54.8</b> +2.2
41 Lawrence Expressway/I-280 SB Ramps	AM PM	CMP	Signal	55.1 74.8	E+ F	76.3 <b>141.7</b>	E- F	+0.084 <b>+0.155</b>	+27.1 <b>+68.0</b>
52 Stevens Creek Blvd/San Tomas Expressway	AM PM	CMP	Signal	55.8 <b>101.8</b>	E+ F	56.5 <b>103.1</b>	E+ F	+0.006 <b>+0.005</b>	+1.0 <b>+2.4</b>

Notes:

- <sup>a</sup> AM = morning peak hour; PM = afternoon peak hour
- <sup>b</sup> Intersection Jurisdictions: CUP = City of Cupertino Intersection (LOS D threshold, except at #8, LOS E+); SUN = City of Sunnyvale Intersection (LOS D threshold); CMP = CMP Intersection (LOS E threshold)
- <sup>c</sup> Whole intersection weighted average control delay expressed in seconds per vehicle
- <sup>d</sup> LOS = Level of Service
- <sup>e</sup> Change in the critical volume-to-capacity ratio (V/C) between Cumulative and Cumulative Plus Project Conditions
- <sup>f</sup> Change in critical movement delay between Cumulative and Cumulative Plus Project Conditions

**Bold** indicates unacceptable intersection operations. **Bold and highlighted** indicates significant impacts.

Source: Fehr & Peers, May 2013.

At four intersections (intersection numbers 3, 9, 15, and 52) the critical delay during the PM peak hour is not projected to increase by more than 4 seconds and the critical V/C ratio is not projected to increase by more than 0.01 between the Cumulative and Cumulative Plus Project scenarios; therefore the project would have a less-than-significant impact at the #3 Stevens Creek Boulevard/Stelling

APPENDIX E APPROVED, NOT OCCUPIED AND PENDING PROJECTS							
Project Name	Land Use	AM Peak Hour Trips			PM Peak Hour Trips		
		In	Out	Total	In	Out	Total
<b>Approved and Built-Not Occupied Projects (c. January 2013)</b>							
Downtown Sunnyvale Area Projects	Mixed Use	565	352	917	526	771	1,297
North Santa Clara Area Projects	Mixed Use	7,180	1,601	8,781	2,273	6,382	8,655
Valico South Area Projects	Mixed Use	235	201	436	584	576	1,160
10212 and 10165 N. De Anza Blvd.	Retail, Hotel	51	36	87	50	54	104
Villa Serra	Condominiums	<i>Project Traffic Assignments Taken Directly from Villa Serra TIA</i>					
PW Market	Retail	<i>Project Traffic Assignments Taken Directly from PW Market TIA</i>					
19770 Stevens Creek Blvd	Retail	20	13	33	58	63	121
De Anza College Expansion	Junior College	892	88	980	728	392	1120
10100 N. Tantau Avenue	Retail	35	38	73	30	23	53
Cupertino Village	Retail	34	22	56	74	80	154
Oaks Shopping Center	Mixed Use	119	59	178	141	214	355
900 Kiely Boulevard	Mixed Use	79	313	392	312	167	479
Carden Academy - 2499 Homestead Rd	Private School	124	101	225	71	79	150
Main Street Cupertino	Mixed Use	492	190	682	564	592	1,256
Crossroads	Mixed Use	106	82	188	217	206	422
Biltmore	Mixed Use	-2*	32	30	13	6	19
3175 El Camino Real	Apartments	14	55	69	59	32	91
5403 Stevens Creek Boulevard	Office	475	65	540	85	414	499
Kaiser - 3800 Homestead Road	Medical Offices	272	73	345	115	310	425
Valley Fair Expansion	Shopping Mall	291	186	477	1,124	1,170	2,294
Apple Cafeteria	Cafeteria	11	11	22	5	4	9
Cupertino Bay Club	Health Club	34	43	77	3	-42	-39
City of San Jose Projects	Various	<i>Project Traffic Assignments Taken Directly from City of San Jose <u>Approved Trip Database</u></i>					
<b>Pending Projects (c. January 2013)</b>							
Valico South Area Projects	Retail, Restaurant	242	154	396	804	805	1,609

Saich Way Station	Mixed Use	34	21	55	23	23	46
3515 Monroe Street	Apartments	43	172	215	166	89	255
2645 El Camino Real	Apartments	20	80	100	82	44	126
2585 El Camino Real	Condominiums	6	27	33	25	13	38
Downtown Sunnyvale Area Projects	Apartments	16	9	25	16	9	25
* Taken as 0 trips for analysis							
Sources: City of Cupertino Approved and Pending Projects List, City of Sunnyvale Approved and Pending Projects List, City of Santa Clara Approved and Pending Projects List, City of San Jose Approved Projects Count Database, Fehr & Peers, 2012.							

LOS Comparison for San Tomas Expressway and Stevens Creek Boulevard					
		Existing AM LOS/Date	Existing PM LOS/Date	Cumulative AM LOS	Cumulative PM LOS
Apple Campus 2	May 31, 2013	D-/2011	F/2011	E+	F
Santana Row Lots 9 & 17 Development	November 12, 2014	D/2/26/2013	E/9/11/2012	E	E
Santana West	June 14, 2016	F/5/27/2015	E/9/24/2014	F	E

CITY PLACE SANTA CLARA (UNDER CEQA LITIGATION)

Traffic study from DEIR:

Chapter 03-03 - Transportation, Part 1 (PDF) <http://santaclaraca.gov/home/showdocument?id=15536>

Chapter 03-03 - Transportation, Part 2 (PDF) <http://santaclaraca.gov/home/showdocument?id=15538>



**Table 3.3-49. Cumulative with-Project Signalized Intersection LOS Results**

ID	Intersection	Jurisdiction/ CMP <sup>a</sup>	Peak Hour <sup>b</sup>	Existing <sup>c</sup>		Cumulative <sup>d</sup>		Cumulative with Project				
				Delay <sup>e</sup>	LOS <sup>f</sup>	Delay <sup>e</sup>	LOS <sup>f</sup>	Delay <sup>e</sup>	LOS <sup>f</sup>	Δ in Crit. V/C <sup>g</sup>	Δ in Crit. Delay <sup>h</sup>	Project Contribution
125	San Tomas Expressway/Stevens Creek Boulevard <sup>i</sup>	Santa Clara County (CMP)	AM	63.5	E	<b>&gt;180</b>	<b>F</b>	<b>&gt;180</b>	<b>F</b>	<b>0.033</b>	<b>14.2</b>	1.6%
			PM	59.9	E	<b>142.6</b>	<b>F</b>	<b>147.8</b>	<b>F</b>	<b>-0.104</b>	<b>11.2</b>	2.0%

**Table 3.3-49. Cumulative with-Project Signalized Intersection LOS Results**

ID	Intersection	Jurisdiction/ CMP <sup>a</sup>	Peak Hour <sup>b</sup>	Existing <sup>c</sup>		Cumulative <sup>d</sup>		Cumulative with Project				
				Delay <sup>e</sup>	LOS <sup>f</sup>	Delay <sup>e</sup>	LOS <sup>f</sup>	Delay <sup>e</sup>	LOS <sup>f</sup>	Δ in Crit. V/C <sup>g</sup>	Δ in Crit. Delay <sup>h</sup>	Project Contribution

Notes:

- a. CMP = Congestion Management Program intersection (VTA).
- b. AM = morning peak hour, PM = evening peak hour
- c. "Existing" presents the delay and LOS for intersections, using existing geometry plus any approved and funded transportation projects and existing traffic counts plus project trips from projects that are currently under construction (see Appendix 3.3-B and Appendix 3.3-D).
- d. "Cumulative" presents the delay and LOS for intersections, using 2040 geometry and traffic volumes estimated using the VTA travel demand model.
- e. Whole intersection weighted average control delay expressed in seconds per vehicle, calculated using methods described in the 2000 *Highway Capacity Manual*, with adjusted saturation flow rates to reflect Santa Clara County conditions for signalized intersections.
- f. LOS = Level of service. LOS calculations conducted using the TRAFFIX analysis software packages, which applies the methods described in the 2000 *Highway Capacity Manual*.
- g. Change in critical volume-to-capacity ratio between cumulative without-Project and cumulative with-Project conditions.
- h. Change in average critical movement delay between cumulative without-Project and cumulative with-Project conditions.
- i. Geometry has been modified to include the improvements for projects under construction and planned under Cumulative conditions as outlined in Appendix 3.3-D.
- j. An LOS D threshold is used for study intersections within San José, including CMP designated intersections. Santa Clara County intersections in San José use an LOS E threshold.
- k. Maximum left-/right-turn lane or through-lane queuing in excess of available/potential storage at driveway entrances (intersections #10, 11, 12, 61, 62, 85, 86, and 87) during the morning and evening peak hours will most likely result in a worse LOS than calculated. These queues would require multiple traffic signal cycles to clear and could extend upstream and affect nearby intersections.

**Bold** text indicates unacceptable operations according to the jurisdiction's LOS standard.

**Bold and highlighted** indicates a significant impact.

Source: Fehr & Peers, September 2015.

Street												
55	Lawrence	Santa Clara	AM	73.5	E	135.3	F	144.0	F	0.047	15.4	2.3%
	Expressway/Homestead Road	County (CMP)	PM	56.7	E	168.8	F	>180	F	0.076	33.6	2.9%

**Table 3.3-49. Cumulative with-Project Signalized Intersection LOS Results**

ID	Intersection	Jurisdiction/ CMP <sup>a</sup>	Peak Hour <sup>b</sup>	Existing <sup>c</sup>		Cumulative <sup>d</sup>		Cumulative with Project				
				Delay <sup>e</sup>	LOS <sup>f</sup>	Delay <sup>e</sup>	LOS <sup>f</sup>	Delay <sup>e</sup>	LOS <sup>f</sup>	Δ in Crit. V/C <sup>g</sup>	Δ in Crit. Delay <sup>h</sup>	Project Contribution
56	Lawrence Expressway/Pruneridge Avenue	Santa Clara County	AM PM	62.5 48.5	E D	100.8 147.9	F F	110.2 159.5	F F	0.024 0.004	8.9 -1.2	2.4% 2.7%
80	San Tomas Expressway/Homestead Road <sup>i</sup>	Santa Clara County (CMP)	AM PM	53.0 57.9	D E	144.4 109.4	F F	167.3 120.4	F F	0.083 0.045	37.3 17.1	2.4% 3.1%
81	San Tomas Expressway/Forbes Avenue <sup>i</sup>	Santa Clara County	AM PM	26.4 24.3	C C	23.8 23.4	C C	29.2 35.2	C D	0.017 0.078	0.2 28.0	3.1% 3.6%
82	San Tomas Expressway/Pruneridge Avenue <sup>i</sup>	Santa Clara County	AM PM	69.1 50.8	E D	>180 82.0	F F	>180 87.5	F F	0.049 0.021	24.1 8.7	2.5% 3.3%
83	San Tomas Expressway/Saratoga Avenue <sup>i</sup>	Santa Clara County (CMP)	AM PM	73.7 55.4	E E	116.8 120.8	F F	132.1 130.7	F F	0.052 -0.008	24.6 -11.0	2.4% 3.0%

SAN JOSE ENVISION 2040 GENERAL PLAN TIA FOR THE DEIR

<http://www.sanjoseca.gov/DocumentCenter/View/2198>

- The broad-brush program-level traffic study shows 73% of Cupertino’s lane miles are impacted by San Jose’s GP. Stevens Creek Blvd. will be deficient.
- San Jose indicates they altered their policy to no longer driver comfort and convenience, yet this is not holding up to CEQA scrutiny due to other concerns such as greenhouse gas emissions.



adjacent jurisdiction are attributable to San Jose. The 25 percent threshold represents what would be a noticeable change in traffic by San José General Plan.

**TABLE 15  
 ADJACENT JURISDICTION IMPACTS SUMMARY  
 (BASED ON AM PEAK 4-HOUR PERIOD VOLUMES)**

City	Existing Conditions			Proposed General Plan Update		
	Total Lane Miles with Deficient V/C Ratio <sup>1</sup>	Impacted Lane Miles (San Jose traffic ≥ 10% of volume)	Percent of Impacted Lane Miles Affected	Total Lane Miles with Deficient V/C Ratio	Impacted Lane Miles (San Jose traffic ≥ 10% of volume)	Percent of Impacted Lane Miles Affected
Campbell	0.13	0.13	100	0.42	0.42	100
Cupertino	0.67	0.67	100	7.52	5.45	73
Gilroy	0.00	0.00	0	1.65	1.65	100
Los Altos	0.78	0.78	100	2.52	2.52	100
Los Altos Hills	0.17	0.02	14	3.61	3.00	83
Los Gatos	0.12	0.12	100	0.90	0.90	100
Milpitas	0.73	0.73	100	22.17	22.17	100
Monte Sereno	0.00	0.00	0	0.00	0.00	0
Morgan Hill	0.00	0.00	0	1.97	1.97	100
Mountain View	0.72	0.65	90	11.76	10.83	92
Palo Alto	0.48	0.16	33	7.58	4.76	63
Santa Clara	0.17	0.17	100	1.95	1.95	100
Saratoga	1.26	1.26	100	5.71	5.71	100
Sunnyvale	0.00	0.00	0	1.45	1.42	98
Caltrans Facilities <sup>2</sup>	5,093.26	4,391.72	86	4,951.58	4,584.04	93
Santa Clara County Facilities	3.01	3.01	100	21.33	21.33	100

Notes: Impacts are identified in **bold** text.

1 Lane miles of less than 0.5 were rounded to 0. For evaluating significant impacts, if impacted lane miles attributable to the City are less than 0.5, impacts are considered *less-than-significant*.

2 Includes all Caltrans facilities within Santa Clara County.

Source: Fehr & Peers, 2010.

The following roadways were analyzed to determine impacts presented in **Table 15**. CMP system roadways are identified in *italicized* text. Minor arterials were also analyzed to determine impacts presented in **Table 15**; however, they are not specifically identified below.

- **Campbell:** *Hamilton Avenue*, Campbell Avenue, Winchester Boulevard
- **Cupertino:** Homestead Road, Foothill Boulevard, Bubb Road, *Stevens Creek Boulevard*, Pruneridge Avenue, North Wolfe Road, *De Anza Boulevard*, Stelling Road
- **Gilroy:** Monterey Street, Leavesley Road, Hecker Pass Highway, East 10<sup>th</sup> Street, Monterey Street, East Luchessa Avenue

**TABLE 14  
 TRANSIT PRIORITY CORRIDOR IMPACT SUMMARY**

Roadway Segment	Cross Street	Cross Street	Distance (Miles)	AM Peak Hour Travel Speed (MPH)	
				Existing Conditions	Proposed General Plan Conditions
Second St.	San Carlos St.	St. James St.	0.6	11.5	11.4
Alum Rock Ave.	Capitol Ave.	US 101	3.4	20.0	<b>12.9</b>
Camden Ave.	SR 17	Meridian Ave.	5.2	24.0	<b>18.0</b>
Capitol Ave.	S. Milpitas Blvd.	Capital Expwy.	7.6	24.1	<b>17.5</b>
Hillsdale Ave./ Capitol Expwy.	Capitol Ave.	Meridian Ave.	19.8	28.6	23.8
E. Santa Clara St.	US 101	Delmas Ave.	4.6	20.4	16.2
Meridian Ave.	Park Ave.	Blossom Hill Rd.	12.2	25.5	19.6
Monterey Rd.	Keyes St.	Metcalf Rd.	18.2	24.6	<b>17.0</b>
First St.	CA 237	Keyes St.	17.2	22.6	<b>13.4</b>
San Carlos St.	Bascom Ave.	SR 87	4.2	24.3	19.7
Stevens Creek Blvd.	Bascom Ave.	Tantau Ave.	8.2	23.1	<b>16.8</b>
Tasman Dr.	Lick Mill Blvd.	McCarthy Ln.	5.0	24.3	<b>9.5</b>
The Alameda	Alameda Wy.	Delmas Ave.	4.2	22.6	<b>14.2</b>
W. San Carlos St.	SR 87	Second St.	1.3	19.9	17.5

Note: The values shown have been rounded for presentation purposes.  
 Source: Fehr & Peers, 2010.

**g. Adjacent Jurisdictions**

Operations of adjacent jurisdiction roadway segments outside the City of San José boundaries were reviewed to determine the potential impacts of the proposed General Plan Update. **Table 15** summarizes these results.

Given changes in land use, trip patterns, and behavior between the two scenarios, vehicular traffic on roadway segments within several jurisdictions is projected to increase with the proposed General Plan Update land uses as compared to existing conditions.

A roadway segment within adjacent jurisdictions is considered to be deficient if the future volume-to-capacity (V/C) ratio is 1.0 or greater during the AM peak 4-hour period in the year 2035. Given the large population and employment projected to reside in the region, and the complex travel patterns created by the large population and employment numbers, only a portion of trips on any roadway segment in adjacent jurisdictions are expected to have originated from a resident or job within City of San José. Therefore, a deficient roadway segment in adjacent jurisdictions is attributed to City of San José General Plan when the trips from the City are 10 (ten) percent or more on the deficient segment. The impact to an adjacent jurisdiction is considered significant when 25 percent or more of total deficient lane miles in that

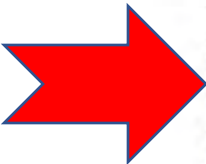


Adjacent Jurisdiction Impacts

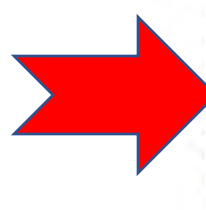
**Impact TRANS-4. Motor vehicle traffic and congestion resulting from implementation of the proposed General Plan Update would increase on roadway segments outside of the City of San Jose. (Significant)**

Roadways within adjacent jurisdictions are considered to be deficient if the volume to capacity (V/C) ratio under proposed General Plan Update conditions is 1.0 or greater, and is considered an impact when the trips from the City are 10 (ten) percent or more of the total traffic on these roadways. The impact is considered significant when the impacted roadway lane miles are 25 percent of the deficient lane miles.

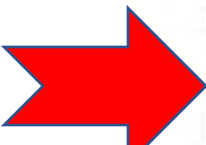
With implementation of the proposed General Plan Update, 15 adjacent jurisdictions would have impacts on greater than one lane mile of roadways. These impacts are the aggregate of the major roadways within the adjacent jurisdiction boundaries of Campbell, Cupertino, Gilroy, Los Altos, Los Altos Hills, Los Gatos, Mountain View, Palo Alto, Saratoga, Sunnyvale, Milpitas, Morgan Hill, Santa Clara, Caltrans facilities, and Santa Clara County facilities.



The traditional response to mitigate significant traffic-related impacts, or increases in automobile trips on street segments, is to increase roadway capacity by providing additional lanes or facilities. In Santa Clara County, widening roads to provide additional travel lanes is no longer feasible in most cases because available right-of-way is already constrained and utilized by other land uses or transportation facilities. Dedication of additional land to paved roadways decreases landscaping, eliminates street trees/bus stops/bicycle lanes, reduces sidewalk widths, increases intersection sizes, and moves vehicular traffic (with associated noise and pollution) closer to residences and businesses.



The proposed General Plan Update recognizes and acknowledges that there will be increased levels of congestion resulting from new development, both within San Jose and elsewhere in the Bay Area. This reflects a change in policy for the City to acknowledge that transportation planning based solely on roadway traffic operations (i.e. analysis based on traffic level of service and volume to capacity ratios), which considers only driver comfort and convenience, is not desirable since it fails to acknowledge other users of the circulation system and other community values. In evaluating the roadway system, an impact to adjacent roadways may be desired when balanced against other community values related to resource protection, social equity, economic development, and consideration of pedestrians, bicyclists, and transit users.



Widening a road to achieve a lower volume to capacity ratio results in higher expenditure of infrastructure dollars for wider roadways that do not necessarily serve all users of the circulation system. Roadway widening also provides capacity that is excess for the majority of the day outside the peak periods. Furthermore wider roadways, in general, are inconsistent with goals promoting a more livable city, cause greater impacts to biological resources and discourage roadway use by pedestrians and bicyclists. In addition, mitigating impacts to affected roadway segments can have high infrastructure costs.

The proposed General Plan update contains several policies and actions that seek to reduce automobile travel. They include TR 1.1 through TR-1.9, TR 2.1 through 2.11, TR-3.1 through 3.4, TR-4.1 through 4.4, and TR-8.1 through 8.4. Implementation of these policies and actions would help reduce the magnitude of traffic impacts on adjacent jurisdictions.

The proposed General Plan update also includes an implementing action to encourage coordination with other jurisdictions:

- CR-1.8 **Interagency Participation and Coordination.** Actively coordinate with regional transportation, land use planning, and transit agencies to ensure development and maintenance of a transportation network with complementary land uses that encourage travel by bicycle, walking, and transit, and ensure regional greenhouse gas emission standards are met

Based on the considerations above, no mitigation measures are feasible to reduce adjacent jurisdiction impacts to a less than significant level. With adoption of the new policies and implementing actions contained in the General Plan Update, this impact would be reduced but could remain significant. Therefore, impacts to adjacent jurisdictions would remain **significant and unavoidable**.



Cupertino presents that 11 of 16 intersections would operate at unacceptable level of service due to the proposed project. 9 out of 16 intersections are outside of Cupertino jurisdiction.

Tuesday, March 20, 2012

Cupertino City Council

Jennifer Griffin expressed her concern that the vacation of Finch Avenue would be determined before an EIR is completed or permits for Main Street have been pulled. She said that she felt Main Street and the vacation of Finch Avenue should be separate items.

Director of Public Works Timm Borden said that the vacation would not be approved until Main Street is approved and that Council is only setting May 1 as the date for a public hearing to coincide with the hearing regarding Main Street.

Wong moved and Mahoney seconded to adopt Resolution No. 12-029 as amended with the correct hearing date of May 1. The motion carried unanimously.

**SECOND READING OF ORDINANCES - None**

**PUBLIC HEARINGS - None**

**ORDINANCES AND ACTION ITEMS**

13. Subject: Annual Status report of the General Plan and Housing Element  
Recommended Action: Approve for submission to the California Department of Housing & Community Development (HCD) by April 1, 2012  
Description: Review of the General Plan progress and program implementation as required by State Law

Community Development Director Aarti Shrivastava reviewed the staff report.

Jennifer Griffin said that developments such as Main Street, Biltmore, Rose Bowl, Apple, and the IHOP development are coming up. She noted that the General Plan says the City can't approve additional housing if road intersections can't maintain above a D grade level of service. She said she is concerned that Stevens Creek Blvd. will take the brunt of the traffic with these new developments. She urged Council to take a look at this when approving the projects.

Shrivastava explained that the General Plan does talk about maintaining a level of service D for all intersections. She said that this will be looked at during the environmental review of the projects. She noted that the City will review and get a chance to provide comments regarding the IHOP development, but since it's in a different city, they can only comment. She said that staff would make sure that none of Cupertino's intersections would be impacted above level service D when the projects are approved.

Wong moved and Mahoney seconded to approve the submission of the General Plan and Housing Element annual status report. The motion carried unanimously.



## TRANSPORTATION AND TRAFFIC

Five (5) of the sixteen (16) intersections that would operate at an unacceptable level of service for at least one peak hour under the proposed Project were also predicted to operate at an unacceptable level of service under the No Project scenario.

The intersections that would operate at an unacceptable level of service are bolded and underlined in Table 4.13-13. All other study intersections would continue to operate at acceptable levels of service under the proposed Project conditions. The LOS calculation sheets are included in Appendix G, Transportation and Traffic Data, of this Draft EIR.

**TABLE 4.13-13 PROPOSED PROJECT INTERSECTION LEVELS OF SERVICE TABLE**

#	Intersection	LOS Standard	Peak Hour	No Project		Proposed Project			
				Avg. Delay	LOS	Avg. Delay	LOS	Change in Crit. V/C	Change in Crit. Delay
1	SR 85 SB Ramps and Stevens Creek Blvd. <sup>a</sup>	D	AM	29.2	C	31.9	C	0.127	4.6
			PM	29.1	C	32.2	C-	0.103	4.4
2	SR 85 NB Ramps and Stevens Creek Blvd. <sup>a</sup>	D	AM	51.1	D-	<b>65.1</b>	<b>E</b>	0.084	25.3
			PM	20.9	C+	21.5	C+	0.110	2.2
3	Stelling Rd. and Stevens Creek Blvd. <sup>a</sup>	E+	AM	46.2	D	47.7	D	0.050	-0.7
			PM	52.9	D-	<b>88.2</b>	<b>F</b>	0.240	71.7
4	Sunnyvale-Saratoga Rd. and Fremont Ave. <sup>a</sup>	E	AM	42.8	D	44.5	D	0.054	3.1
			PM	52.5	D-	63.0	E	0.075	17.6
5	Sunnyvale-Saratoga Rd./De Anza Blvd. and Homestead Rd. <sup>a</sup>	D	AM	51.2	D-	<b>101.5</b>	<b>F</b>	0.273	88.4
			PM	<b>66.1</b>	<b>E</b>	<b>181.4</b>	<b>F</b>	0.486	214.8
6	De Anza Blvd. and I-280 NB Ramp <sup>a</sup>	D	AM	46.4	D	<b>100.0</b>	<b>F</b>	0.393	170.6
			PM	<b>71.7</b>	<b>E</b>	<b>162.2</b>	<b>F</b>	0.623	274.1
7	De Anza Blvd. and I-280 SB Ramp <sup>a</sup>	D	AM	47.0	D	<b>110.9</b>	<b>F</b>	0.345	142.6
			PM	35.3	D+	<b>99.9</b>	<b>F</b>	0.550	237.3
8	De Anza Blvd. and Stevens Creek Blvd. <sup>a</sup>	E+	AM	45.8	D	53.6	D-	0.079	10.8
			PM	<b>76.2</b>	<b>E-</b>	<b>160.4</b>	<b>F</b>	0.445	188.9
9	De Anza Blvd. and McClellan Rd./Pacifica Dr.	D	AM	33.0	C-	39.3	D	0.138	9.3
			PM	<b>70.7</b>	<b>E</b>	<b>108.8</b>	<b>F</b>	0.153	57.3
10	De Anza Blvd. and Bollinger Rd. <sup>a</sup>	E+	AM	44.0	D	51.4	D-	0.067	10.7
			PM	25.1	C	22.6	C+	0.029	-1.3
11	De Anza Blvd. and SR 85 NB Ramp <sup>a</sup>	D	AM	32.9	C-	37.6	D+	0.099	5.9
			PM	16.4	B	27.8	C	0.130	18.2
12	De Anza Blvd. and SR 85 SB Ramp <sup>a</sup>	D	AM	23.9	C	26.2	C	0.063	3.6
			PM	22.2	C+	29.5	C	0.148	13.7
13	Blaney Ave. and Homestead Rd.	D	AM	34.9	C-	52.9	D-	0.205	26.5
			PM	16.4	B	25.0	C	0.187	10.7
14	Wolfe Rd. and El Camino Real (SR 82) <sup>b</sup>	E	AM	47.6	D	48.0	D	0.016	0.7
			PM	51.8	D-	53.2	D-	0.027	1.4
15	Wolfe Rd. and Fremont Ave. <sup>c</sup>	E	AM	45.8	D	47.4	D	0.045	-1.5
			PM	51.8	D-	59.3	E+	0.060	7.1

**TRANSPORTATION AND TRAFFIC**

**TABLE 4.13-13 PROPOSED PROJECT INTERSECTION LEVELS OF SERVICE TABLE**

#	Intersection	LOS Standard	Peak Hour	No Project		Proposed Project			
				Avg. Delay	LOS	Avg. Delay	LOS	Change in Crit. V/C	Change in Crit. Delay
16	Wolfe Rd. and Homestead Rd.	D	AM	36.3	D+	39.6	D	0.094	4.7
			PM	51.9	D-	<b>105.2</b>	<b>F</b>	0.224	77.2
17	Wolfe Rd. and Pruneridge Ave.	D	AM	17.0	B	32.0	C	0.204	18.8
			PM	26.9	C	43.2	D	0.118	20.6
18	Wolfe Rd. and I-280 NB Ramp <sup>a</sup>	D	AM	<b>88.3</b>	<b>F</b>	<b>113.2</b>	<b>F</b>	0.100	44.0
			PM	36.5	D+	<b>70.3</b>	<b>E</b>	0.146	57.9
19	Wolfe Rd. and I-280 SB Ramp <sup>a</sup>	D	AM	38.9	D+	<b>86.0</b>	<b>F</b>	0.175	69.9
			PM	24.7	C	<b>85.7</b>	<b>F</b>	0.230	84.9
20	Wolfe Rd. and Vallco Pkwy	D	AM	26.4	C	31.1	C	0.113	5.9
			PM	51.2	D-	50.1	D	-0.011	-3.4
21	Wolfe Rd./Miller Ave. and Stevens Creek Blvd. <sup>a</sup>	D	AM	46.5	D	<b>57.8</b>	<b>E+</b>	0.114	16.5
			PM	<b>72.2</b>	<b>E</b>	54.6	D-	-0.072	-22.4
22	Miller Ave. and Bollinger Rd. <sup>8</sup>	D	AM	42.0	D	42.6	D	0.019	1.0
			PM	44.2	D	49.3	D	0.046	8.1
23	Finch Ave. and Stevens Creek Blvd.	D	AM	26.6	C	23.1	C	0.195	-1.1
			PM	41.8	D	46.6	D	0.032	3.5
24	North Tantau Ave./Quail Ave. and Homestead Rd.	D	AM	49.6	D	<b>67.7</b>	<b>E</b>	0.130	28.4
			PM	43.6	D	<b>56.7</b>	<b>E+</b>	0.107	18.5
25	North Tantau Ave. and Pruneridge Ave.	D	AM	29.2	C	31.1	C	0.050	-8.0
			PM	16.6	B	17.4	B	0.032	1.3
26	North Tantau Ave. and Vallco Pkwy	D	AM	29.2	C	31.4	C	0.135	13.9
			PM	34.6	C-	37.5	D+	0.034	2.8
27	Tantau Ave. and Stevens Creek Blvd.	D	AM	47.4	D	<b>58.1</b>	<b>E+</b>	0.134	15.2
			PM	<b>56.8</b>	<b>E+</b>	<b>85.3</b>	<b>F</b>	0.136	41.7
28	Lawrence Expressway and Homestead Rd. <sup>d</sup>	E	AM	59.0	E+	62.9	E	0.022	6.5
			PM	58.0	E+	66.9	E	0.032	10.7
29	I-280 SB Ramp and Stevens Creek Blvd. <sup>e</sup>	E	AM	34.8	C-	63.1	E	0.136	42.8
			PM	<b>84.9</b>	<b>F</b>	<b>118.3</b>	<b>F</b>	0.159	70.4
30	Agilent Tech Drive Way and Stevens Creek Blvd. <sup>f</sup>	D	AM	52.9	D-	<b>82.9</b>	<b>F</b>	0.096	37.6
			PM	29.8	C	30.1	C	-0.008	-0.1
31	Lawrence Expressway SB Ramp and Stevens Creek Blvd. <sup>d</sup>	E	AM	72.8	E	<b>112.4</b>	<b>F</b>	0.126	52.3
			PM	29.9	C	29.9	C	-0.012	-0.6
32	Lawrence Expressway NB Ramp and Stevens Creek Blvd. <sup>d</sup>	E	AM	53.9	D-	<b>89.4</b>	<b>F</b>	0.142	52.3
			PM	30.1	C	29.8	C	0.016	0.7
33	Lawrence Expressway and Calvert Dr./I-280 SB Ramp <sup>d</sup>	E	AM	48.6	D	54.3	D-	0.026	7.0
			PM	50.6	D	65.1	E	0.062	21.9
34	Lawrence Expressway and Bollinger Rd./Moorpark Ave. <sup>d</sup>	E	AM	60.5	E	62.8	E	0.014	3.5
			PM	46.0	D	46.0	D	-0.005	0.5



**TRANSPORTATION AND TRAFFIC**

**TABLE 4.13-13 PROPOSED PROJECT INTERSECTION LEVELS OF SERVICE TABLE**

#	Intersection	LOS Standard	Peak Hour	No Project		Proposed Project			
				Avg. Delay	LOS	Avg. Delay	LOS	Change in Crit. V/C	Change in Crit. Delay
35	De Anza Blvd. and Rainbow Dr. (south)	D	AM	20.2	C+	19.5	B-	0.036	-0.4
			PM	19.2	B-	18.8	B-	0.061	0.3
36	Bubb Rd./Peninsula Blvd. and Stevens Creek Blvd.	D	AM	31.0	C	31.9	C	0.107	2.3
			PM	31.1	C	33.8	C-	0.104	2.7
37	North Stelling Rd./Hollenbeck Ave. and Homestead Rd.	D	AM	38.5	D+	39.9	D	0.072	4.8
			PM	43.6	D	44.4	D	0.036	2.9
38	Blaney Ave. and Stevens Creek Blvd.	D	AM	34.1	C-	40.9	D	0.194	11.9
			PM	40.0	D	43.5	D	0.115	14.4
39	Foothill Blvd. and Stevens Creek Blvd.	D	AM	48.7	D	48.9	D	0.011	1.8
			PM	25.2	C	26.3	C	0.024	0.4
40	Stelling Rd. and McClellan Rd.	D	AM	32.1	C-	32.4	C-	-0.001	0.0
			PM	35.6	D+	36.6	D+	0.014	1.8
41	Wolfe Rd. and Apple Campus Access <sup>h</sup>	D	AM	18.9	B-	22.8	C+	0.069	9.1
			PM	36.8	D+	48.2	D	0.077	12.2

Notes: Notes: NB = northbound; SB = southbound; EB = eastbound; WB = westbound. **Bold and underlined** indicates a substandard level of service.

**Bold, underlined, and shaded in gray** indicates a significant project impact

a. This is a CMP intersection within the City of Cupertino. Cupertino applies its own standard of LOS D to CMP intersections.

b. This is a CMP intersection within the City of Sunnyvale. The CMP's standard of LOS E applies.

c. The City of Sunnyvale is the controlling jurisdiction for the intersection.

d. This is a CMP intersection on a County Expressway. The CMP and County's standard of LOS E applies.

e. This is a CMP intersection within the City of Santa Clara. The CMP's standard of LOS applies.

f. The City of Santa Clara is the controlling jurisdiction for the intersection.

g. The City of San Jose is the controlling jurisdiction for the intersection.

h. This is a future intersection.

As shown in Table 4.13-13, above, the proposed Project would result in *significant* impacts to seventeen (17) intersections during at least one of the peak hours.

- SR 85 Northbound Ramps and Stevens Creek Boulevard (#2): LOS E – AM Peak Hour
- Stelling Road and Stevens Creek Boulevard (#3): LOS F – PM Peak Hour
- Sunnyvale-Saratoga Road/De Anza Boulevard and Homestead Road (#5): LOS F – AM and PM Peak Hours
- De Anza Boulevard and I-280 Northbound Ramp (#6): LOS F – AM and PM Peak Hours
- De Anza Boulevard and I-280 Southbound Ramp (#7): LOS F – AM and PM Peak Hours
- De Anza Boulevard and Stevens Creek Boulevard (#8): LOS F – PM Peak Hour
- De Anza Boulevard and McClellan Road/Pacifica Drive (#9): LOS F – PM Peak Hour
- Wolfe Road and Homestead Road (#16): LOS F – PM Peak Hour
- Wolfe Road and I-280 Northbound Ramp (#18): LOS F – AM Peak Hour
- Wolfe Road and I-280 Southbound Ramp (#19): LOS F – AM and PM Peak Hours
- Stevens Creek Boulevard and Wolfe Road/Miller Avenue (#21): LOS E+ AM Peak Hour
- North Tantau Avenue/Quail Avenue and Homestead Road (#24): LOS E – AM Peak Hour and E+ – PM Peak Hour

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- Stevens Creek Boulevard and Tantau Avenue (#27): LOS F – PM Peak Hour
- Stevens Creek Boulevard and I-280 SB Ramps/Calvert Drive (#29): LOS F – PM Peak Hour
- Agilent Tech Drive Way and Stevens Creek Boulevard (#30): LOS F - AM Peak Hour
- Lawrence Expressway Southbound Ramp and Stevens Creek Boulevard (#31): LOS F – AM Peak Hour
- Stevens Creek Boulevard and Lawrence Expressway Northbound Ramp (#32): LOS F – AM Peak Hour

### *Mitigation Measures*

**Mitigation Measure TRAF-1:** The City of Cupertino shall commit to preparing and implementing a Traffic Mitigation Fee Program to guarantee funding for roadway and infrastructure improvements that are necessary to mitigate impacts from future projects based on the then current City standards. As part of the preparation of the Traffic Mitigation Fee Program, the City shall also commit to preparing a "nexus" study that will serve as the basis for requiring development impact fees under AB 1600 legislation, as codified by California Code Government Section 66000 et seq., to support implementation of the proposed Project. The established procedures under AB 1600 require that a "reasonable relationship" or nexus exist between the traffic improvements and facilities required to mitigate the traffic impacts of new development pursuant to the proposed Project. The following examples of traffic improvements and facilities would reduce impacts to acceptable level of service standards and these, among other improvements, could be included in the development impact fees nexus study:

- **SR 85 Northbound Ramps and Stevens Creek Boulevard (#2):** An exclusive left-turn lane for the northbound leg of the intersection (freeway off-ramp) at the intersection of SR 85 and Stevens Creek Boulevard would result in one left-turn lane, one all-movement lane, and one right turn lane. The additional lane could be added within the existing Caltrans right-of-way.
- **Stelling Road and Stevens Creek Boulevard (#3):** The addition of a second exclusive left-turn lane for the eastbound leg of the intersection from Stevens Creek Boulevard to northbound Stelling Road, which could be accomplished by reworking the median. Right turns would share the bike lane.
- **Sunnyvale-Saratoga Road/De Anza Boulevard and Homestead Road (#5):** Widen De Anza Boulevard to four lanes in each direction or the installation of triple left-turn lanes.
- **De Anza Boulevard and I-280 Northbound Ramp (#6):** Restriping of De Anza Boulevard in the southbound direction to provide room for right turn vehicles to be separated from through traffic may be required. The bike lane would be maintained, and right turns would occur from the bike lane. The right turns would continue to be controlled by the signal and would need to yield to pedestrians. Painting a bike box at the front of the lane to provide space for bikes wait at red lights may enhance the bicycle experience.
- **De Anza Boulevard and Stevens Creek Boulevard (#8):** Restripe westbound Stevens Creek Boulevard to provide room for right turn vehicles to be separated from through vehicles may be required. The right turn vehicles will share the bike lane and will still be controlled by the traffic signal. Paint a bike box at the front of the lane to provide bikes a place to wait at red lights. The pedestrian crossings will not be affected may enhance the bicycling experience.



**County) (#32):** Redesign of the northbound leg of the intersection at the Lawrence Expressway Northbound Ramp and Stevens Creek Boulevard to provide one through-movement lane, and one exclusive right-turn lane may be required. Right-of-way acquisition would be required.

The fees shall be assessed when there is new construction, an increase in square footage in an existing building, or the conversion of existing square footage to a more intensive use. The fees collected shall be applied toward circulation improvements and right-of-way acquisition. The fees shall be calculated by multiplying the proposed square footage, dwelling unit, or hotel room by the appropriate rate. Traffic mitigation fees shall be included with any other applicable fees payable at the time the building permit is issued. The City shall use the traffic mitigation fees to fund construction (or to recoup fees advanced to fund construction) of the transportation improvements identified above, among other things that at the time of potential future development may be warranted to mitigate traffic impacts.

While implementation of Mitigation Measure TRAF-1 would secure a funding mechanism for future roadway and infrastructure improvements that are necessary to mitigate impacts from future projects based on then current standards, impacts would remain *significant and unavoidable*, because the City cannot guarantee improvements at these intersections at this time. This is in part because the nexus study has yet to be prepared and because some of the impacted intersections are under the jurisdictions of the Cities of Sunnyvale and Santa Clara and Caltrans. Specifically, the following intersections are outside the jurisdiction of Cupertino:

## TRANSPORTATION AND TRAFFIC

- SR 85 Northbound Ramps and Stevens Creek Boulevard (#2)
- De Anza Boulevard and I-280 Northbound Ramp (#6)
- Wolfe Road and Homestead Road (#16)
- Wolfe Road and I-280 Northbound Ramp (#18)
- Wolfe Road and I-280 Southbound Ramp (#19)
- North Tantau Avenue/Quail Avenue and Homestead Road (#24)
- Stevens Creek Boulevard and Agilent Technologies Driveway (#30)
- Lawrence Expressway Southbound Ramp and Stevens Creek Boulevard (CMP, County)(#31)
- Lawrence Expressway Northbound Ramp and Stevens Creek Boulevard (CMP, County) (#32)

However, the City will continue to cooperate with these jurisdictions to identify improvements that would reduce or minimize the impacts to intersections and roadways as a result of implementation of future development projects in Cupertino.

**Significance With Mitigation:** Significant and Unavoidable.



# Vallco Town Center Specific Plan

## *Environmental Assessment*

April 2016



# **Vallco Town Center Specific Plan**

## **Environmental Assessment**

April 2016

**Prepared By:**

**Kimley»»Horn**

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### BIO: Biological Resources

Walter Levison Consulting (WLC) Biologist, 2016. *Assessment of 895 Trees at Town Center Community Park Project, North Wolfe Road, Cupertino, California*

### GEO: Geology

TRC, *Preliminary Geotechnical Investigation, Town Center/Community Park, N. Wolfe Road and Vallco Parkway, Cupertino, California (Geotechnical Investigation)*, 2015

### N: Noise

Ramboll Environ, 2016. *The Vallco Town Center Specific Plan Noise Assessment Technical Report*. March.

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LUK and Associates, 2016. *Town Center/Community Park – Recycled Water Pipeline Extension*, February.

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LUK and Associates, 2016. *Town Center/Community Park – Sanitary Sewer Capacity Study*, February.

**UT-C: Water Demand**

LUK and Associates, 2016. *Town Center/Community Park – Water Demand Assessment*, February.

## 1 Executive Summary

The Vallco Town Center Specific Plan (Specific Plan) is an approximately 58-acre planning area (Plan Area) located in the City of Cupertino between Interstate 280 (I-280) and Stevens Creek Boulevard, and intersected by Wolfe Road. The Plan Area has been identified in the City of Cupertino Community Vision 2015–2040 General Plan (General Plan) for complete redevelopment into a vibrant mixed-use Town Center. The General Plan calls for the Plan Area to serve as a focal point for regional visitors and the community as a destination for shopping, dining and entertainment in the Santa Clara Valley. General Plan Policy LU-19.1 calls for the preparation of a specific plan prior to any development to specify the land uses, design standards and guidelines, and infrastructure improvements required to serve the Plan Area.

The Plan Area comprises 14 blocks and two Town Squares at street level, organized around a street network. The focus of the Specific Plan is planning for the redevelopment of the Vallco Shopping Mall property (the Mall), which includes Blocks 1 through 12 (the Town Center, also known as the Town Center/Community Park), and the potential future development of Block 14, to remain as parking or parking structure, supporting services, or possibly as a second hotel and supporting commercial uses. Any future project in the Plan Area, including the Town Center, would be the subject of a future development application that must be substantially consistent with the planning level policies set forth in the Specific Plan. Block 13 has been approved for development of a 148-room hotel.

The Town Center/Community Park is proposed to include approximately 640,000 square feet of commercial area, including family-friendly entertainment, retail, sports and recreation uses. A residential component with 389 apartments for multi-generational living with a minimum of 80 senior apartments is proposed in this area.<sup>1</sup> Also proposed are approximately two million square feet of office space serving incubator, startups, and emerging and/or established Silicon Valley companies. The Town Center/Community Park would also support public, residential, hotel, and office amenity areas.

This Environmental Assessment (EA) discloses the potential environmental effects associated with implementation of the Vallco Town Center Specific Plan, and related amendments to the City of Cupertino General Plan, *Community Vision 2015–2040* (General Plan) and the Cupertino Municipal Code, as provided for in the ballot measure to be submitted to the voters, The Vallco Town Center Specific Plan Initiative (Initiative).

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<sup>1</sup> The City's *General Plan: Community Vision 2015-2040* allows 389 units "by right," however; additional units may be permitted upon transfer of units from other areas of the City and issuance of a Conditional Use Permit. Because more units than 389 may be permitted under the General Plan and the City's General Plan Environmental Impact Report studied 800 units within the Vallco Shopping District Special Area, this Environmental Assessment conservatively studies a project with 800 residential units to ensure the maximum impacts are identified.

The purpose of the Initiative is to ensure that, consistent with the General Plan, the failed Vallco Shopping District Special Area can be redeveloped into a vibrant, sustainable, walkable and safe new neighborhood with a mix of retail, dining, entertainment, recreation, offices, housing, open space, educational, civic, and public amenities, with exceptional community benefits and high-quality design, that will improve the quality of life of Cupertino residents.

This EA is derived from technical reports included as appendices and from other sources listed as EA references. It is organized into the following chapters:

- Chapter 1: Executive Summary
- Chapter 2: Introduction
- Chapter 3: Specific Plan Description
- Chapter 4: Introduction to Environmental Analysis
- Chapter 5: Aesthetics
- Chapter 6: Air Quality
- Chapter 7: Biological Resources
- Chapter 8: Cultural Resources
- Chapter 9: Geology, Soils, & Mineral Resources
- Chapter 10: Greenhouse Gas Emissions
- Chapter 11: Hazards & Hazardous Materials
- Chapter 12: Hydrology & Water Quality
- Chapter 13: Land Use & Planning
- Chapter 14: Noise & Vibration
- Chapter 15: Population & Housing
- Chapter 16: Public Services
- Chapter 17: Transportation & Circulation
- Chapter 18: Utilities & Service Systems
- Chapter 19: Energy Conservation
- Chapter 20: EA Preparers and Organizations Consulted

## 1.1 Location and Setting

### 1.1.1 Regional Location and Surrounding Land Uses

Cupertino is a suburban city of 10.9 square miles located on the southern portion of the San Francisco peninsula, in Santa Clara County. Cupertino is located approximately 36 miles southeast of downtown San Francisco and eight miles west of downtown San Jose. The cities of

Los Altos and Sunnyvale are adjacent to the northern city boundaries. The cities of Santa Clara and San Jose lie to the east, and the city of Saratoga lies to the south. Unincorporated areas of Santa Clara County form the western and portions of the southern boundary of the city. The City of Cupertino is accessed by Interstate 280 (I-280), which functions as a major east/west regional connector, and State Route 85, which functions as the main north/south regional connector.

The approximately 58-acre Plan Area consists of multiple parcels<sup>2</sup> and is located at the Wolfe Road/Vallco Parkway and Wolfe Road/Stevens Creek Boulevard intersections in the City of Cupertino. The Plan Area is located just south of I-280 and the Wolfe Road/I-280 interchange.

### **1.1.2 Plan Area Existing Conditions**

Currently, the Plan Area is developed with the Mall, which consists of an existing 1,207,774-square-foot mall building plus satellite buildings and surface parking. In addition, as noted above, Blocks 13 and 14 are currently parking lots, however the City of Cupertino recently approved a proposal to develop Block 13 into a business-class hotel, consistent with the General Plan.

The Plan Area is divided by Wolfe Road. The area west of Wolfe Road is bound by I-280 to the north, Wolfe Road to the east, Stevens Creek Boulevard to the south, and Perimeter Road to the west (the Plan Area includes Perimeter Road). It is developed with several buildings: a primary mall building which connects two former anchor stores, a satellite auto center building, a satellite restaurant building, three parking structures, and surface parking lots. Block 14 is located adjacent to I-280 in this part of the Plan Area.

The eastern portion of the Plan Area, east of Wolfe Road, is bound by I-280 to the north, Perimeter Road to the east (the Plan Area includes Perimeter Road), Vallco Parkway to the south, and Wolfe Road to the west. It is developed with an ice-skating rink, bowling alley, one anchor store, mall retail shops, a food court, a satellite restaurant building, a parking structure, and surface parking lots. Block 13 is located adjacent to I-280 in this part of the Plan Area.

An existing pedestrian bridge connects the Mall buildings on the east and west sides of Wolfe Road. The bridge is enclosed and consists of retail shops on either side of a pedestrian walkway. A number of other easements, some crossing public rights of way, benefit the Mall.

### **1.1.3 General Plan Land Use Designation and Zoning**

On December 4, 2014, the City Council formally adopted an amended General Plan for Cupertino known as Community Vision 2040 (General Plan). On May 19, 2015, the City Council adopted an updated Housing Element, and on October 20, 2015, the City Council adopted

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<sup>2</sup> Assessor Parcel Numbers: 316-20-080, -081, -082, -088, -092, -094, -095, -099, -100, -101, -103, -104, -105, -106, and -107.

minor amendments to the language to the Community Vision 2040 including a change in the name of the document to “General Plan: Community Vision 2015 - 2040.”

The General Plan is currently organized into 21 General Plan “Planning Areas,” consisting of nine “Special Areas” and 12 “Neighborhoods.” The Plan Area is designated as *Commercial/Office/Residential* on the General Plan Land Use Map. This designation applies to mixed-use areas that are predominantly commercial and office uses. Supporting residential uses may be allowed to offset job growth, better balance the citywide jobs to housing ratio and when they are compatible with the primarily non-residential character of the area. Development, both residential and non-residential, is subject to the numerical caps and other policies in the City’s General Plan.

As shown in General Plan Figure LU-1 (Community Form Diagram), the General Plan permits up to 35 dwelling units per acre in the Plan Area. In compliance with the General Plan, building heights and setbacks would be determined as part of the Specific Plan.

The General Plan identifies a citywide available allocation of 1,882 dwelling units through 2040. Pursuant to General Plan Strategy LU-1.2.1, development allocations may be transferred between General Plan Planning Areas, provided no significant environmental impacts are identified beyond those already studied in the Cupertino General Plan 2040 EIR (SCH# 2014032007). Further, the Plan Area is also identified as a Priority Housing Element Site (Site A2) in the General Plan Housing Element. General Plan Strategy LU-1.4.1 provides that a conditional use permit is required for mixed-use Housing Element sites that propose units above the allocation in the Housing Element, and on non-Housing Element mixed-use sites.

Pursuant to General Plan Land Use Element Strategy LU-1.2.1 (Planning Area Allocations) and Table LU-1 (Citywide Development Allocation Between 2014–2040), the Plan Area is allocated 1,207,774 square feet of commercial uses (consisting of a minimum of 600,000 square feet of retail uses, of which a maximum of 30 percent may be entertainment uses), 2 million square feet of office uses, 339 hotel rooms, and 389 residential dwelling units, provided that a Specific Plan for the Plan Area is adopted by May 31, 2018.

The Plan 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 Wolfe Road).

### General Plan and Zoning Changes

If approved by the Cupertino voters, the Initiative includes the following amendments to the General Plan to:

- Require that the Plan Area contain a mixture of uses, including residential, office, retail, civic and education;



- Require that the Town Center provide transportation and transit infrastructure, a publicly accessible green roof, and extend recycled water infrastructure to the Plan Area;
- Clarify existing policies to allow additional parcelization within the Plan Area if there are protective measures that provide incentives and guidelines for cooperation among owners, and,
- Adopt a Land Use Map to re-designate the Plan Area from Commercial/Office/Residential to Vallco Town Center Specific Plan, and add a definition to the General Plan for this new land use category.

The General Plan, as to be amended by the Initiative, serves as the basis for the Specific Plan.

The General Plan contemplates that the Plan Area would be rezoned to implement the mixed-use vision of the General Plan (General Plan, HE Policy 1.3, Strategy 1). The Initiative includes amendments to the Municipal Code and Zoning Map to: (1) change the text to reflect the new zoning district of Vallco Town Center Specific Plan; (2) clarify the conditional use permit approval process when increasing residential units within the Vallco Town Center Specific Plan; (3) exclude the Plan Area from the Code's broader specific plan planned zoning district designation; and (4) amend the Zoning Map to show the Plan Area as zoned (Vallco Town Center Specific Plan).

## 1.2 Specific Plan Description

The Plan Area comprises 14 blocks and two Town Squares at street level, organized around a street network. The focus of the Specific Plan is planning for the redevelopment of the Vallco Shopping Mall property (the Mall), which includes Blocks 1 through 12 (the Town Center, also known as the Town Center/Community Park), and the potential future development of Block 14, to remain as parking or parking structure, supporting services, or possibly as a second hotel and supporting commercial uses. Any future project in the Plan Area, including the Town Center, would be the subject of a future development application that must be substantially consistent with the planning level policies set forth in the Specific Plan. Block 13 has been approved for development of a 148-room hotel.

**Block 14:** The property is currently a surface parking lot and has been identified as a possible suitable location for the development of a 191-room hotel (consistent with the available hotel allocation as identified in Table LU-1 of the General Plan) and supporting commercial uses, services, facility management or loading, or a future parking structure in the event market conditions support additional parking supply.

**Block 13:** The property is also currently a parking lot and was recently approved by the City of Cupertino for the development of a 148-room business class hotel. Because this property is located in the Plan Area as defined in the General Plan, the development standards and guidelines described in the Specific Plan contemplate the approved project.

**Blocks 1 through 12:** The Mall property is the site of an aging shopping mall that is suffering from significant vacancies and has been unsuccessful for decades. The Specific Plan would authorize revitalizing the Mall property into a new Town Center consistent with and conforming to Cupertino’s General Plan.

The Town Center/Community Park is proposed to include approximately 640,000 square feet of commercial area, including family-friendly entertainment, retail, sports and recreation uses. A residential component with 389 apartments for multi-generational living with a minimum of 80 senior apartments is proposed in this area.<sup>3</sup> Also proposed are approximately two million square feet of office space serving incubator, startups, and emerging and/or established Silicon Valley companies. The Town Center/Community Park would also support public, residential, hotel, and office amenity areas.

At least 50,000 square feet would be dedicated to public/civic uses, including charitable space for local non-profit organizations, a high school Innovation Center, an adult education center, and a Mobility Hub. Additionally, the Town Center/Community Park would include a publicly accessible approximately 30-acre landscaped Community Park and Nature Area above the buildings.

The Specific Plan covers the properties noted above. Because Block 13 was recently approved for a 148-room hotel and has already gone through environmental review, the focus of this EA is on the redevelopment of the Mall property as the Town Center/Community Park, and the potential for future hotel development and supporting commercial uses on Block 14.

### 1.3 Specific Plan Components

Land uses would include office, retail, entertainment, residential, education, civic, fitness, and parking, all arranged around two activated Town Squares and a 30-acre Community Park and Nature Area, all consistent with the General Plan. Furthermore, civic, educational uses would be incorporated into the Town Center and give a unique Cupertino identity to the Plan Area.

The Town Center would include two Town Squares, namely: Town Square West (approximately 2 acres) on the west side of Wolfe Road and Town Square East (approximately 1 acre) on the east side of Wolfe Road. Town Squares West would include programmable outdoor environments which would be used for community events and company functions. Town Square East is envisioned as the quiet complement to the active Town Square West, which shall serve as the “town center.”

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<sup>3</sup> The City’s *General Plan: Community Vision 2015-2040* allows 389 units “by right,” however; additional units may be permitted upon transfer of units from other areas of the City and issuance of a Conditional Use Permit. Because more units than 389 may be permitted under the General Plan and the City’s General Plan Environmental Impact Report studied 800 units within the Vallco Shopping District Special Area, this Environmental Assessment conservatively studies a project with 800 residential units to ensure the maximum impacts are identified.

As contemplated by the General Plan's town center vision for the Plan Area, the Plan Area has been organized in a transect grid format of downtown blocks. Blocks on the west side of Wolfe Road would be the focal point of the retail, entertainment, and residential uses. Blocks east of Wolfe Road would be designed to contain limited mixed-use retail and would accommodate a majority of the office space. The Plan Area has been organized into the following five land use districts:

- Town Center Retail/Residential
- Town Center Retail/Entertainment/Office/Residential
- Town Center Retail/Office
- Town Center Hotel/Parking/Services
- Community Park and Nature Area

### 1.3.1 Town Center Retail/Residential District

The Town Center Retail/Residential District is bounded by Stevens Creek Boulevard, the Portal neighborhood, Perimeter Road, the Town Center Retail/Entertainment/Office/Residential District and Wolfe Road. Commercial uses may include retail, personal services, civic and small format medical uses, in addition to residential use.

The vision for this District is to create an activated ground-floor commercial Town Center that is supported by residential above. One or more north-south tree-lined streets would be flanked by a mixture of local, national, and/or international brand commercial stores. These streets would be designed to enhance the retail shopping experience by providing a vibrant and comfortable space for walking, sitting, eating and socializing throughout the day and evening.

These streets would be designed to be "Complete Streets," with pedestrian-oriented streetscapes and shared vehicle/bike lanes to maintain slow traffic speeds. Sidewalks would incorporate planting areas and places for sitting. These spaces would include paving patterns, planting, lighting, and informal places for gathering. Canopy trees would enhance the streetscape and provide shade along the sidewalks and seating areas. Along Stevens Creek Boulevard, glass facades of multi-level spaces would be incorporated to animate the streetscape.

Upper-level residential apartments would serve a range of household types, including units dedicated as senior market-rate apartments. The residential apartments would comply with the City's Below Market Rate (BMR) Housing Mitigation Program. Per City policy set forth in the Cupertino Municipal Code, the Town Center would be encouraged to meet this requirement by providing affordable units on-site rather than paying the in-lieu fee.

To help facilitate alternative transportation options, a Mobility Hub is envisioned (likely fronting Stevens Creek Boulevard) to accommodate local transit and the proposed Stevens Creek Boulevard Bus Rapid Transit (BRT) line, as well as serve as a focal point for alternative transportation support services (e.g., bike shop and storage, bike share rentals, shower facilities, membership car rentals such as car share, and a transit information kiosk).

Town Square West would be a publicly-accessible plaza designed with landscaping, public art, enhanced paving areas, and seating areas that would create a flexible gathering space for outdoor events, such as concerts, cultural events, outdoor market, outdoor performances, food festivals, holiday events, outdoor movies, and outdoor sports activities. These areas would be surrounded by flexible areas that could also host events and festivals or serve as exterior dining or social space. Streets surrounding the Town Square West would be designed to be closed at certain times to host events, festivals, or during busy weekend and holiday times.

### **1.3.2 Town Center Retail/Entertainment/Office/Residential District**

New and existing entertainment uses, including a multiplex movie theater, bowling alley, and ice rink, are anticipated to be included in the Town Center Retail/Entertainment/Office/Residential District, located in the northwestern corner of Plan Area. Additional supporting uses may include retail and commercial uses such as restaurants and personal services, a fitness facility, and the possibility of office, residential, and community benefit uses.

This District is envisioned to have an integrated multilevel complex with the south facing facade looking out over the open air activities of Town Square West. The facades facing the residential neighborhoods to the west would be designed so that the entertainment building would have a solid wall, with few or no openings (except the fitness use, with consideration to privacy) so that any sound generated by the uses would be acoustically attenuated and any views onto adjacent residential properties would be blocked.

As noted in a General Plan Strategy, entertainment uses would be required to constitute no more than 30 percent of the total retail uses within the Plan Area.

### **1.3.3 Town Center Retail/Office District**

The Town Center Retail/Office District would contain Class-A office space and Amenity & Support Space that would provide flexible space for a range of users across the lifecycle of Silicon Valley companies.

Pursuant to established City practice and policy, Amenity & Support Space serving the Office would not require an Office space allocation from General Plan Figure LU-1.

Office entrances, lobbies, and some Amenity & Support Space may be located at ground level facing Town Square East and the adjacent streets. Ground floor uses may also include a variety of commercial spaces along Vallco Parkway Boulevard similar to the Town Center Retail/Residential District described above. Buildings may be linked at upper levels by open-air or enclosed connections or building area.

Town Square East is designed as a quiet complement to the active heart of Town Square West, include landscaping and outdoor seating areas. It would primarily serve the surrounding office uses and would be subject to safety and security measures for the occupants and the public. Town Square East is not expected to be used for events and festivals, though these uses may be permitted for special occasions.

A Transit Center is also envisioned in this District. It would be intended to cater to employees who arrive with shuttle busses operated by companies in the District.

#### **1.3.4 Town Center Hotel/Parking/Services District**

The Town Center Hotel/Parking/Services District straddles Wolfe Road and may contain up to two hotels. Consistent with the General Plan (see General Plan Table LU-1), a hotel with up to 191 rooms is envisioned on Block 14, though no project applications have been submitted as of the date of this EA. This property may also contain supporting commercial services consistent with a General Plan Strategy, which states: “Encourage a business class hotel with conference center and active uses including main entrances, lobbies, retail and restaurants on the ground floor.” The conference center aspect may be satisfied by locating such a use elsewhere within the Plan Area and is not required to be attached to the business class hotel. Other permitted uses in this District would include permanent parking area (surface or structured), service yard, central plant, public safety facilities, open space, utilities, or similar uses necessary to support the Plan Area.

On the east side of Wolfe Road, Block 13 is already approved for the development of a 148-room hotel, satisfying the General Plan Strategy for a business class hotel.

The majority of Block 14 is currently occupied by a surface parking lot and would be retained as a legal-nonconforming use until such time as it is proposed for development on a majority of that block. Block 14 may potentially be used as part of planned Wolfe Road/I-280 interchange improvements, a project applicant may construct dedicated off-ramps and/or on-ramps from I-280 into and out of the Plan Area. The intent would be to alleviate new traffic by avoiding the City’s existing street network. Additional freeway ramps would be subject to Caltrans and other jurisdiction approvals.

The City of Cupertino has identified future plans for a regionally-serving pedestrian/bike trail parallel to and on the south side of I-280. This trail outside of the Plan Area would be partially funded by this Plan and other sources.

#### **1.3.5 Community Park and Nature Area**

An approximately 30-acre Community Park and Nature Area would be constructed on a separate landscaped roof structure over the Town Center portion of the Plan Area. The topography of this landscaped roof would vary over the tops of the buildings, and would eventually meet existing grade at the western boundary of the Plan Area. Amenities may include pedestrian trails, a playground, vineyards, orchards, organic gardens, an amphitheater, pavilion buildings, community hub, student union and a nature area.

A majority of the roof structure would include community park trails, and a smaller portion would be dedicated to office and residential trails.

Retail uses may include a beer garden, wine garden and small permanent or transient seasonal retail or fast casual dining kiosks. The banquet hall, community hub and wine garden adjacent

to the vineyards may be used for large community gatherings such as weddings, fundraisers, cultural events and festivals and create an open and flexible community space for multiple programming opportunities. The Community Hub may open to an amphitheater that connects the two landscaped bridges between Town Square West and Town Square East.

The programming of the landscape and pavilions would be intended to create educational, instructional, health and wellness, and artistic opportunities for all residents of Cupertino. The General Plan identifies the Vallco Shopping District as a Community Landmark. In compliance with the General Plan, the Community Park and Nature Area would include a plaque, reader board and/or other educational tools to provide information regarding the history of the Vallco Shopping District.

Other pavilions and areas would be privately-accessible for residents living on-site and office employees working on-site. They would satisfy the private open space as defined in the Cupertino Municipal Code, in lieu of individual private areas, and they may include residential amenities, such as a pool and clubhouse, and office amenities, such as a café, wellness, and conference spaces. For safety and security of the public, residential and employment uses, some areas of the roof may require limited public access such as roof perimeters, roof areas open to below and residential and office pavilions.

The Community Park and Nature Area would provide a variety of planting zones incorporating native and/or drought tolerant species. The Community Park and Nature Area would be designed to sustainably capture rainwater, manage stormwater runoff, create educational and instructional opportunities, and help reduce carbon emissions by reducing the urban heat island effect.

## 1.4 Specific Plan Improvements

### 1.4.1 Landscaping

With the exception of Block 13, landscaping would be guided by the Specific Plan's Landscaping & the Public Realm chapter, which includes all of the exterior places that would be physically or visibly accessible to the public. Most of the new landscaping within the Town Center/Community Park would be in the Community Park and Nature Area, with additional landscaping in the town squares and along internal streets. Where possible, existing trees would be retained and complemented by the planting of new trees. The landscaping and trees would be irrigated at least partially, and possibly entirely, with non-potable water from sources such as municipal recycled water or on-site greywater and stormwater capture.

### 1.4.2 Roadway/Vehicular Circulation Improvements

The Mobility & Connectivity chapter of the Specific Plan identifies a new signalized intersection proposed at Wolfe Road and 2<sup>nd</sup> Street would provide east-west bi-directional bike lanes along the south edge that allows bicyclists and pedestrians to cross without conflicts with southbound vehicles turning left from Wolfe Road to 2<sup>nd</sup> Street and westbound vehicles turning right from 2<sup>nd</sup> Street to Wolfe Road. Crossings would be clearly marked to connect the shared path with the internal street grid.



The existing Perimeter Road tunnel passing under Wolfe Road would be modified from its current configuration to accommodate two options. Under the first option, the tunnel would be modified so that it accommodates alternative modes of transportation, creating a bicycle and pedestrian connection to complete connectivity between the Plan Area and the anticipated future trails along I-280. It would also provide services and facility management access for the Town Center, including small service vehicles. The tunnel may also accommodate utility connections for the Town Center. Vehicular access for the Town Center would not be required. Under the second option, as part of the Wolfe Road/I-280 interchange improvements, a project applicant may explore the construction of dedicated off-ramps and/or on-ramps from I-280 into and out of the Town Center. The intent would be to divert traffic from the City's street network. Additional freeway ramps would be subject to Caltrans and other jurisdiction approvals.

### 1.4.3 Site Access, Circulation, and Parking

Vehicles would access the Plan Area from driveways on Stevens Creek Boulevard, Perimeter Road, Vallco Parkway, and Wolfe Road. The Plan Area would be designed with a transect grid street pattern to facilitate efficient and safe vehicular, pedestrian, and bicycle circulation.

#### Parking Network

To accomplish Plan Area goals, parking would be provided in accordance with the City of Cupertino Municipal Code Parking Regulations, subject to adjustments or exceptions as indicated in the Land Use and Development Standards and Mobility & Connectivity chapters of the Specific Plan. Based on the application of the parking regulations and adjustments to the development program allowed in the Plan Area, the total baseline target parking supply in the Plan Area would be 9,060 parking stalls.

#### Transit Access

The Santa Clara Valley Transit Authority (VTA) provides express and regular bus service to the Plan Area. Existing bus stops along Stevens Creek Boulevard, Wolfe Road, and Vallco Parkway would be relocated and improved.

Additionally, the Town Center applicant would partner with the City of Cupertino, VTA, and area employers to fund a free community shuttle for Cupertino residents and employees.

Two multi-modal transit centers are envisioned within the Plan Area; one on the east side of Wolfe Road to primarily serve office workers, and a second public one located adjacent to the Mobility Hub on the north side of Stevens Creek Boulevard. These multi-modal transit centers would serve the complimentary shuttle, VTA local and express buses, future Bus Rapid Transit, corporate shuttles, and sharing economy transportation services.

#### Bicycle Access

The existing bicycle network on Wolfe Road, Vallco Parkway, and Stevens Creek Boulevard would connect to and with, as well as surrounding, the Plan Area.

Within the Plan Area, all roadways would be designed to incorporate either Class II bike lanes or Class III shared bike/vehicle lanes. Bicycle striping, green bike lanes, and bike boxes would be used to reinforce and accommodate a multi-modal street network. The Plan Area would include a variety of bicyclist amenities, such as a bike café, bike repair shop, and shower facilities.

### **Pedestrian Access**

Pedestrian sidewalks would follow the proposed street grid pattern. To accommodate the proposed bicycle lanes and designated commuter shuttle curbside stop areas on Perimeter Road, the sidewalks on portions of Perimeter Road would be reconfigured. Pedestrian improvements would include replacing the existing enclosed bridge over Wolfe Road with a pedestrian bridge that would connect the town squares East and West.

### **Transportation Demand Management Program**

The Specific Plan includes Transportation Demand Management (TDM) strategies for the Town Center to proactively offer a multitude of subsidized services for residents, workers, visitors, and the community at large, to reduce the demand for driving.

### **Offsite Transportation Improvements**

The Specific Plan identifies proactive measures to incorporate transportation solutions along key transportation corridors and I-280. This includes roadway improvements in support of vehicular traffic, bike, pedestrian, and transit improvements and programs, and a substantial transportation demand management program to require carpooling, alternative transportation solutions, and off-peak travel.

In addition, the Town Center would implement a number of off-site transportation improvements, which would be coordinated with various agencies including Caltrans, VTA, and the City of Cupertino.

#### **1.4.4 Community Benefits**

The Vallco Shopping District Special Area would provide exceptional community benefits, including civic benefits, education benefits, housing benefits, land use and city revenue benefits, and mobility and connectivity benefits, as described in the Community Benefits chapter of the Specific Plan. These community benefits may be agreed to through a Development Agreement or, alternatively, may be set forth as conditions of approval in the Master Site Development Permit for the Town Center. These requirements would not apply to any development proposed on Block 13 or any portion of Block 14 not processed under the Master Site Development Permit.

#### **1.4.5 Environmental Design Features**

The Specific Plan incorporates Environmental Design Features (EDFs) to ensure that development in the Plan Area (excluding Block 13, which has an entitled hotel project) avoids or minimizes environmental effects with appropriate sensitivity to the land, its resources, and adjacent property. The Specific Plan applicant(s) or designee(s) (excluding Block 13 or a Block 14

applicant not processed as part of the Town Center/Community Park) would implement all EDFs and the City would implement a monitoring and enforcement program to ensure compliance. The monitoring and enforcement program would be administered by the Community Development Director or designee.

## 1.5 Summary of Impacts

**Table 1-1: Summary of Impacts** summarizes the results of the environmental analysis and referenced Specific EDFs that reduce impacts to less than significant. The Environmental Design Features (EDFs) included in this EA are from the Vallco Town Center Specific Plan (Appendix A). To make the EDFs from the Specific Plan easily recognizable in this document, the EDF number from the Specific Plan is referenced.

**Table 1-1: Summary of Impacts**

The Environmental Design Features (EDFs) included in this EA are from the Vallco Town Center Specific Plan (Appendix A). To make the EDFs from the Specific Plan easily recognizable in this document, the EDF number from the Specific Plan is referenced.

Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
<i>Aesthetics</i>		
Impact AES-1: Would implementation of the Specific Plan have a substantial adverse effect on a scenic vista?	Scenic vistas in the vicinity of the Plan Area are primarily limited to views of the Santa Cruz Mountains from Stevens Creek Boulevard. Implementation of the Specific Plan would not block views of the Santa Cruz Mountains along Stevens Creek Boulevard. Therefore, impacts to scenic vistas due to implementation of the Specific Plan would be less than significant.	With implementation of EDF 24, the Specific Plan would result in less than significant impacts on aesthetics.
Impact AES-2: Would implementation of the Specific Plan substantially damage scenic resources, including but not limited to trees, rock outcroppings, and historic buildings within a State scenic highway?	Development of the Specific Plan would have a different look and architectural style from the existing development, but the new development would not represent a substantial change in the land use pattern of the area. As such, the Specific Plan would not result in substantial changes to the existing visual landscape or views toward the Plan Area from I-280. The Specific Plan does not propose any significant changes to the existing mature trees along I-280 in the vicinity of the Plan Area. As such, the impact would be less than significant.	
Impact AES-3: Would implementation of the Specific Plan substantially degrade the existing visual character or quality of the site and its surroundings?	The Specific Plan would enhance the existing visual character by developing a green roof over the mixed-use town center and incorporating high-quality building architecture and recognizable gateway features with an emphasis on aesthetics, human scale, and creating a sense of place. The proposed green roof is designed in a way to minimize the visual impacts of the single-family residences located to the west of the Plan Area. There would be no impacts related to urban decay because the Specific Plan would redevelop an under-performing shopping mall with existing vacancies into a mixed-use town center with a range of land uses that create a balance of diverse economic drivers. As such, the impact would be less than significant.	

Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
Impact AES-4: Would the Specific Plan create a new source of substantial light or glare that would adversely affect day or nighttime views of the area?	Night lighting currently exists in the vicinity of the Plan Area in the form of street lighting, parking lot lighting, building illumination, security lighting, landscape lighting, and from the headlights of motor vehicles on the roadways and I-280. The Specific Plan would allow for equivalent forms of lighting. The Specific Plan requires that materials of structures be carefully selected to avoid using reflective building materials that would adversely affect surrounding viewers. Implementation of EDF 24: Lighting, would reduce potential impacts to less than significant.	
Impact AES-5: Implementation of the Specific Plan, in combination with past, present, and reasonably foreseeable projects, would result in less than significant cumulative impacts with respect to aesthetics.	<p>Implementation of the Specific Plan would not obstruct scenic views, and with comprehensive design guidelines and the proposed green roof, would enhance the visual quality of the Plan Area. Significant impacts to visual resources (including those associated with increased nighttime lighting) would be site-specific and would not contribute to cumulative impacts after implementation of General Plan policies and the provisions stated in the Municipal Code. Because of the developed nature of the City, implementation of the Specific Plan in combination of other new development, would not result in a significant adverse change to the visual character of the City.</p> <p>As part of the approval process, potential new development would be subject to architectural and site review, as applicable, to ensure that the development is aesthetically pleasing and compatible with adjoining land uses. With the development review mechanisms in place, impacts to visual resources would be less than significant.</p>	
<i>Air Quality</i>		
Impact AQ-1: Would implementation of the Specific Plan conflict with or obstruct implementation of the applicable air quality plan, violate an air quality standard, contribute substantially to an existing or projected air quality violation, or result in a cumulatively considerable net increase in criteria air pollutants?	The Specific Plan would not hinder implementation of 2010 Clean Air Plan control measures. In addition, implementation of the Specific Plan would generate VMT less than the projected Specific Plan service population increase. Therefore, the Specific Plan would be consistent with the 2010 Clean Air Plan, and the impact would be less than significant.	With implementation of EDFs 25 and 26, the Specific Plan would result in less than significant impacts on air quality, except for operational impacts of ROG, which would remain significant.

Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
Impact AQ-2: Would implementation of the Specific Plan generate toxic air contaminants, which would expose sensitive receptors to substantial pollutant concentrations?	The Specific Plan would introduce new residential development in proximity to vehicle traffic on I-280 and Stevens Creek Boulevard, as well in proximity to emergency backup generators installed to serve Specific Plan uses. Existing residential development west and south of the Plan Area would also be proximate to toxic air contaminant emissions from proposed emergency backup generators. Health risks associated with the Specific Plan would not exceed the development project-level thresholds. As such, the impact would be less than significant.	
Impact AQ-3: Would construction of the Town Center/Community Park generate dust and criteria air pollutants, which could violate an air quality standard, contribute substantially to an existing or projected air quality violation, or result in a cumulatively considerable net increase in criteria air pollutants?	<p>Unless properly controlled, vehicles leaving the site would deposit dirt and mud on local streets, which could be an additional source of airborne dust after it dries. The Bay Area Air Quality Management District (BAAQMD) recommends the implementation of Best Management Practices to reduce construction impacts to a less than significant level. Implementation of EDF 25, Dust Control, would require implementation of the BAAQMD’s Best Management Practices to reduce fugitive dust emissions to a less than significant level.</p> <p>Daily exhaust emissions from construction activities would result in NO<sub>x</sub> emissions that would exceed the threshold of significance. The impact would be significant. Implementation of EDF 26, Construction Emissions Minimization, would reduce this impact to a less-than significant level.</p>	
Impact AQ-4: Would operation of the Town Center/Community Park result in emissions of criteria air pollutants at levels that could violate an air quality standard, contribute to an existing or projected air quality violation, or result in a cumulatively considerable net increase in criteria air pollutants?	The Town Center/Community Park operational emissions of ROG would exceed thresholds. ROG emissions would be primarily related to use of consumer products. The impact would be significant. These emissions cannot be controlled by the applicant. Consequently, the impact of ROG emissions on air quality during operation of the development would remain significant.	



Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
Impact AQ-5: Would construction of the Town Center/Community Park generate toxic air contaminants, including diesel particulate matter, which would expose sensitive receptors to substantial pollutant concentrations?	Based on the modeling conducted, and the conservative assumptions included in the analysis, modeled cancer risks and hazards associated with construction-period toxic air contaminant emissions could exceed cancer risk significance thresholds. This would be a significant impact. Implementation of EDF 26, Construction Emissions Minimization, would reduce emissions below applicable thresholds, and the impact would be less than significant.	
Impact AQ-6: Would operation of the Town Center/Community Park generate toxic air contaminants, which would expose sensitive receptors to substantial pollutant concentrations?	The Town Center/Community Park would introduce new residential development in proximity to vehicle traffic on I-280 and Stevens Creek Boulevard, as well in proximity to emergency backup generators installed to serve the development project. Existing residential development west and south of the Town Center/Community Park would also be proximate to emissions from proposed emergency backup generators. Health risks associated the Town Center/Community Park would not exceed thresholds. The impact would be less than significant.	
Impact AQ-7: Would operation of the Specific Plan, combined with past, present, and reasonably foreseeable future development, generate toxic air contaminants, which would expose sensitive receptors to substantial pollutant concentrations?	Emissions from implementation of the Specific Plan, including the Town Center/Community Park, would not result in considerable criteria air pollutant air quality impacts with the implementation of the identified EDFs. Accordingly, the cumulative air quality impacts would be less than significant.  In addition, health risks associated with the Specific Plan would not exceed any cumulative-level thresholds. The cumulative impact from TAC emissions would be less than significant.	

Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
<i>Biological Resources</i>		
<p>Impact BIO-1: Would implementation of the Specific Plan have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Wildlife or U.S. Fish and Wildlife Service?</p>	<p>Where future buildings on the project site include wide expanses of glass, there is the potential for bird collisions and mortalities. The coverage of the majority of the property by the green roof structure would reduce the visibility of buildings to birds flying over the property. The Specific Plan encourages the use of low-reflective glass on building facades. Compliance with the Specific Plan Design Guidelines and EDFs 27, Building Materials, and 24, Lighting, would minimize potential impacts to a less than significant level.</p>	<p>With implementation of EDFs 24, 27, 28, and 29, the Specific Plan would result in less than significant impacts on biological resources. EDF 30 would further reduce impacts.</p>
<p>Impact BIO-2: Would implementation of the Specific Plan conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?</p>	<p>No special-status plant or animal species are expected to occur on the site. Although the project area contains no native habitat, birds may currently nest in trees found within the Plan Area. The majority of mature, healthy trees along Wolfe Road, Stevens Creek Boulevard, and Perimeter Road would be retained with additional trees planted in these locations. With respect to Perimeter Road, any trees that cannot be retained would be relocated or new trees planted. Compliance with EDFs 28, Tree Replacement, and 29, Nesting and Migratory Bird Surveys, would minimize potential impacts to a less than significant level.</p>	
<p>Impact BIO-3: Would implementation of the Specific Plan conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or State habitat conservation plan?</p>	<p>The Santa Clara Valley Habitat Conservation Plan/Natural Community Conservation Plan (HCP/NCCP) (herein referred to as the Conservation Plan), identifies invertebrates, amphibians and reptiles, birds, mammals, and plants and potential impacts associated with nitrogen deposition from vehicle exhaust. The City of Cupertino is located outside of Conservation Plan area boundaries and would not be required to pay Conservation Plan development fees, including the Nitrogen Deposition Fee. However, in response to the environmental concerns, the Town Center/Community Park applicant has voluntarily agreed to pay the Nitrogen Deposition Fee. This payment agreement is included in the Specific Plan as EDF 30, Nitrogen Deposition Fee. There would be no impact.</p>	

Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
Impact BIO-4: Would implementation of the Specific Plan, in combination with past, present, and reasonably foreseeable projects, result in significant cumulative impacts with respect to biological resources?	Implementation of the Specific Plan would not contribute to the cumulative regional loss of open lands/habitat which may support special-status species and sensitive communities which also provide for wildlife movement. Due to prior disturbance and lack of suitable habitat on the property, no impacts to special-status species or sensitive habitats would be expected. With implementation of the EDFs, the Plan would not make a significant contribution to cumulative impacts to nesting birds or to the loss of trees. Therefore, the Plan would not considerably contribute to cumulative biological resource impacts.	
<i>Cultural Resources</i>		
Impact CUL-1: Would implementation of the Specific Plan cause a substantial adverse change in the significance of a historical resource?	<p>The existing shopping mall (the Mall) is less than 50 years old. The existing development within the Plan Area does not represent local or regional history of the cultural heritage of California or the United States. However, the City of Cupertino’s General Plan identifies the Vallco Shopping District as a Community Landmark. Implementation of future development within the Plan Area would comply with the City’s policy for Community Landmarks. Compliance with Policy LU-6.3 of the General Plan, which requires a plaque with a description of the resources on the site, would reduce impacts to less than significant.</p> <p>The City of Cupertino Municipal Code identifies the Vallco Freeway-Oriented sign as a Landmark Sign. Compliance with Section 19.104.210 of the Municipal Code and EDF 31, Signage Program, would protect the architectural integrity of the sign and reduce potential impacts to less than significant.</p>	With implementation of EDFs 31, 32, and 33, impacts to cultural resources would be less than significant.
Impact CUL-2: Would implementation of the Specific Plan cause a substantial adverse change in the significance of an archaeological resource?	No recorded archaeological resources were identified in the Plan Area. According to the <i>Archaeological Literature Review</i> , the Plan Area has a low to moderate potential to contain archaeological resources. Specific Plan EDF 32, Archaeological Monitor, would require an archaeological monitor to inspect the ground surface at the completion of demolition activities, which would reduce potential impacts to less than significant.	
Impact CUL-3: Would implementation of the Specific Plan directly or indirectly destroy a unique paleontological resources or site or unique geologic feature?	No recorded paleontological resources were identified in the Plan Area, and the majority of the City is located on Holocene alluvium deposits, which are too recent to contain fossils. Regardless, there is a possibility that previously undiscovered paleontological resources would be disturbed. EDF 33, Paleontological Monitor, would reduce potential impacts to less than significant.	

Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
Impact CUL-4: Would implementation of the Specific Plan disturb any human remains, including those interred outside of formal cemeteries?	In compliance with State regulations, if any human remains are encountered during construction activities, no further disturbances shall occur in the immediate area until the County Coroner has made the necessary findings as to origin and disposition pursuant to California Public Resources Code Section 5097.98. Impacts would be less than significant.	
Impact CUL-5: Would implementation of the Specific Plan, in combination with past, present, and reasonably foreseeable projects, result in significant cumulative impacts with respect to cultural resources?	<p>The City’s policies on historic resources would be expected to prevent a significant loss of historic resources in the City. Therefore, future development in the City is not expected to result in a significant cumulative effect on historic resources.</p> <p>Implementation of the Specific Plan is not anticipated to have a significant impact on cultural resources, as result of compliance with existing regulatory requirements and the Specific Plan EDFs. Therefore, implementation of the Specific Plan would not make a significant contribution to cumulative cultural resources impacts.</p>	
<i>Geology, Soils, &amp; Mineral Resources</i>		
Impact GEO-1: Would implementation of the Specific Plan expose people or structures to potential substantial adverse effects, including strong seismic ground shaking; seismic-related ground failure, including liquefactions; of landslides?	Risk of ground failure or liquefaction would be low. Implementation of EDF 34, Geotechnical Report Recommendations, and EDF 35, Site-Specific Geotechnical Reports, would ensure that ground-shaking and landslide impacts would be less than significant.	With implementation of EDFs 34 and 35, impacts related to geology, soils, and minerals would be less than significant.
Impact GEO-2: Would the Specific Plan result in substantial soil erosion or loss of topsoil?	The Interim Erosion and Sediment Control Plan required for site development must calculate the maximum runoff from the site for the 10-year storm event and describe measures to be undertaken to retain sediment on the site, a brief description of the surface runoff and erosion control measures to be implemented, and vegetative measures to be undertaken. Therefore, Specific Plan related activities would not be expected to result in substantial erosion and impacts are considered less than significant.	

Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
Impact GEO-3: Would the Specific Plan be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the Specific Plan, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction, or collapse.	Based on the nature of the on-site formational deposits, as well as the absence of shallow groundwater, the potential for liquefaction that could result in lateral spreading or collapse and seismic settlement is low. Therefore, impacts would be less than significant.	
Impact GEO-4: Would the Plan Area be located on expansive soils (as defined in Table 18-1-B of the Uniform Building Code), or corrosive soils, creating substantial risks to life or property?	The California Building Code (CBC) contains specific requirements for seismic safety, excavation, foundations, retaining walls, and site demolition, and also regulates grading activities, including drainage and erosion control. Standard geotechnical engineering practices, adherence to seismic building code requirements, and compliance with of EDF 34, Geotechnical Report Recommendations, and EDF 35, Site-Specific Geotechnical Reports, would minimize potential impacts to a less than significant level.	
Impact GEO-5: Would implementation of the Specific Plan, in combination with past, present, and reasonably foreseeable projects, result in significant cumulative impacts with respect to geology and soils?	<p>New construction would be required to comply with the most CBC and Municipal Code requirements, which establishes building standards to minimize risk based on the geologic and seismic conditions of the region in which a project is located. Compliance with these building code requirements would, to the maximum extent practicable, reduce cumulative, development-related impacts that relate to seismically induced ground shaking, liquefaction, and expansive soils.</p> <p>With administration of these requirements and adherence to the CBC, potential cumulative geologic and soils impacts would be less than significant.</p>	
<i>Greenhouse Gases</i>		
Impact GHG-1: Would implementation of the Specific Plan generate operational greenhouse gas emissions at levels that would considerably contribute to global climate change?	The land uses contemplated under the Specific Plan would emit greenhouse gases associated with vehicular transportation to and from the Plan area, off-road equipment use (such as landscaping equipment), electricity and natural gas use, embodied energy in water use and wastewater generation, and landfill gas from solid waste generation. Specific Plan emissions would be below the 6.6 MT CO2e efficiency threshold recommended in 2010 Bay Area Air Quality Managed District (BAAQMD) CEQA Guidelines, and the impact would be less than significant.	With implementation of EDF 36, the Specific Plan would result in less-than-significant impacts related to greenhouse gases.

Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
Impact GHG-2: Would implementation of the Specific Plan conflict with policies or plans adopted for the purpose of reducing greenhouse gas emissions?	The Cupertino Climate Action Plan (CAP) sets forth a reduction target of 15 percent below baseline 2010 levels by 2020, consistent with Assembly Bill (AB) 32 and guidance from BAAQMD. As such, consistency with statewide GHG reduction goals would be achieved through consistency with the CAP. Implementation of the Specific Plan would be generally consistent with the Cupertino CAP and would not preclude the implementation of any CAP strategies. The Specific Plan would not conflict with plans or policies adopted for the purpose of reducing greenhouse gas emissions and impacts would be less than significant.	
Impact GHG-3: Would operation of the Town Center/Community Park generate greenhouse gas emissions at levels that would considerably contribute to global climate change?	Greenhouse gas emissions from the Town Center/Community Park would be below the 4.6 MT CO <sub>2</sub> e efficiency threshold recommended in 2010 BAAQMD CEQA Guidelines, and the impact would be less than significant.	
Impact GHG-4: Would stationary sources that would be installed under the Town Center/Community Park component of the Specific Plan generate greenhouse gas emissions that would considerably contribute to cumulative greenhouse gas impacts?	Operation of the Central Plant Boilers and Emergency Generators would result in greenhouse gas emissions exceeding the 10,000 MT CO <sub>2</sub> e/yr stationary source bright line threshold. This would be a significant cumulative impact. Specific Plan EDF 36, Central Plant Boilers Carbon Offsets, would reduce the impact to a less-than-significant level.	
<i>Hazards &amp; Hazardous Materials</i>		
Impact HAZ-1: Would implementation of the Specific Plan create a significant hazard to the public or the environment through the routine transport, use or disposal of hazardous materials?	The Specific Plan would not create a significant impact through the transport, use or disposal of hazardous materials since all uses and facilities are required to comply with all applicable federal, state and regional regulations which are intended to avoid impacts to the public or environment. EDF 37, Hazardous Materials Business Plan, would be implemented to require facilities that exceed the threshold specified by Health & Safety Code Section 25532(l) to prepare and implement a Hazardous Materials Business Plan (HMBP). With implementation of the HMBP requirement and compliance with all applicable federal, state and regional regulations, potential impacts would be reduced to less than significant.	With implementation of EDFs 37, 38, and 39, the Specific Plan would result in less than significant impacts related to hazards and hazardous materials.



Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
Impact HAZ-2: Would implementation of the Specific Plan create a significant hazard to the public or the environment through reasonable foreseeable upset and accident conditions involving the release of hazardous materials into the environment?	The 2014 Phase I ESA, Addendum and 2016 Update make recommendations for future subsurface disturbance in the area of the Sears Automotive Center and J.C Penney’s and disturbance of existing buildings with respect to asbestos and lead-based paint. With implementation of EDFs 38, Renovation or Demolition of Existing Structures, and 39, Soil Management Plan, potential impacts associated with an accidental release of hazardous materials to the environment would be reduced to less-than-significant levels.	
Impact HAZ-3: Would implementation of the Specific Plan emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?	The closest existing school site to the Plan Area is Collins Elementary, which is located approximately 1,700 feet to the west of the Plan Area. The Specific Plan does not include any industrial uses, which could potentially generate hazardous materials in significant quantities that would have an impact to surrounding schools. As such, there would be no significant impact.	
Impact HAZ-4: Is the Specific Plan located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?	The Plan Area does not include any sites identified on a hazardous sites list compiled pursuant to California Government Code Section 65962.5. In addition, a Phase I ESA and Addendum were prepared for the Mall property in January 2014 and updated in January 2016. According to those reports, there were no RECs (as defined by ASTM Practice E 1527-13) identified in association with the site that required corrective action. No significant adverse impacts relative to hazardous materials sites would result with implementation of the Specific Plan.	
Impact HAZ-5: For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?	San Jose International Airport is located approximately five miles northeast of the Plan Area. Since the Plan Area is not located within two miles of a private or public airport, no impacts would occur.	

Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
Impact HAZ-6: For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?	The Specific Plan is not located within the vicinity of a private airstrip and would not result in a safety hazard for people residing or working in the project area; no impacts would occur.	
Impact HAZ-7: Would implementation of the Specific Plan impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?	According to the General Plan Health and Safety Chapter, Policy HS-4.2 and related Strategy HS-4.2.2 direct the City to coordinate with the County Sheriff for review and comment on development applications for security and public safety measures. In addition, the Santa Clara County Operational Area Emergency Operations Plan (EOP) was prepared by the County describing the Operational Area’s emergency management structure and how emergency management is implemented in the County. By complying with the General Plan and the EOP, implementation of the Project would result in a less-than-significant impact with respect to interference with an adopted emergency response plan or emergency evacuation plan.	
Impact HAZ-8: Would implementation of the Specific Plan expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?	Implementation of the Specific Plan would not expose people or structures to a risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands. The Specific Plan is in a developed urban area and it is not adjacent to any wildland areas. Therefore, no impact would occur in regard to wildland fires.	
Impact HAZ-9: Would implementation of the Specific Plan, in combination with past, present, and reasonably foreseeable projects, result in significant cumulative impacts with respect to hazards and hazardous materials?	The incremental effects of the proposed project related to hazards and hazardous materials, if any, are anticipated to be minimal, and any effects would be site-specific. Therefore, the proposed project would not result in incremental effects to hazards or hazardous materials that could be compounded or increased when considered together with similar effects from other past, present, and reasonably foreseeable probable future projects. The proposed project would not result in cumulatively considerable impacts to or from hazards or hazardous materials.	

Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
<i>Hydrology &amp; Water Quality</i>		
<p>Impact HWQ-1: Would implementation of the Specific Plan violate any water quality standards or waste discharge requirements or otherwise substantially degrade water quality?</p>	<p>Compliance with the City’s grading permit and Construction General Stormwater Permit would: (1) restrict non-stormwater discharges from the construction site; (2) require use of Best Management Practices (BMPs) to restrict soil erosion and sedimentation as well as releases of hazardous materials; and (3) require implementation of a construction site monitoring program to demonstrate compliance with permit requirements. Compliance with these requirements would ensure that construction activities do not result in a violation of water quality standards or waste discharge requirements, or otherwise result in water quality degradation.</p> <p>Implementation of the Specific Plan would not violate any water quality standards or otherwise result in water quality degradation during operation because stormwater runoff from the Plan Area would be managed consistently with the provisions of the San Francisco Bay Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) Permit. Storm water requirements mandate treating 100% of the storm water runoff with low impact development (LID) measures. These measures include rainwater harvesting, re-use, infiltration, and biotreatment. The impact would be less than significant.</p>	<p>Impacts would be less than significant. No EDFs are required.</p>
<p>Impact HWQ-2: Would implementation of the Specific Plan substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level?</p>	<p>Implementation of the Specific Plan would not result in pumping of groundwater on site for water supply. Although groundwater dewatering could be required during construction from grading and excavation activities, these activities would only result in a temporary effect on the local uppermost water-bearing zones in proximity to near surface excavations. Further, the reduction in impervious surfaces within the Plan Area would be expected to increase infiltration of precipitation, producing a net benefit to groundwater recharge. The project is consistent with the City’s Urban Water Management Plan. Therefore, potential impacts to groundwater supplies would be less than significant.</p>	

Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
<p>Impact HWQ-3: Would implementation of the Specific Plan substantially alter the existing drainage pattern of the site or area by altering the course of a stream or incrementally increasing surface runoff from impervious surfaces in such a manner that could increase downstream erosion, siltation, or flooding on- or off-site?</p>	<p>The Plan Area does not include any existing streams or water courses that could be altered or diverted. Therefore, there would be no impact related to alteration of drainage patterns by altering the course of a stream. With the approximately 30-acre reduction in impervious surfaces in the Town Center/Community Park, post-construction runoff volumes would be substantially less than under existing conditions. While this would alter drainage patterns from existing conditions, it would result in an improvement over existing conditions.</p> <p>Development of Block 13 will require the preparation of a Storm Water Pollution Prevention Plan (SWPPP) and post-construction stormwater management control plan to capture and treat stormwater runoff. In addition, the hotel development would be required to implement all applicable and mandatory BMPs during construction and operation in accordance with the City of Cupertino C.3 requirements. Future development of Block 14 would require an increase in the amount of pervious surface area through landscaping that may include landscaping treatments such biofiltration planters and cisterns to control and treat stormwater runoff similar the other areas of the Specific Plan. Development of Blocks 13 and 14 would not substantially increase impervious surface area, alter the existing drainage pattern, or result in downstream erosion, siltation, or flooding. Potential impacts are considered less than significant.</p>	
<p>Impact HWQ-4: Would implementation of the Specific Plan create or contribute runoff water that would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?</p>	<p>Implementation of the Specific Plan’s Community Park and Nature Preserve and landscaped areas would total approximately 34 acres of pervious area to collect and treat nearly 100% of future stormwater runoff within the existing mall property. The reduction of impervious surfaces would result in a reduction of stormwater runoff from the Plan Area. Furthermore, implementation of the Specific Plan would be required to use sustainable landscape practices and design to minimize runoff and the use of pesticides and fertilizers in compliance with the City’s BMPs.</p> <p>With the reduction in impervious surfaces and implementation of LID stormwater treatment features in accordance with Provision C.3 of the Municipal Regional Stormwater Permit, potential impacts related to exceeding the capacity of an existing or planned storm drain system or providing an additional source of polluted stormwater runoff would be less than significant.</p>	

Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
Impact HWQ-5: Would implementation of the Specific Plan expose people or structures to a significant risk of loss, injury, or death involving flooding, including flooding as a result of the failure of a levee or dam?	Based on the inundation maps of the Joint Stevens Creek Dam Failure Plan, the Plan Area is located to the south of the nearest inundation area which stops along the north side of Interstate 280 and west of Wolfe Road. The depth of inundation in this area is anticipated to be less than six inches. As such, implementation of the Specific Plan would not expose people or structures to a significant risk of loss, injury, or death from flooding as a result of a failure of a levee or dam because the project is at a base elevation that is higher than the inundation zone. Potential impacts would be less than significant.	
Impact HWQ-6: Would implementation of the Specific Plan, in combination with past, present, and reasonably foreseeable projects, result in significant cumulative impacts with respect to hydrology and water quality?	<p>Construction of the Specific Plan uses, in combination with construction of other development projects in the 14-square-mile Calabazas Creek watershed, could increase erosion and sedimentation and degrade storm water runoff quality during the construction period (i.e., when grading and excavations occur during the wet season). Implementation of existing regulatory requirements, including preparation and implementation of Stormwater Pollution Prevention Plans would be incorporated into project approvals and are required under current NPDES regulations. These measures would reduce potential construction-period cumulative impacts to a less than cumulative considerable level.</p> <p>The provision of additional pervious surfaces within the Specific Plan would result in a beneficial impact to stormwater runoff quality and quantity with development under the Specific Plan. In addition, the project would be required to implement operational BMPs to further improve the quality of runoff associated with future development. Therefore, implementation of the Specific Plan would have a cumulatively beneficial impact on hydrology and water quality, and would not make a significant contribution to adverse hydrology and water quality impacts.</p>	
<i>Land Use &amp; Planning</i>		
Impact LU-1: Would implementation of the Specific Plan physically divide an established community?	The Plan Area is bordered by roads and I-280 on all sides and is bisected north-to-south by Wolfe Road. The reuse of the property as a mixed-use development with retail, office, residential, entertainment, hotel, and recreational uses would not divide the community. No physical barriers would be created. The Plan Area is contiguous to existing land uses, and roads through the site would continue to provide connections to existing land uses in the vicinity. No impacts would occur.	Impacts would be less than significant. No EDFs are required.

Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
<p>Impact LU-2: Would implementation of the Specific Plan conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?</p>	<p>The consistency analysis prepared for the Specific Plan focuses on those General Plan goals and policies that relate to avoiding or mitigating environmental impacts, and an assessment of whether any inconsistency with these standards creates a significant physical impact on the environment. The analysis found that the Specific Plan is consistent with these goals and policies or would be with implementation of the EDFs that have been incorporated into the Specific Plan.</p> <p>All development within the Plan Area would be subject to the Municipal Code, except to the extent the Zoning Code of the Municipal Code conflicts with the Specific Plan, in which case the Specific Plan’s regulations, standards, guidelines, and processes for the proposed development would take precedence. The Municipal Code would regulate site development when such regulations are not provided in the Specific Plan. Therefore, the Specific Plan project would be consistent with the proposed zoning regulations set forth in the Vallco Town Center Specific Plan.</p> <p>Land uses proposed for development within the Plan Area are consistent with the intent of the General Plan. To ensure overall consistency, the Specific Plan is accompanied by conforming amendments to the General Plan and Cupertino Municipal Code.</p>	
<p>Impact LU-3: Would implementation of the Specific Plan, in combination with past, present, and reasonably foreseeable projects, result in significant cumulative impacts with respect to land use and planning policy?</p>	<p>Implementation of future projects requiring a change in the General Plan land use designation would require discretionary approvals. It is reasonably assumed that these projects would be designed or otherwise conditioned to maximize consistency with adopted land use plans and ordinances or amended with appropriate mitigation measures and conditions of approval. Given the Specific Plan’s consistency with applicable plans and policies, as well as the potential for other projects in the cumulative impact scenario to be generally consistent with the land use policy framework, overall cumulative land use consistency impacts would be less than significant.</p>	



Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
<i>Noise</i>		
<p>Impact N-1: Would construction of uses pursuant to implementation of the Specific Plan result in temporary exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?</p>	<p>Noise from construction-related activities would result in substantial temporary or periodic increases in ambient noise levels resulting in a significant noise impact per the State CEQA Guidelines, Appendix G. Specific Plan EDF 40, On-Site Construction Noise, would reduce this impact to a less than significant level, but not in all locations.</p> <p>Results of the haul route assessment indicate that at the 19800 N. Wolfe building, an increase of up 12.2 dBA during daytime hours would exceed the temporary impact threshold by 7.2 dBA. Noise increases at other locations would be less than significant. EDF 41, Haul Traffic Noise, would reduce this impact to the extent feasible. However, note that even with these noise mitigation measures, it is likely that haul traffic noise emissions will exceed existing levels by more than 5-dBA. Therefore this temporary noise impact cannot be reduced below the impact threshold, and the impact would remain significant.</p>	<p>With implementation of EDFs 40, 41, and 42, the Specific Plan would result in less than significant impacts related to noise, with the exception of construction noise, which would remain significant in some locations.</p>
<p>Impact N-2: Would construction of uses pursuant to implementation of Specific Plan expose persons to or generate excessive groundborne vibration or groundborne noise levels?</p>	<p>Pile driving is not proposed or anticipated as part of the construction program for the Specific Plan.</p> <p>Construction activities could operate within close proximity to existing residential units located along the west perimeter of the Plan Area, as well as at the hotel on Block 13 and at 19800 N. Wolfe Road. Levels would be below applicable thresholds. Therefore, vibration impacts would not occur at these nearest residences during construction.</p>	
<p>Impact N-3: Would implementation of the Specific Plan result in the generation of permanent increases in noise levels?</p>	<p>Landscaping, emergency generator operation, ventilation systems, and loading/unloading would generate noise, but not to the extent that would result in impacts. Future traffic noise levels would not exceed existing noise levels by 3 dBA or more at any of the 22 locations analyzed, and future noise levels would not result in an overall sound level that exceeded the applicable compatible noise level requirements for nearby uses. Increases in traffic noise would be less than significant.</p>	
<p>Impact N-4: Would implementation of the Specific Plan result in permanent exposure of persons to noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?</p>	<p>The Specific Plan would allow a range of habitable uses with outdoor sound levels in some areas expected to exceed 60 dBA CBEL. This impact would be significant. EDF 42, Acoustical Assessment, which would require preparation of a noise study to demonstrate how dwelling design will meet an interior residential standard of 45 dBA CNEL, would reduce impacts to a less-than-significant level.</p>	

Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
<p>Impact N-5: Would implementation of the Specific Plan, combined with past, present, and reasonably foreseeable future projects, result in less than significant cumulative impacts to noise?</p>	<p>Cumulative development could result in operational noise increases in the vicinity of the Plan Area. Cumulative traffic volumes would include traffic from a number of new projects. As a result, the horizon year (2040) forecasted traffic volumes would be expected to contribute less to overall traffic noise. In some locations, noise levels would exceed the 60 dBA Title 24 requirements for an acoustic analysis, and they would also exceed compatibility requirements for residential use, as identified in the Cupertino General Plan. Therefore, pursuant to EDF 42, Acoustical Assessment, a noise study would be required to demonstrate how dwelling design will meet an interior residential standard of 45 dBA CNEL. With implementation of this measure, cumulative impacts would be less than significant.</p>	
<p><i>Population and Housing</i></p>		
<p>Impact PH-1: Would impacts associated with implementation of the Specific Plan induce substantial unplanned population growth?</p>	<p>The General Plan currently allocates 1.2 million square feet of commercial uses, 2 million square feet of office uses, 339 hotel rooms, and 389 residential dwelling units to the Plan Area. In addition, the General Plan permits a residential density of up to 35 units per acre for the Plan Area, and the Cupertino General Plan 2040 Environmental Impact Report analyzed the development of up to 800 residential dwelling units in the Plan Area. Therefore, the Specific Plan would not induce substantial unplanned population growth.</p> <p>Given that total construction jobs in the region are substantially below the recent peak, it is anticipated that the existing regional workforce would supply the labor for direct and indirect construction jobs, and any additional workers would not have a demonstrable effect on population growth.</p> <p>Countywide, implementation of the Specific Plan would result in approximately 14,857 net new jobs. The residential and non-residential uses constructed pursuant to the Specific Plan are projected to generate demand for 2,329 residential units, plus additional units for households making more than 120 percent of area median income. Residential and Non-Residential Housing Mitigation Fees would be applicable to the Plan Area. At least 80 units or 20 percent of total residential units would be reserved for senior citizens.</p> <p>Therefore, the Specific Plan would not induce substantial unplanned population growth.</p>	<p>Impacts would be less than significant. No EDFs are required.</p>

Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
<p>Impact PH-2: Would implementation of the Specific Plan, in combination with past, present, and reasonably foreseeable future projects, result in significant cumulative impacts with respect to population and housing?</p>	<p>The Cupertino General Plan, <i>Cupertino Community Vision 2015–2040</i>, prepared in 2014 and amended in 2015, incorporated development of the Plan Area with land uses consistent with those provided for in the Specific Plan. The General Plan also accounted for development of known past, present, and reasonably foreseeable future projects. At the local level, the Specific Plan would not result in unplanned growth.</p> <p>In Santa Clara County and the San Francisco Bay Area, cumulatively considered growth primarily comprises infill development of currently underutilized sites, pursuant to the policies of the <i>Santa Clara County General Plan (1994)</i> and Association of Bay Area Governments (ABAG) and Metropolitan Transportation Commission’s (MTC’s) <i>Plan Bay Area</i>. The Specific Plan, which comprises redevelopment of an underutilized site partially located within a Priority Development Area, would be consistent with these goals and would not considerably contribute to cumulative unplanned growth.</p>	
<p><i>Public Services</i></p>		
<p>Impact PS-1: Would implementation of the Specific Plan result in a substantial adverse physical impacts associated with the provision of or need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response time, or other performance objectives for fire protection?</p>	<p>Implementation of the Specific Plan may reduce the ability of the fire department to meet existing performance standards if access to the proposed buildings in the Plan Area is limited due to physical security features such as barriers, gates, or secure doors. However, access control devices would be subject to approval by a Fire Code official, and all electrically-powered access control devices would be required to provide an approved means for deactivation or unlocking from a single location or otherwise approved by the fire department. No new or expanded fire protection facilities would be necessary. The impact would be less than significant.</p>	<p>The impacts would be less than significant. No EDFs are required.</p>

Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
<p>Impact PS-2: Would implementation of the Specific Plan result in a substantial adverse physical impacts associated with the provision of or need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response time, or other performance objectives for police protection?</p>	<p>As discussed in the Public Services section of the <i>General Plan Amendment, Housing Element Update, and Associated Rezoning Project Draft Environmental Impact Report</i> for the City of Cupertino, the West Valley Patrol Division has confirmed that future development under the General Plan, which includes the redevelopment of the Plan Area, would not result in the need for expansion of additional facilities.</p> <p>No additional police facilities would need to be constructed due to implementation of the Specific Plan. Therefore, the Specific Plan would not result in significant physical impacts related to the need for new or altered police facilities.</p>	
<p>Impact PS-3: Would implementation of the Specific Plan result in a substantial adverse physical impacts associated with the provision of or need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response time, or other performance objectives for schools?</p>	<p>The Town Center/Community Park would generate approximately 258 new students when fully developed. It is anticipated that the development would generate approximately 144 elementary school students, 68 middle school students, and 46 high school students. According to the Impact Analysis, it is projected over the next five years there will be a decline of students in applicable school districts. Through the payments of development fees required under SB 50, implementation of future development within the Specific Plan would reduce or avoid any adverse impacts on the school districts' facilities or education programs. Potential impacts would be less than significant.</p>	

Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
<p>Impact PS-4: Would implementation of the Specific Plan result in a substantial adverse physical impacts associated with the provision of or need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response time, or other performance objectives for parks and recreational facilities?</p>	<p>Implementation of the Specific Plan would provide a nature preserve, civic spaces, recreational facilities, and trails to the eastern portion of Cupertino, where such amenities are currently lacking. Future development in the Plan Area would comply with Municipal Code regulations. Chapter 14.05, Park Maintenance Fee, requires developers to pay impact fees to maintain existing parks and recreation facilities, and Chapter 18.24, Dedications and Reservations, requires residential developments to dedicate parklands or pay in-lieu fees to accommodate and offset their fair share of impacts to parklands.</p> <p>Implementation of the Specific Plan is not expected to increase the use of existing neighborhood or regional parks such that there would be substantial physical deterioration of existing facilities. Therefore, impacts would be less than significant.</p>	
<p>Impact PS-5: Would implementation of the Specific Plan result in a substantial adverse physical impacts associated with the provision of or need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios, response time, or other performance objectives for libraries?</p>	<p>The Santa Clara County Library has confirmed that the existing library facilities would be sufficient to accommodate increased demand for library service due to future development under the General Plan, which includes the redevelopment of the Plan Area, and would not result in the need for expansion of additional facilities. Therefore, future development in the Plan Area is consistent with the City’s and Santa Clara County Library’s future projections and impacts would be less than significant.</p>	
<p>Impact PS-6: Would implementation of the Specific Plan, in combination with past, present, and reasonably foreseeable projects, result in significant cumulative impacts with respect to public services?</p>	<p>Implementation of the Specific Plan and past, present, and reasonable foreseeable future development projects would increase the demand for fire protection, police protection, schools, parks and recreation, and library services. New facilities required to maintain adequate service levels would be funded through the City’s general fund and school developer fees. In addition, small increases in ongoing yearly property tax revenues would be available to fund a portion of the ongoing services. Service providers regularly review growth trends and conduct long-range planning to provide adequate public services for future growth. Therefore, cumulative impacts to these public services would be less than significant.</p>	

Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
<i>Transportation &amp; Circulation</i>		
<p>Impact TR-1: Would implementation of the Specific Plan cause levels of service at local intersections to substantially deteriorate, and therefore conflict with applicable congestion management programs, plans, ordinances or policies establishing measures of effectiveness for the performance of the circulation system?</p>	<p>Implementation of the Specific Plan would deteriorate LOS conditions per agency significance criteria at four (4) study intersections. Therefore, the future implementation of the Specific Plan would result in a significant impact for LOS at local intersections. EDF 43, Level of Service (LOS) at Local Intersections, and EDF 52, Transportation Demand Management Plan, would reduce impacts to a less-than-significant level.</p>	<p>With implementation of EDFs 43, 44, 45, 46, 51, 52, 54, 55, and 56, the Specific Plan would result in less than significant impacts related to traffic. EDFs 47, 48, 49, 50, and 53 would further reduce impacts.</p>
<p>Impact TR-2: Would implementation of the Specific Plan cause levels of service at freeway segments to substantially deteriorate, and therefore conflict with applicable congestion management programs, plans, ordinances or policies establishing measures of effectiveness for the performance of the circulation system?</p>	<p>Implementation of the Specific Plan would deteriorate LOS per agency significance criteria at 45 Study Area freeway segments. Therefore, the implementation of the Specific Plan would result in a significant impact for levels of service at freeway segments. EDF 44, Level of Service at Freeway Segments, would reduce impacts to a less-than-significant level.</p>	
<p>Impact TR-3: Would implementation of the Specific Plan result in queuing at local intersections that would conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system?</p>	<p>Implementation of the Specific Plan would result in vehicle queues exceeding available storage under Background Conditions Plus Specific Plan at six (6) left-turn pockets. Therefore, the implementation of the Specific Plan would result in a significant impact for queuing at local intersections. EDF 45, Queues at Local Intersections, EDF 46, Queues at Intersection - De Anza Boulevard/Stevens Creek Boulevard, PM Peak, Westbound Left, and EDF 55, Queues at Intersection – Lawrence Expressway / Saratoga Avenue, AM Peak, Eastbound Left, would reduce impacts to a less-than-significant level.</p>	



Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
<p>Impact TR-4: Would implementation of the Specific Plan exceed the capacity utilization standards for transit providers or cause a substantial increase in delays and therefore conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system?</p>	<p>Implementation of the Specific Plan would generate additional public transit riders that would use existing available transit capacity. Implementation of the Specific Plan would generate additional traffic and increase the average delay for some vehicles at some intersections. The additional delay for transit vehicles at intersections would not have a significant environmental impact on public transit delay. Therefore, the implementation of the Specific Plan would have a less-than-significant impact on transit capacity and delay. However, EDFs 47, Transit/East Side Transit Center &amp; Community Shuttle, and 48, Transit/Mobility Hub, have been included in the Specific Plan to further reduce impacts.</p>	
<p>Impact TR-5: Would implementation of the Specific Plan create potentially hazardous conditions for pedestrians or bicyclists, or otherwise substantially interfere with pedestrian or bicyclist access, and therefore substantially conflict with adopted policies, plans, or programs regarding bicycle or pedestrian facilities, or otherwise decrease the performance or safety of such facilities?</p>	<p>Implementation of the Specific Plan would not result in new challenging situations for bicyclists, or interfere with bicycle accessibility to the site and adjacent areas. Implementation of the Specific Plan would provide sufficient Class I and Class II bike parking facilities. Implementation of the Specific Plan would not conflict with any existing or planned bicycle facilities, nor with any relevant policies. Implementation of the Specific Plan would not create new challenging situations for pedestrians, or interfere with pedestrian accessibility to the site and adjacent areas. The Specific Plan would not conflict with any existing or planned pedestrian facilities, nor with any relevant policies. Therefore, the implementation of the Specific Plan would have a less than significant impact on pedestrians and bicyclists. However, EDFs 49, Bicycles and Pedestrian Improvements, and 50, Bicycle and Pedestrian Funding, have been included in the Specific Plan to further reduce impacts.</p>	
<p>Impact TR-6: Would implementation of the Specific Plan result in inadequate emergency access?</p>	<p>The Specific Plan would integrate a grid system of local systems that would provide sufficient emergency access for all proposed uses. Therefore, the implementation of the Specific Plan would have no significant impact on emergency access.</p>	

Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
Impact TR-7: Would construction pursuant to implementation of the Specific Plan conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system?	Implementation of the Specific Plan would generate construction traffic that is projected to be substantially lower than current land use traffic generation. Therefore, the construction traffic associated with implementation of the Specific Plan would have a less-than-significant impact on the circulation system.	
Impact TR-8: Would short term effects of construction pursuant to implementation of the Specific Plan conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system?	Implementation of the Specific Plan would result in temporary lane closures or temporary traffic diversions for short periods during construction, resulting in short term increases in traffic volumes and delay at adjacent intersections. Therefore, the implementation of the Specific Plan would have a significant impact on short term effects of construction on the circulation system. EDF 51, Construction Traffic Management, and EDF 52, Transportation Demand Management Plan, would reduce impacts to a less-than-significant level.	
Impact TR-9: Would implementation of the Specific Plan exceed capacity for automobile parking and therefore conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system?	Implementation of the Specific Plan would result in a shortfall of parking when compared with the City of Cupertino Municipal Code parking supply requirements. Therefore, the implementation of the Specific Plan would have a significant impact on automobile parking. Feasible environmental design features have been identified, as indicated in EDF 52, Transportation Demand Management Plan, which would reduce impacts to a less-than-significant level.	

Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
<p>Impact TR-10: Would implementation of the Specific Plan divert traffic from the collector and arterial roads to cut through to surrounding neighborhoods and therefore conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system?</p>	<p>Implementation of the Specific Plan could result in cut-through routes on Blaney Avenue, Finch Avenue, and Tantau Avenue. In the absence of specified thresholds for determining how much traffic may divert to the neighborhoods, this analysis assumes that there is potential for cut-through traffic through the adjacent neighborhoods and therefore it is recommended that the City monitor these potential cut-through routes. EDF 53, Potential Neighborhood Intrusion, has been included in the Specific Plan to further reduce impacts.</p>	
<p>Impact TR-11: Would implementation of the Specific Plan, combined with past, present, and reasonably foreseeable future development, cause levels of service at local intersections to substantially deteriorate, and therefore conflict with applicable congestion management programs, plans, ordinances or policies establishing measures of effectiveness for the performance of the circulation system?</p>	<p>Implementation of the Specific Plan, combined with past, present, and reasonably foreseeable future development, would deteriorate LOS conditions per agency significance criteria at five (5) study intersections. Therefore, implementation of the Specific Plan would result in a significant cumulative impact for LOS at local intersections. EDF 43, Level of Service (LOS) at Local Intersections, would reduce impacts to a less-than-significant level.</p>	

Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
<p>Impact TR-12: Would implementation of the Specific Plan, combined with past, present, and reasonably foreseeable future development, cause levels of service at freeway segments to substantially deteriorate, and therefore conflict with applicable congestion management programs, plans, ordinances or policies establishing measures of effectiveness for the performance of the circulation system?</p>	<p>Implementation of the Specific Plan, combined with past, present, and reasonably foreseeable future development, would deteriorate LOS per agency significance criteria at 68 Study Area freeway segments. Therefore, the implementation of the Specific Plan would have a significant cumulative impact on LOS at freeway segments. EDF 44, Level of Service at Freeway Segments, EDF 54, Wolfe Road Interchange, and EDF 56, Country Expressway Facilities: Lawrence Expressway, would reduce impacts to a less-than-significant level.</p>	
<p>Impact TR-13: Would implementation of the Specific Plan, combined with past, present, and reasonably foreseeable future development, result in queuing at local intersections that would conflict with an applicable plan, ordinance, or policy establishing measures of effectiveness for the performance of the circulation system?</p>	<p>Implementation of the Specific Plan, combined with past, present, and reasonably foreseeable future development, would create vehicle queues exceeding available storage, in excess of Background Conditions, at seven (7) left-turn pockets. Therefore, the implementation of the Specific Plan would have a significant impact on queueing at local intersections. EDF 45, Queues at Local Intersections, EDF 46, Queues at Intersection - De Anza Boulevard/Stevens Creek Boulevard, PM Peak, Westbound Left, and EDF 55, Queues at Intersection— Lawrence Expressway / Saratoga Avenue, AM Peak, Eastbound Left, would reduce impacts to a less-than-significant level.</p>	
<p><i>Utilities &amp; Service Systems</i></p>		
<p>Impact U-1: Would implementation of the Specific Plan exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?</p>	<p>The Cupertino Sanitary District (CSD) has indicated that it has the capacity with San Jose/Santa Clara Water Pollution Control Plant (SJ/SCWPCP) for wastewater treatment for the future development of the Plan Area. Therefore, potential impacts would be less than significant.</p>	<p>With implementation of EDFs 57, 58, 59, 60, and 61, the Specific Plan would result in less than significant impacts to utilities and service</p>

Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
<p>Impact U-2: Would implementation of the Specific Plan require the construction of new wastewater treatment or storm drain facilities, or expansion of existing facilities, the construction of which could cause significant environmental effects?</p>	<p>The CSD currently conveys approximately 5.3 mgd of wastewater to the San Jose/Santa Clara Water Pollution Control Plant (SJ/SCWPCP). The implementation of the Specific Plan would add wastewater, but not to the extent that would exceed the 7.5 mgd capacity that the CSD is contracted with the SJ/WPCP. The growth associated with implementation of the Specific Plan is consistent with the existing General Plan and is accounted for in growth projections for the CSD. As such, the development under the Specific Plan would not require the construction of a new wastewater treatment facility nor the expansion of an existing treatment facility. However, the addition of wastewater flow from implementation of the Specific Plan would result in the need to increase the size the of the existing sewer mains. Implementation of EDF 57, Sanitary Sewer Conveyance Facilities, would reduce potential impacts to less than significant.</p>	<p>systems.</p>
<p>Impact U-3: Would implementation of the Specific Plan incrementally increase potable water demand within the service area? Are sufficient water supplies available to serve future development under the Specific Plan from existing entitlements and resources, and no new or expanded entitlements or facilities, the construction of which would have significant environmental effects, are needed?</p>	<p>Water demand under the Specific Plan would be less than under traditional development due to incorporate of water-efficient indoor fixtures and use of recycled water in the cooling plant and for landscape irrigation. During a multiple-dry year period, water supply is projected to meet 100 percent of demand. Therefore, sufficient water supplies are available. With the implementation of EDFs 58, Potable Water Supply, 59, Potable Water Lines, 60, Recycled Water Lines, and 61, Recycle Water Line Extension, impacts would be less than significant.</p>	

Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
<p>Impact U-4: Would implementation of the Specific Plan result in increased wastewater flows to the wastewater treatment provider, which has adequate capacity to serve the Specific Plan’s expected demand in addition to existing commitments?</p>	<p>Based on growth projections, the CSD does not anticipate that flows would exceed the capacity of the existing SJ/SCWPCP. Future development under the proposed Specific Plan is consistent with the existing City of Cupertino General Plan’s land use analysis for density and intensity projections for development within the Plan Area, and these projections are included in General Plan growth forecasts. Sufficient wastewater treatment capacity is available to serve future development within the Specific Plan, potential impacts to the wastewater treatment provider would be less than significant.</p>	
<p>Impact U-5: Would implementation of the Specific Plan be served by a landfill with sufficient permitted capacity to accommodate the Specific Plan’s solid waste disposal needs, and comply with federal, state, and local statutes and regulations regarding solid waste?</p>	<p>Waste would be diverted through recycling, re-use at future construction sites within the Plan Area, or re-use at off-site locations. A waste diversion plan prepared by future developers within the Plan Area would identify, source, and re-use/recycle materials by category. Concrete, steel, and wood would be sorted separately for re-use and recycling. Drywall, carpet and other finish materials would be evaluated for appropriate diversion streams. Delivery packaging and crating would be planned for intended reuse and diversion, and integrated into the Specific Plan-wide waste diversion program. The amount of solid waste generated by implementation of the Specific Plan would not exceed the capacity of the landfill or substantially shorten the life of the landfill. Additionally, implementation of the Specific Plan would not result in any violations of national, state or local standards. Impacts would be less than significant.</p>	



Environmental Issue	Results of Environmental Analysis	Impact Level After EDFs
<p>Impact U-6: Would implementation of the Specific Plan, combined with past, present, and reasonably foreseeable future development, result in significant cumulative impacts to utilities and service systems?</p>	<p>Based on the recent trends of diminishing wastewater treatment demand and the projected population growth in the service areas, cumulative wastewater treatment demand over the various phases of the implementation of the Specific Plan is far below the excess capacity of the SJ/SCWPCP.</p> <p>Regarding water, the Los Altos District would have adequate water supplies to meet projected demand associated with buildout of the General Plan through the year 2035, taking into account all existing and anticipated future customers for normal, single dry year, and multiple dry year conditions. Implementation of the Specific Plan is consistent with the City’s General Plan analysis for density and intensity projections for development under the Specific Plan.</p> <p>Regarding solid waste, future development under the Specific Plan and other large development projects within Cupertino and the surrounding cities would be required to implement waste reduction, recycling programs, and diversion requirements discussed above. Recycling and waste diversion programs would reduce the potential for exceeding existing capacities of landfills. Potential impacts are considered less than cumulatively considerable.</p>	
<i>Energy Conservation</i>		
<p>Impact ER-1: Would implementation of the Specific Plan encourage activities that result in the use of large amounts of fuel or energy, or use these resources in a wasteful manner?</p>	<p>Construction of uses pursuant to the Specific Plan would result in the consumption of electricity, diesel, and gasoline by construction equipment and worker, vendor, and haul trips. Operation of the uses pursuant to the Specific Plan would result in the consumption of electricity, natural gas, diesel, and gasoline associated with building operations, water use, backup generators, and transportation-related consumption. Consumption of these resources would not be substantial in the context of energy use throughout the region.</p> <p>The Specific Plan would be implemented at an infill location, which would reduce overall energy demand compared to greenfield development. Sustainability and Smart City strategies have been incorporated into the Specific Plan to treat stormwater, achieve green building certification, provide transit facilities, and co-locate uses to encourage walking among uses to reduce private automobile trips and associated energy use.</p>	<p>The impact would be less than significant. No EDFs are required.</p>

## 2 Introduction

### 2.1 Purpose and Intended Uses of the Environmental Assessment

This Environmental Assessment (EA) discloses the potential environmental effects associated with implementation of the Vallco Town Center Specific Plan in Cupertino, California, and related amendments to the City of Cupertino General Plan, *Community Vision 2015–2040* (General Plan) and the Cupertino Municipal Code, as provided for in the ballot measure to be submitted to the voters, The Vallco Town Center Specific Plan Initiative (Initiative).

This EA is derived from technical reports included as appendices and from other sources listed as EA references.

### 2.2 Location of Specific Plan

The area encompassed by the Specific Plan is located in the City of Cupertino, which is a suburban city of 10.9 square miles located on the southern portion of the San Francisco peninsula, in Santa Clara County. Cupertino is located approximately 36 miles southeast of downtown San Francisco and eight miles west of downtown San Jose (see [Figure 3-1: Specific Plan Location](#)). In addition to the Santa Cruz Mountains along its western boundary, existing communities surrounding Cupertino include the City of Sunnyvale to the north, the City of Saratoga to the south, and the Cities of San Jose and Santa Clara to the east.

The Plan Area is regionally accessed by Interstate 280 (I-280) and locally accessed by Stevens Creek Boulevard and Wolfe Road.

### 2.3 Overview of Specific Plan

#### 2.3.1 Vallco Town Center Specific Plan

The Plan Area has been identified in the General Plan for complete redevelopment into a vibrant mixed-use “Town Center.” The General Plan calls for the Plan Area to serve as a focal point for regional visitors and the community as a destination for shopping, dining and entertainment in the Santa Clara Valley. General Plan Policy LU-19.1 calls for the preparation of a specific plan prior to any development to specify the land uses, design standards and guidelines, and infrastructure improvements required to serve the Plan Area.

The Plan Area comprises 14 blocks and two Town Squares at street level, organized around a grid street network (see [Figure 3-2: Specific Plan Area](#)). The focus of the Specific Plan is planning for the redevelopment of the existing shopping mall (the Mall), which includes Blocks 1 through 12 (the Town Center, also known as the Town Center/Community Park), and the potential future development of Block 14, to remain as parking or parking structure, supporting services, or possibly as a second hotel and supporting commercial uses. Any future project in the Plan Area, including the Town Center, would be the subject of a future development application that must be substantially consistent with the planning level policies set forth in the Specific Plan. Block 13 has been approved for development of a 148-room hotel.

**Blocks 1 through 12:** The Mall property is the site of an aging shopping mall that is suffering from significant vacancies and has been unsuccessful for decades. The Specific Plan would authorize revitalizing the Mall property as a new Town Center consistent with, and conforming to, Cupertino's General Plan.

The Town Center/Community Park is proposed to include approximately 640,000 square feet of commercial area, including retail, family-friendly entertainment, dining, sports and recreation uses. This analysis assumes that a residential component with 800 apartments for multi-generational living with a minimum of 80 senior apartments would be included in this area.<sup>1</sup> Also proposed are approximately two million square feet of office space serving incubator, startups, and emerging and/or established Silicon Valley companies. The Town Center/Community Park would also support hotels and public, residential, and office amenity areas.

At least 50,000 square feet would be dedicated to public/civic uses, including a high school Innovation Center and a Mobility Hub. Additionally, the Town Center/Community Park would include a publicly accessible landscaped Community Park and Nature Area of approximately 30 acres above the buildings.

**Block 13:** The property is also currently a parking lot and was recently approved by the City of Cupertino for the development of a 148-room business class hotel. Because this property is located in the Plan Area as defined in the General Plan, the development standards and guidelines described in the Specific Plan contemplate the approved project.

**Block 14:** The property is currently a surface parking lot and has been identified as a possible suitable location for the development of a 191-room hotel (consistent with the available hotel allocation as identified in Table LU-1 of the General Plan) and supporting commercial uses, services, facility management or loading, or a future parking structure in the event market conditions support additional parking supply.

The Specific Plan covers the properties noted above. Because Block 13 was recently approved for a 148-room hotel and has already gone through environmental review, the focus of this Environmental Assessment (EA) is on the redevelopment of the Mall property as the Town Center/Community Park, and the potential for future hotel development and supporting commercial uses on Block 14.

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<sup>1</sup> The City's *General Plan: Community Vision 2015-2040* allows 389 units "by right," however; additional units may be permitted upon transfer of units from other areas of the City and issuance of a Conditional Use Permit. Because more units than 389 may be permitted under the General Plan and the City's General Plan Environmental Impact Report studied 800 units within the Vallco Shopping District Special Area, this Environmental Assessment conservatively studies a project with 800 residential units to ensure the maximum impacts are identified.

## 2.4 Intent and Purpose of Specific Plan

The Specific Plan lays out the land uses, design standards and guidelines, and infrastructure improvements required for the revitalization of the Plan Area. The Specific Plan is based on the land use strategies set forth in General Plan, including the establishment of a “Town Center” for the Cupertino community.

For a complete list of Town Center objectives, which provide the basis for guiding the Specific Plan and development within the Plan Area consistent with Cupertino’s General Plan, see [Chapter 3, Specific Plan Description](#).

## 2.5 Relationship to the Vallco Town Center Specific Plan Initiative and Adopted Planning Documents

### 2.5.1 Vallco Town Center Specific Plan Initiative

The purpose of the Initiative is to ensure that, consistent with the General Plan, the failed Vallco Shopping District Special Area can be redeveloped into a vibrant, sustainable, walkable and safe new neighborhood with a mix of retail, dining, entertainment, recreation, offices, housing, open space, educational, civic, and public amenities, with exceptional community benefits and high-quality design, that will improve the quality of life of Cupertino residents.

This EA is intended to analyze the environmental impacts of the Vallco Town Center Specific Plan. As explained in Section 2.8, EA Organization, each section in this EA following [Chapter 4, Introduction to Environmental Analysis](#), analyzes the environmental impacts of implementation and subsequent buildout of the Specific Plan. Where significant impacts would result, Environmental Design Features (EDFs) are identified.

### 2.5.2 Cupertino General Plan

On December 4, 2014, the City Council formally adopted an amended General Plan for Cupertino known as Community Vision 2040 (General Plan). On May 19, 2015, the City Council adopted an updated Housing Element, and on October 20, 2015, the City Council adopted minor amendments to the language to the Community Vision 2040 including a change in the name of the document to “General Plan: Community Vision 2015 - 2040.”

As shown in [Figure 3-3a of the EA: Existing General Plan Land Use Map](#), the Plan Area is designated as *Commercial/Office/Residential* on the General Plan Land Use Map. This designation applies to mixed-use areas that are predominantly commercial and office uses. Supporting residential uses may be allowed to offset job growth, better balance the citywide jobs to housing ratio and when they are compatible with the primarily non-residential character of the area. Development, both residential and non-residential, is subject to the numerical caps and other policies in the City’s General Plan.

As shown in General Plan Figure LU-1 (Community Form Diagram), the General Plan permits up to 35 dwelling units per acre in the Plan Area. In compliance with the General Plan, building heights and setbacks would be determined as part of the Specific Plan.

The General Plan identifies a citywide available allocation of 1,882 dwelling units through 2040. Pursuant to General Plan Strategy LU-1.2.1, development allocations may be transferred between General Plan Planning Areas, provided no significant environmental impacts are identified beyond those already studied in the Cupertino General Plan 2040 EIR (SCH# 2014032007). Further, the Plan Area is also identified as a Priority Housing Element Site (Site A2) in the General Plan Housing Element. General Plan Strategy LU-1.4.1 provides that a conditional use permit is required for mixed-use Housing Element sites that propose units above the allocation in the Housing Element, and on non-Housing Element mixed-use sites.

Pursuant to General Plan Land Use Element Strategy LU-1.2.1 (Planning Area Allocations) and Table LU-1 (Citywide Development Allocation Between 2014–2040), the Plan Area is allocated 1,207,774 square feet of commercial uses (consisting of a minimum of 600,000 square feet of retail uses, of which a maximum of 30 percent may be entertainment uses), 2 million square feet of office uses, 339 hotel rooms, and 389 residential dwelling units, provided that a Specific Plan for the Plan Area is adopted by May 31, 2018.

If approved by the Cupertino voters, the Initiative includes the following amendments to the General Plan to:

- Require that the Plan Area contain a mixture of uses, including residential, office, retail, civic and education;
- Require that the Town Center provide transportation and transit infrastructure, a publicly accessible green roof, and extend recycled water infrastructure to the Plan Area;
- Clarify existing policies to allow additional parcelization within the Plan Area if there are protective measures that provide incentives and guidelines for cooperation among owners; and,
- Adopt a Land Use Map to re-designate the Plan Area from Commercial/Office/Residential to Vallco Town Center Specific Plan (as shown in EA [Figure 3-3b: General Plan Land Use Map as Amended by Initiative](#)), and add a definition to the General Plan for this new land use category.

The General Plan, as to be amended by the Initiative, serves as the basis for the Specific Plan. For further information, Environmental Assessment, [Chapter 13, Land Use & Planning](#), includes a detailed General Plan consistency analysis.

### 2.5.3 Cupertino Municipal Code

As shown in EA [Figure 3-4a: Existing Zoning Map](#), the Plan Area is currently 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 Wolfe Road). The current General Plan contemplates that the Plan Area would be rezoned to implement the mixed-use vision of the General Plan. (General Plan, HE Policy 1.3, Strategy 1.)

The Initiative includes amendments to the Municipal Code and Zoning Map to: (1) change the text to reflect the new zoning district of Vallco Town Center Specific Plan; (2) clarify the

conditional use permit approval process when increasing residential units within the Vallco Town Center Specific Plan; (3) exclude the Plan Area from the Code's broader specific plan planned zoning district designation; and (4) amend the Zoning Map to show the Plan Area as zoned Vallco Town Center Specific Plan, as shown in EA [Figure 3-4b: Zoning As Amended by Initiative](#).

The Specific Plan would be implemented pursuant to the Specific Plan, Chapter 9: Administration, Implementation, & Financing.

## 2.6 Relationship to the Cupertino Citizens' Sensible Growth Initiative

On November 24, 2015, the Cupertino Residents for Sensible Zoning Action Committee submitted a Notice of Intent to circulate an initiative petition to the Cupertino City Clerk. The initiative is referred to by proponents as the "Cupertino Citizens Sensible Growth Initiative" (CCSGI). In summary, the CCSGI would amend Cupertino's General Plan to limit the redevelopment of the Vallco Shopping District, but also includes General Plan amendments that would have citywide impacts. Specifically, the CCSGI proposes to change the General Plan provision related to the Vallco Shopping District by removing language calling for the redevelopment of the Vallco Fashion Mall into a mixed use "town center," prohibiting any new residential or office development at the Mall, reducing height limits at the Mall to a maximum of 45 feet, replacing a provision regarding the organization of open space development at the Mall, deleting strategies reflecting the City Council's determination regarding redevelopment of the area, and adding a requirement that a Specific Plan be created prior to any significant changes in use on the site.

In addition, the CCSGI proposes to change the General Plan provisions related to other areas of the City by increasing the maximum building height in the City's Neighborhoods ("parts of the City that are outside of Special Areas") to 45 feet; modifying limits on residential densities, building form and massing, and lot coverage; and reducing the number of new residence's allowed by 146 units, among other changes.

The CCSGI would require voter approval for any further changes to the development allocations for the Mall and to other policies and provisions enacted by CCSGI.

This EA does not directly analyze the environmental impacts associated with the CCSGI. However, the analysis presented in Chapter 17, Transportation and Circulation, does consider the Community Benefits of the proposed Specific Plan (described in Chapter 3 of this EA) with the proposed CCSGI.



## 2.7 Required Permits and Approvals

Table 2-1: Initial Entitlement Actions lists the actions that would be authorized by the Initiative.

Table 2-1: Initial Entitlement Actions

Initial Entitlement Actions	
General Plan Amendments	<p>Amend the General Plan to:</p> <ul style="list-style-type: none"> <li>▪ Require that the Plan Area contain a mixture of uses, including residential, office, retail, civic and education;</li> <li>▪ Require that the Town Center provide transportation and transit infrastructure, a publicly accessible green roof, and extend recycled water infrastructure to the Plan Area;</li> <li>▪ Clarify existing policies to allow additional parcelization within the Plan Area if there are protective measures that provide incentives and guidelines for cooperation among owners, and,</li> <li>▪ Adopt a Land Use Map to re-designate the Plan Area from Commercial/Office/Residential to Vallco Town Center Specific Plan.</li> </ul>
Specific Plan	<p>Establish the zoning, land use designations, development regulations, administrative procedures, community benefits, financing mechanisms and design guidelines for the entire Plan Area (excepting in certain respects the approved hotel entitlement on Block 13 or portion, if any, of Block 14 not processed as part of the Town Center/Community Park).</p>
Municipal Code and Zoning Map Amendments	<p>Amend the Municipal Code and Zoning Map to: (1) change the text to reflect the new zoning district of Vallco Town Center Specific Plan; (2) clarify the conditional use permit approval process when increasing residential units within the Vallco Town Center Specific Plan; (3) exclude the Plan Area from the Code’s broader specific plan planned zoning district designation; and (4) amend the Zoning Map to show the Plan Area as zoned (Vallco Town Center Specific Plan).</p>

Following initial voter approval, subsequent entitlement steps must occur to implement the Specific Plan, including approval of a Master Site Development Permit and Architectural and Site Review. Table 2-2: Subsequent Entitlement Actions lists the subsequent steps that must occur.

## 2.8 EA Organization

EA chapters and appendices are organized as follows:

- **Executive Summary.** A summary description of the Specific Plan and its environmental impacts.
- **Introduction.** A discussion of the background, purpose and need for the Specific Plan.
- **Specific Plan Description.** Detailed description of the Specific Plan, including objectives, components, construction sequencing, conditions of approval, and environmental sustainability.
- **Environmental Analysis:** An introduction to the methodology used to complete the Environmental Assessment, followed by a comprehensive analysis and assessment of impacts and (Environmental Design Features) EDFs for the Specific Plan. The Environmental Analysis is divided into main chapters for each environmental issue areas (e.g., Air Quality, Biological Resources, etc.) that contain the environmental settings and impacts of the Specific Plan. Each environmental issue area includes a separate analysis of cumulative impacts.
- **EA Preparers and Organizations Consulted**
- **Appendices**

**Table 2-2: Anticipated Subsequent Entitlement Actions**

Anticipated Subsequent Entitlements
<ul style="list-style-type: none"> <li>▪ Demolition, Rough Grading/Grading, and Excavation Permits</li> <li>▪ On- and Off-Site Utilities Permits</li> <li>▪ Master Site Development Permit (MSDP)</li> <li>▪ Architectural and Site Review (ASR)</li> <li>▪ (Vesting) Tentative / Final Parcel, Condominium or Subdivision Maps</li> <li>▪ Conditional Use Permit(s)</li> <li>▪ Development Agreement (not required, but may be pursued by a project applicant)</li> <li>▪ Building Permits</li> <li>▪ Tree Removal Permits</li> <li>▪ Encroachment Permit(s)</li> <li>▪ New and Modified Easements, Air Rights, and Other Related Agreements</li> </ul>

## 3 Specific Plan Description

### 3.1 Introduction

As shown in [Figure 3-1: Specific Plan Location](#), the Vallco Town Center Specific Plan (Specific Plan) is an approximately 58-acre planning area (Plan Area) located in the City of Cupertino between Interstate 280 (I-280) and Stevens Creek Boulevard, and intersected by Wolfe Road. The Plan Area has been identified in the City of Cupertino Community Vision 2015–2040 General Plan (General Plan) for complete redevelopment into a vibrant mixed-use Town Center. The General Plan calls for the Plan Area to serve as a focal point for regional visitors and the community as a destination for shopping, dining and entertainment in the Santa Clara Valley. General Plan Policy LU-19.1 calls for the preparation of a specific plan prior to any development to specify the land uses, design standards and guidelines, and infrastructure improvements required to serve the Plan Area.

The Plan Area comprises 14 blocks and two Town Squares at street level, organized around a street network (see [Figure 3-2: Specific Plan Area](#)). The focus of the Specific Plan is planning for the redevelopment of the Vallco Shopping Mall property (the Mall), which includes Blocks 1 through 12 (the Town Center, also known as the Town Center/Community Park), and the potential future development of Block 14, to remain as parking or parking structure, supporting services, or possibly as a second hotel and supporting commercial uses. Any future project in the Plan Area, including the Town Center, would be the subject of a future development application that must be substantially consistent with the planning level policies set forth in the Specific Plan. Block 13 has been approved for development of a 148-room hotel.

**Blocks 1 through 12:** The Mall property is the site of an aging shopping mall that is suffering from significant vacancies and has been unsuccessful for decades. The Specific Plan would authorize revitalizing the Mall property as a new Town Center consistent with and conforming to Cupertino’s General Plan.

The Town Center/Community Park is proposed to include approximately 640,000 square feet of commercial area, including retail, family-friendly entertainment, dining, sports and recreation uses. This analysis assumes that a residential component with 800 apartments for multi-generational living with a minimum of 80 senior apartments<sup>1</sup> would be included in this area.<sup>2</sup>

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<sup>1</sup> The Vallco Town Center Specific Plan Initiative proposes 389 rental apartment units, of which the greater of 80 units or 20% of the total would be senior age-restricted units.

<sup>2</sup> The City’s *General Plan: Community Vision 2015-2040* allows 389 units “by right,” however; additional units may be permitted upon transfer of units from other areas of the City and issuance of a Conditional Use Permit. Because more units than 389 may be permitted under the General Plan and the City’s General Plan Environmental Impact Report studied 800 units within the Vallco Shopping District Special Area, this Environmental Assessment conservatively studies a project with 800 residential units to ensure the maximum impacts are identified.

Also proposed are approximately two million square feet of office space serving incubator, startups, and emerging and/or established Silicon Valley companies. The Town Center/Community Park would also support hotels and public, residential, and office amenity areas.

At least 50,000 square feet would be dedicated to public/civic uses, including charitable space for local non-profit organizations, a high school Innovation Center, an adult education center, and a Mobility Hub. Additionally, the Town Center/Community Park would include a publicly accessible landscaped Community Park and Nature Area of approximately 30 acres above the buildings.

**Block 13:** The property is also currently a parking lot and was recently approved by the City of Cupertino for the development of a 148-room business class hotel. Because this property is located in the Plan Area as defined in the General Plan, the development standards and guidelines described in the Specific Plan contemplate the approved project.

**Block 14:** The property is currently a surface parking lot and has been identified as a possible suitable location for the development of a 191-room hotel (consistent with the available hotel allocation as identified in Table LU-1 of the General Plan) and supporting commercial uses, services, facility management or loading, or a future parking structure in the event market conditions support additional parking supply.

The Specific Plan covers the properties noted above. Because Block 13 was recently approved for a 148-room hotel and has already gone through environmental review, the focus of this Environmental Assessment (EA) is on the redevelopment of the Mall property as the Town Center/Community Park, and the potential for future hotel development and supporting commercial uses on Block 14. The Specific Plan is the subject of The Vallco Town Center Specific Plan Initiative (Initiative) to be considered for approval by the voters of Cupertino in November 2016.

### 3.2 Town Center Objectives

The following Town Center objectives provide the basis for guiding the Specific Plan and development within the Plan Area consistent with Cupertino's General Plan:

- Implement the vision in the City's General Plan to completely redevelop the Plan Area, including the outdated Mall, into a vibrant mixed-use Town Center by balancing retail, office, residential, hotel, civic and ancillary uses with a focus on providing significant open space features, views, and a gateway to Cupertino.
- Provide active and engaging educational uses that promote learning and education for youth, seniors, and others in the Cupertino community.
- Ensure that any potential impacts (i.e., traffic, schools, air quality, noise, trees) associated with the Specific Plan are eliminated through the implementation of the Appendix A: Environmental Design Features.
- Encourage a master developer for the entire Plan Area.

- Encourage innovative active senior environments including senior housing, education and recreation to promote longevity in the Cupertino community.
- Revitalize this critical infill Plan Area with a strong and complementary mixed-use neighborhood that promotes community and visitor activity and interest and financially supports an innovative open space, a transit center, and civic programs, and achieves a high level of sustainability.
- Create an active, inviting, safe and comfortable place for people to shop, dine, entertain, live, work and learn.
- Create an innovative, active, and connected gathering place with vitality in design that integrates and encourages walking and cycling and that is compatible with, and complementary to, recent well-designed districts proximate to the Plan Area.
- Incorporate transit facilities and programs that support local and regional connectivity and help reduce dependency on single-occupancy vehicle travel.
- Provide sufficient local serving and destination retail uses, residential opportunities, workplaces, and entertainment amenities within a centralized Town Center to enable Cupertino and regional residents and shoppers to reduce vehicle miles traveled and associated greenhouse gas emissions.
- Create a Town Center as described in the General Plan by incorporating appropriate street and building types with well-defined edges and high-quality internal public spaces.
- Create a newly configured grid hierarchy of streets and boulevards that are pedestrian oriented, connect to the existing street network, and create walkable downtown blocks.
- Incorporate programs and policies to reduce vehicular miles traveled through traffic demand management policies that reduce the reliance on single-occupancy vehicles and promote more sustainable mobility behaviors.
- Support initiatives and plans that enhance opportunities for pedestrian and bicycle mobility and connectivity in and around the Plan Area.
- Retain a majority of the trees along I-280, Wolfe Road and Stevens Creek Boulevard, to the extent feasible.
- Create building transitions, setbacks, landscaping, and other measures to minimize development impacts on adjacent existing single-family residential uses.
- Provide extensive open space for community gathering spaces, locations for public art, and event space for community education and events.
- Provide adequate parking and vehicular access, compatible with a high-quality Town Center environment, that meet the needs of future visitors, employees, and residents, while encouraging the use of transit, bicycle, and other alternative modes of transportation.

- Capitalize on the opportunity to utilize existing or planned new infrastructure in a manner which furthers local, regional and state compact and sustainable growth goals, including the extension of recycled water facilities.
- Provide recycled water to the Plan Area and extend the utility to Stevens Creek Boulevard for future City connections.
- Improve local access to fresh and healthy foods by integrating more traditional food retail with the vibrancy of local farmers markets, and the heightened awareness of seasonal food cycles, as well as education opportunities through urban farming.
- Create a new development that provides positive economic and fiscal benefits to the City of Cupertino, local school districts, Santa Clara County, and the region as a whole.
- Create a new regional civic gathering place that has a strong neighborhood character that is informed by and responds to the ideas, input and concerns of the local community.

### 3.3 Plan Area Description

#### 3.3.1 Plan Area Characteristics

##### Regional Location

Cupertino is a suburban city of 10.9 square miles located on the southern portion of the San Francisco peninsula, in Santa Clara County. Cupertino is located approximately 36 miles southeast of downtown San Francisco and eight miles west of downtown San Jose. The cities of Los Altos and Sunnyvale are adjacent to the northern city boundaries. The cities of Santa Clara and San Jose lie to the east, and the city of Saratoga lies to the south. Unincorporated areas of Santa Clara County form the western and portions of the southern boundary of the city. The city of Cupertino is accessed by I-280, which functions as a major east/west regional connector, and State Route 85, which functions as the main north/south regional connector.

##### Plan Area Location

The approximately 58-acre Plan Area consists of multiple parcels<sup>3</sup> and is located at the Wolfe Road/Vallco Parkway and Wolfe Road/Stevens Creek Boulevard intersections in the City of Cupertino. The Plan Area is located just south of I-280 and the Wolfe Road/I-280 interchange (see [Figure 3-1: Specific Plan Location](#)).

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<sup>3</sup> Assessor Parcel Numbers: 316-20-080, -081, -082, -088, -092, -094, -095, -099, -100, -101, -103, -104, -105, -106, and -107.



## Plan Area History

In the 1960s, a group of Cupertino families and property owners came together to launch the overall scheme for the larger approximately 300-acre Vallco Park, whose name was constructed from the first initials of each of the primary developers. Ten years later, the 58-acre shopping mall was established as a retail component within Vallco Park.

In 1973, the City pursued the regional shopping center on the edge of the City and rezoned the South Vallco district for a new mall (Mall). The new Mall opened in 1976. At that time, the Mall was one of the largest shopping centers in the Silicon Valley, drawing visitors from throughout the region.

By the mid-1980s, however, the Mall began to suffer from an inherent inability to respond to the ever-changing demands of consumers and markets. Constraining factors included:

- Fragmented ownership between several different property owners, including multiple retail stores.
- An Operation and Reciprocal Easement Agreement signed onto by the various owners at the outset, which handcuffed the Mall owners from pursuing improvements without unanimous consent.
- Increasing competition for local customers due to the revitalization of nearby downtown shopping districts in neighboring cities.
- Outdated infrastructure in combination with a confusing and inefficient parking layout that began to take its toll.
- Demand for mid-market mass merchandisers, such as the Mall's department stores, began not only to decrease but to plummet, ultimately resulting in the closure of thousands of former anchor stores for malls throughout the nation.
- Regional competition from Valley Fair and Stanford Shopping Center and other sub-regional malls began to shift regional shoppers away from the Mall.
- Changes in consumer purchasing patterns such as online shopping and other retail options.

Since the 1980s, as the retail industry has evolved and consolidated, regional shopping mall competition has increased. Two of the top-performing, super-regional malls in the United States are located near the Vallco Shopping District: Stanford Shopping Center and Westfield Valley Fair. Today, both of these shopping centers are thriving and expanding, boast some of the highest sales volumes in the country, and present a significant obstacle to the retail tenant recruitment efforts of Vallco. Not only is it difficult for flagship retailers who have become tenants at these two other malls to justify an additional location in the Vallco Shopping District (where sales are historically proven to be lower and because of its location within the same trade area would result in the "cannibalization" of existing sales), many are prohibited from doing so due to lease radius restrictions. The Vallco Shopping District also competes with more than a dozen other shopping districts, revitalized malls and walkable downtown neighborhoods

including those in Palo Alto, Los Gatos, Mountain View, Los Altos, and Campbell, which offer vibrant outdoor retail environments that are more appealing to today's consumers than traditional enclosed malls.

Ownership within the Vallco Shopping District has turned over many times since the original developers, with multiple foreclosures and a bankruptcy, staggered between efforts to redevelop the aging Mall. Occupancy began to deteriorate at an accelerated rate in the early 1990s. Mall tenancy continued its steady decline into the mid-2000s.

In 2005, two of the Mall's levels were shuttered, leaving the focus on the second floor, and an ambitious plan began to focus on entertainment by adding two new parking structures, multi-screen movie theater, a food court, and a bowling alley. In September 2008, before the new parking, theaters, food court and bowling were opened, the combined effect of the cost of the renovation and the national financial crisis resulted in the owners filing for bankruptcy.

In September 2009, the Mall was sold again. The Mall further languished and was subsequently resold a few years later. From approximately 2009 to 2014, in order to comply with the occupancy goals set forth in the movie theater's lease, the Mall owner began heavily discounting rents in order to boost Mall occupancy. Occupancy ranged from a low of 82.1% in 2010 to a high of 83.01% in 2012. Despite significant rent concessions, occupancy over those 5 years hovered at approximately 82 percent, which was still substantially less than other regional malls in the market.

In 2015, the decline of the Mall continued with the departure of anchor retailers Macy's and Sears. JC Penney announced its departure in January 2016. By April 2016, the Mall is expected to be 30 percent occupied as other small retailers also leave the Mall.

In contrast, the Stanford Shopping Center thrives with 140 stores, 1.4 million square feet and 98 percent occupancy. Valley Fair has increased to 273 stores, 1.5 million square feet, and 96 percent occupancy, and is expanding by another 650,000 square feet over next few years for a future total of approximately 2.1 million square feet. A handful of Mall attractions, including a movie theater, have continued to perform well even throughout the Mall's leanest years. These few attractions, however, cannot support 1.2 million square feet of retail space.

### Existing Setting

Currently, the Plan Area is developed with the Mall, which consists of an existing 1,207,774-square-foot mall building plus satellite buildings and surface parking. In addition, as noted above, Blocks 13 and 14 are currently parking lots. However the City of Cupertino recently approved a proposal to develop Block 13 into a business-class hotel, consistent with the General Plan.

The Plan Area is divided by Wolfe Road. The area west of Wolfe Road is bound by I-280 to the north, Wolfe Road to the east, Stevens Creek Boulevard to the south, and Perimeter Road to the west (Perimeter Road is within the boundaries of the Plan Area). It is developed with

several buildings: a primary mall building which connects two former anchor stores, a satellite auto center building, a satellite restaurant building, three parking structures, and surface parking lots. Block 14 is located adjacent to I-280 in this part of the Plan Area.

The eastern portion of the Plan Area, east of Wolfe Road, is bound by I-280 to the north, Perimeter Road to the east, Vallco Parkway to the south, and Wolfe Road to the west. It is developed with an ice-skating rink, bowling alley, one anchor store, mall retail shops, a food court, a satellite restaurant building, a parking structure, and surface parking lots. Block 13 is located adjacent to I-280 in this part of the Plan Area.

An existing pedestrian bridge connects the Mall buildings on the east and west sides of Wolfe Road. The bridge is enclosed and consists of retail shops on either side of a pedestrian walkway. A number of other easements, some crossing public rights of way, benefit the Mall.

### Surrounding Land Uses

Surrounding permitted land uses include residential and commercial to the west; I-280, hotel, residential, and office uses to the north; commercial, office, and residential mixed-uses to the east; and commercial uses to the south.

## 3.3.2 Existing General Plan Land Use Designations and Zoning

### Cupertino General Plan

On December 4, 2014, the City Council formally adopted an amended General Plan for Cupertino known as Community Vision 2040 (General Plan). On May 19, 2015, the City Council adopted an updated Housing Element, and on October 20, 2015, the City Council adopted minor amendments to the language to the Community Vision 2040 including a change in the name of the document to “General Plan: Community Vision 2015 - 2040.”

As shown in [Figure 3-3a: Existing General Plan Land Use Map](#), the Plan Area is designated as *Commercial/Office/Residential* on the General Plan Land Use Map. This designation applies to mixed-use areas that are predominantly commercial and office uses. Supporting residential uses may be allowed to offset job growth, better balance the citywide jobs to housing ratio and when they are compatible with the primarily non-residential character of the area. Development, both residential and non-residential, is subject to the numerical caps and other policies in the City’s General Plan.

As shown in General Plan Figure LU-1 (Community Form Diagram), the General Plan permits up to 35 dwelling units per acre in the Plan Area. In compliance with the General Plan, building heights and setbacks would be determined as part of the Specific Plan.

The General Plan identifies a citywide available allocation of 1,882 dwelling units through 2040. Pursuant to General Plan Strategy LU-1.2.1, development allocations may be transferred between General Plan Planning Areas, provided no significant environmental impacts are identified beyond those already studied in the Cupertino General Plan 2040 EIR

(SCH# 014032007). Further, the Plan Area is also identified as a Priority Housing Element Site (Site A2) in the General Plan Housing Element. General Plan Strategy LU-1.4.1 provides that a conditional use permit is required for mixed-use Housing Element sites that propose units above the allocation in the Housing Element, and on non-Housing Element mixed-use sites.

Pursuant to General Plan Land Use Element Strategy LU-1.2.1 (Planning Area Allocations) and Table LU-1 (Citywide Development Allocation Between 2014–2040), the Plan Area is allocated 1,207,774 square feet of commercial uses (consisting of a minimum of 600,000 square feet of retail uses, of which a maximum of 30 percent may be entertainment uses), 2 million square feet of office uses, 339 hotel rooms, and 389 residential dwelling units, provided that a Specific Plan for the Plan Area is adopted by May 31, 2018.

If approved by the Cupertino voters, the Initiative includes the following amendments to the General Plan to:

- Require that the Plan Area contain a mixture of uses, including residential, office, retail, civic and education;
- Require that the Town Center provide transportation and transit infrastructure, a publicly accessible green roof, and extend recycled water infrastructure to the Plan Area;
- Clarify existing policies to allow additional parcelization within the Plan Area if there are protective measures that provide incentives and guidelines for cooperation among owners, and,
- Adopt a Land Use Map to re-designate the Plan Area from Commercial/Office/Residential to Vallco Town Center Specific Plan, and add a definition to the General Plan for this new land use category.

The General Plan, as provided to be amended by the Initiative, serves as the basis for the Specific Plan.

### Cupertino Zoning Ordinance

As shown in [Figure 3-4a: Existing Zoning Map](#), the Plan 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 Wolfe Road).

The General Plan contemplates that the Plan Area would be rezoned to implement the mixed-use vision of the General Plan (General Plan, HE Policy 1.3, Strategy 1). The Initiative includes amendments to the Municipal Code and Zoning Map to: (1) change the text to reflect the new zoning district of Vallco Town Center Specific Plan; (2) clarify the conditional use permit approval process when increasing residential units within the Vallco Town Center Specific Plan; (3) exclude the Plan Area from the Code’s broader specific plan planned zoning district designation; and (4) amend the Zoning Map to show the Plan Area as zoned (Vallco Town Center Specific Plan), as shown in [Figure 3-4b: Zoning As Amended by Initiative](#).

### 3.4 Specific Plan Components

Specific Plan land uses would include office, retail, entertainment, residential, education, civic, fitness, and parking, all arranged around two activated Town Squares and a 30-acre Community Park and Nature Area, all consistent with the General Plan. Furthermore, civic, educational and religious uses would be incorporated into the Town Center and give a unique Cupertino identity to the Plan Area.

The Town Center would include two Town Squares, namely: Town Square West (approximately 2 acres) on the west side of Wolfe Road and Town Square East (approximately 1 acre) on the east side of Wolfe Road. Town Squares West would include programmable outdoor environments which would be used for community events and company functions. Town Square East is envisioned as the quiet complement to the active Town Square West.

As contemplated by the General Plan's town center vision for the Plan Area, the Plan Area has been organized in a transect grid format of downtown blocks. Blocks on the west side of Wolfe Road would be the focal point of the retail, entertainment, and residential uses. Blocks east of Wolfe Road would be designed to contain limited mixed-use retail and would accommodate a majority of the office space. The Plan Area has been organized into the following five land use districts, described below:

- Town Center Retail/Residential
- Town Center Retail/Entertainment/Office/Residential
- Town Center Retail/Office
- Town Center Hotel/Parking/Services
- Community Park and Nature Area

Figure 3-5: **Town Center Districts**, identifies the boundaries of the Town Center districts. Figure 3-6: **Community Park and Nature Area District**, identifies the boundaries of the Community Park and Nature Area District. Table 3-1: **Vallco Town Center Specific Plan Land Use Summary** provides a summary of land uses envisioned. All numbers are approximate and may vary slightly as development plans are refined.

**Table 3-1: Vallco Town Center Specific Plan Land Use Summary**

Land Use	Gross Amount <sup>1</sup>	Comments
<b>Town Center/Community Park</b>		
Residential	800 <sup>2</sup>	Of which the greater of 80 units or 20% of total unit count (i.e, 160 units if 800 units built) would be senior apartments pursuant to state and federal law; the Town Center would be strongly encouraged to comply with the City’s BMR Housing Mitigation Program by providing affordable units on-site.
Office	2,000,000 sf. max	Includes a minimum of 100,000 sf of incubator work space and multi-tenant spaces for start-ups and new and emerging technologies, per General Plan.
Commercial Includes: <i>Retail</i> <sup>3</sup> <i>Fitness</i>	640,000 sf approx.  600,000 sf approx. 40,000 sf approx.	Retail uses would include community and regional retail, entertainment, and personal services. Solely for the purpose of calculating minimum retail, the fitness use would not be included in the retail calculation but is classified as a personal service. Retail space within fitness uses would be counted as retail space.
Public/Civic	50,000 to 100,000 sf approx.	50,000 minimum can increase to a maximum of 100,000 sf if Office space is reduced on a per square foot basis.
Town Center Squares	3 acres (min.)	Town Square West; Town Square East.
Community Park and Nature Area	30 acres (min.)	Includes pavilions, public trails, passive recreational areas, agriculture (e.g., vineyard, orchard) and open space.
Services, Facility Management, & Loading	120,000 sf max.	Includes central plants, loading docks, and maintenance facilities.
Parking	Approx. 9,060 spaces	Includes below grade, above grade and street level parking.
<b>Block 13</b>		
Hotel	148 rooms	City of Cupertino approved prior to submission of the Specific Plan.
<b>Block 14</b>		
Hotel	191 rooms	No current development plans on file for the majority of the block. <sup>4</sup> Parking (structured and surface), would be a permitted use.

Note:

1. All numbers are rounded to the nearest whole number and total amounts may vary as development plans are refined. The allocation of space for each use may vary between districts and or construction sequencing as long as the total gross development area for each use is not exceeded.
2. The City’s *General Plan: Community Vision 2015-2040* allows 389 units “by right,” however; additional units may be permitted upon transfer of units from other areas of the City and issuance of a Conditional Use Permit. Because more units than 389 may be permitted under the General Plan and the City’s General Plan Environmental Impact Report studied 800 units within the Vallco Shopping District Special Area, this Environmental Assessment conservatively studies a project with 800 residential units to ensure the maximum impacts are identified. Note that the Initiative itself has proposed a total of 389 units.
3. Per General Plan Strategy LU-19.1.4(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 would consist of no more than 30 percent of retail uses.”
4. Services, Facility Management, & Loading may be allowed on a minor portion of Block 14.



In addition to the summary of major land uses identified in Table 3-1 above, amenity and support spaces are provided in the Town Center Retail/Residential District, Town Center Retail/Office District, and the Community Park and Nature Area, as discussed in Specific Plan Chapter 2: Land Use & Development Standards. Amenity and support space is incidental to, and in support of, the principal structure or use. Examples of such space include a fitness and wellness center, clubhouse, common kitchen and dining room, movie room, business center, conference center, cafeteria or café to serve employees, atriums, employee break space, lounge space, storage spaces, utility rooms, covered bridges and walkways, and non-habitable spaces supporting mechanical facilities. The analysis of impacts identified in this EA includes space either dedicated to or reserved for amenity space. Please see [Chapter 17, Transportation and Circulation](#), for a discussion of person and vehicle trips associated with these spaces.

### 3.4.1 Town Center Retail/Residential District

The Town Center Retail/Residential District is bounded by Stevens Creek Boulevard, the Portal neighborhood, Perimeter Road, the Town Center Retail/Entertainment/Office/Residential District and Wolfe Road. Commercial uses may include retail, personal services, civic and small format medical uses, in addition to residential use.

The vision for this District is to create an activated ground-floor commercial Town Center that is supported by residential above. One or more north-south tree-lined streets would be flanked by a mixture of local, national, and/or international brand commercial stores. These streets would be designed to enhance the retail shopping experience by providing a vibrant and comfortable space for walking, sitting, eating and socializing throughout the day and evening.

These streets would be designed to be “Complete Streets,” with pedestrian-oriented streetscapes and shared vehicle/bike lanes to maintain slow traffic speeds. Sidewalks would incorporate planting areas and places for sitting. These spaces would include paving patterns, planting, lighting, and informal places for gathering. Canopy trees would enhance the streetscape and provide shade along the sidewalks and seating areas. Along Stevens Creek Boulevard, glass facades of multi-level spaces would be incorporated to animate the streetscape.

Upper-level residential apartments would serve a range of household types, including units dedicated as senior market-rate apartments. The residential apartments would comply with the City’s Below Market Rate (BMR) Housing Mitigation Program. Per City policy set forth in the Cupertino Municipal Code, the Town Center would be encouraged to meet this requirement by providing affordable units on-site rather than paying the in-lieu fee.

To help facilitate alternative transportation options, a Mobility Hub is envisioned (likely fronting Stevens Creek Boulevard) to accommodate local transit and the proposed Stevens Creek Boulevard Bus Rapid Transit (BRT) line, as well as serve as a focal point for alternative transportation support services (e.g., bike shop and storage, bike share rentals, shower facilities, membership car rentals such as car share, and a transit information kiosk).

Town Square West would be a publicly-accessible plaza designed with landscaping, public art, enhanced paving areas, and seating areas that would create a flexible gathering space for outdoor events, such as concerts, cultural events, outdoor market, outdoor performances, food festivals, holiday events, outdoor movies, and outdoor sports activities. These areas would be surrounded by flexible areas that could also host events and festivals or serve as exterior dining or social space. Streets surrounding the Town Square West would be designed to be closed at certain times to host events, festivals, or during busy weekend and holiday times.

Figure 3-7: Conceptual View of the Vallco Town Center Looking North from Steven Creek Boulevard on A Street and Figure 3-8: Conceptual View Looking East on Steven's Creek Boulevard provide conceptual illustrations of the Town Center Retail/Residential District. Figure 3-9: Conceptual View of the Vallco Town Center Looking North in Town Square West provide conceptual illustrations at ground level of Town Square West.

### 3.4.2 Town Center Retail/Entertainment/Office/Residential District

New and existing entertainment uses, including a multiplex movie theater, bowling alley, and ice rink, are anticipated to be included in the Town Center Retail/Entertainment/Office/Residential District, located in the northwestern corner of Plan Area. Additional supporting uses may include retail and commercial uses such as restaurants and personal services, a fitness facility, and the possibility of office, residential, and community benefit uses.

This District is envisioned to have an integrated multilevel complex with the south facing facade looking out over the open air activities of Town Square West. The facades facing the residential neighborhoods to the west would be designed so that the entertainment building would have a solid wall, with few or no openings (except the fitness use, with consideration to privacy) so that any sound generated by the uses would be acoustically attenuated and any views onto adjacent residential properties would be blocked.

As noted in a General Plan Strategy, entertainment uses would be required to constitute no more than 30 percent of the total retail uses within the Plan Area.

### 3.4.3 Town Center Retail/Office District

The Town Center Retail/Office District would contain Class-A office space and Amenity & Support Space that would provide flexible space for a range of users across the lifecycle of Silicon Valley companies.

Pursuant to established City practice and policy, Amenity & Support Space serving the Office would not require an Office space allocation from General Plan Figure LU-1.

Office entrances, lobbies, and some Amenity & Support Space may be located at ground level facing Town Square East and the adjacent streets. Ground floor uses may also include a variety of commercial spaces along Vallco Parkway Boulevard similar to the Town Center Retail/Residential District described above. Buildings may be linked at upper levels by open-air or enclosed connections or building area.

Town Square East is designed as a quiet complement to the active heart of Town Square West, include landscaping and outdoor seating areas. It would primarily serve the surrounding office uses and would be subject to safety and security measures for the occupants and the public. Town Square East is not expected to be used for events and festivals, though these uses may be permitted for special occasions.

A Transit Center is also envisioned in this District. It would be intended to cater to employees who arrive with shuttle busses operated by companies in the District.

#### **3.4.4 Town Center Hotel/Parking/Services District**

The Town Center Hotel/Parking/Services District straddles Wolfe Road and may contain up to two hotels. Consistent with the General Plan (see General Plan Table LU-1), a hotel with up to 191 rooms is envisioned on Block 14, though no project applications have been submitted as of the date of this EA. This property may also contain supporting commercial services consistent with a General Plan Strategy, which states: “Encourage a business class hotel with conference center and active uses including main entrances, lobbies, retail and restaurants on the ground floor.” The conference center aspect may be satisfied by locating such a use elsewhere within the Plan Area and is not required to be attached to the business class hotel. Other permitted uses in this District would include permanent parking area (surface or structured), service yard, central plant, public safety facilities, open space, utilities, or similar uses necessary to support the Plan Area.

On the east side of Wolfe Road, Block 13 is already approved for the development of a 148-room hotel, satisfying the General Plan Strategy for a business class hotel.

The majority of Block 14 is currently occupied by a surface parking lot and would be retained as a legal-nonconforming use until such time as it is proposed for development on a majority of that block. Block 14 may potentially be used as part of planned Wolfe Road/I-280 interchange improvements, a project applicant may construct dedicated off-ramps and/or on-ramps from I-280 into and out of the Plan Area. The intent would be to alleviate new traffic by avoiding the City’s existing street network. Additional freeway ramps would be subject to Caltrans and other jurisdiction approvals.

The City of Cupertino has identified future plans for a regionally-serving pedestrian/bike trail parallel to and on the south side of I-280. This trail outside of the Plan Area would be partially funded by this Plan and other sources.

#### **3.4.5 Community Park and Nature Area**

As shown in [Figure 3-10: Conceptual Community Park and Nature Area](#), an approximately 30-acre Community Park and Nature Area would be constructed on a separate landscaped roof structure over the Town Center portion of the Plan Area. The topography of this landscaped roof would vary over the tops of the buildings, and would eventually meet existing grade at the western boundary of the Plan Area. Amenities may include pedestrian trails, a playground, vineyards, orchards, organic gardens, an amphitheater, pavilion buildings, community hub, student union and a nature area.

As shown in [Figure 3-11: Conceptual Trail Network](#), a majority of the roof structure would include community park trails, and a smaller portion would be dedicated to office and residential trails.

Retail uses may include a beer garden, wine garden and small permanent or transient seasonal retail or fast casual dining kiosks. The banquet hall, community hub and wine garden adjacent to the vineyards may be used for large community gatherings such as weddings, fundraisers, cultural events and festivals and create an open and flexible community space for multiple programming opportunities. The Community Hub may open to an amphitheater that connects the two landscaped bridges between Town Square West and Town Square East.

The programming of the landscape and pavilions would be intended to create educational, instructional, health and wellness, and artistic opportunities for all residents of Cupertino. The General Plan identifies the Vallco Shopping District as a Community Landmark. In compliance with the General Plan, the Community Park and Nature Area would include a plaque, reader board and/or other educational tools to provide information regarding the history of the Vallco Shopping District.

Other pavilions and areas would be privately-accessible for residents living on-site and office employees working on-site. They would satisfy the private open space as defined in the Cupertino Municipal Code, in lieu of individual private areas, and they may include residential amenities, such as a pool and clubhouse, and office amenities, such as a café, wellness, and conference spaces. For safety and security of the public, residential and employment uses, some areas of the roof may require limited public access such as roof perimeters, roof areas open to below and residential and office pavilions.

The Community Park and Nature Area would provide a variety of planting zones incorporating native and/or drought tolerant species. The Community Park and Nature Area would be designed to sustainably capture rainwater, manage stormwater runoff, create educational and instructional opportunities, and help reduce carbon emissions by reducing the urban heat island effect.

### **3.4.6 Landscaping**

With the exception of Block 13, landscaping would be guided by the Specific Plan's Landscaping & the Public Realm chapter, which includes all of the exterior places that would be physically or visibly accessible to the public. Most of the new landscaping within the Town Center/Community Park would be in the Community Park and Nature Area, with additional landscaping in the town squares and along internal streets. Where possible, existing trees would be retained and complemented by the planting of new trees. The landscaping and trees would be irrigated at least partially, and possibly entirely, with non-potable water from sources such as municipal recycled water or on-site greywater and stormwater capture. Conceptual planting zones for the Town Center/Community Park are shown on [Figures 3-12: Community Park and Nature Area](#).

### 3.4.7 Roadway/Vehicular Circulation Improvements

The Mobility & Connectivity chapter of the Specific Plan identifies a new signalized intersection proposed at Wolfe Road and 2<sup>nd</sup> Street would provide east-west bi-directional bike lanes along the south edge that allows bicyclists and pedestrians to cross without conflicts with southbound vehicles turning left from Wolfe Road to 2<sup>nd</sup> Street and westbound vehicles turning right from 2<sup>nd</sup> Street to Wolfe Road. Crossings would be clearly marked to connect the shared path with the internal street grid.

The existing Perimeter Road tunnel passing under Wolfe Road would be modified from its current configuration to accommodate two options. Under the first option, the tunnel would be modified so that it accommodates alternative modes of transportation, creating a bicycle and pedestrian connection to complete connectivity between the Plan Area and the anticipated future trails along I-280. It would also provide services and facility management access for the Town Center, including small service vehicles. The tunnel may also accommodate utility connections for the Town Center. Vehicular access for the Town Center would not be required. Under the second option, as part of the Wolfe Road/I-280 interchange improvements, a project applicant may explore the construction of dedicated off-ramps and/or on-ramps from I-280 into and out of the Town Center. The intent would be to divert traffic from the City's street network. Additional freeway ramps would be subject to Caltrans and other jurisdiction approvals.

### 3.4.8 Site Access, Circulation, and Parking

Vehicles would access the Plan Area from driveways on Stevens Creek Boulevard, Perimeter Road, Vallco Parkway, and Wolfe Road. The Plan Area would be designed with a transect street pattern to facilitate efficient and safe vehicular, pedestrian, and bicycle circulation. The primary roadway access points for office workers would be from the northern side of the Plan Area with direct access to below grade parking entrances located off Wolfe Road. Additional below grade parking garage entrances would be accessed from A Street.

The primary roadway access for other users would be from both above- and below-grade parking entrances located on southbound Wolfe Road and the Stevens Creek Boulevard entrance.

Implementation of the Specific Plan would establish a street hierarchy that directs vehicles to the parking garages efficiently, reducing conflicts with pedestrians and bicyclists on the at-grade street network. This includes accommodating traffic from I-280 with direct access to parking garages from Wolfe Road. This would be complemented by VTA plans to rebuild and widen the Wolfe Road/I-280 interchange that would include vehicular, bike and pedestrian improvements.

See [Chapter 17, Transportation & Circulation](#), for further discussion of vehicular access to the Plan Area.

### Parking Network

Parking regulations in the Plan Area have been designed with two goals. One is to ensure a sufficient supply of parking to meet the needs generated within the Plan Area so spillover effects into the adjacent neighborhood is avoided. The second is to limit excessive supply of parking to account for the trip reduction efforts required in the Plan Area; and to allow for recent and future advances in technology, such as ridesourcing services, that directly reduce parking needs.

To accomplish Plan Area goals, parking would be provided in accordance with the City of Cupertino Municipal Code Parking Regulations, subject to adjustments or exceptions as indicated in the Land Use and Development Standards and Mobility & Connectivity chapters of the Specific Plan. Based on the application of the parking regulations and adjustments to the development program allowed in the Plan Area, the total baseline target parking supply in the Plan Area would be 9,060 parking stalls.

### Transit Access

The Santa Clara Valley Transit Authority (VTA) provides express and regular bus service to the Plan Area. Existing bus stops along Stevens Creek Boulevard, North Vallco Road, and Vallco Parkway would be relocated and improved.

Additionally, the Town Center applicant would partner with the City of Cupertino, VTA, and area employers to fund a free community shuttle for Cupertino residents and employees. The free community shuttle would connect numerous destinations within the community, such as the library, Civic Center, Memorial Park, the local community college, one or more high schools, the adjacent tech campuses, and more. The precise route(s) has not been designed at this time and would be modified over time to maximize ridership based on the communities ridership needs.

Two multi-modal transit centers are envisioned within the Plan Area; one on the east side of Wolfe Road to primarily serve office workers, and a second public one located adjacent to the Mobility Hub on the north side of Stevens Creek Boulevard. These multi-modal transit centers would serve the complimentary shuttle, VTA local and express buses, future Bus Rapid Transit, corporate shuttles, and sharing economy transportation services.

See [Chapter 17, Transportation & Circulation](#), for a discussion of transit circulation in the Plan Area.

### Bicycle Access

As shown on [Figure 3-13: Conceptual Bicycle Connectivity Plan](#), the existing bicycle network on Wolfe Road, Vallco Parkway, and Stevens Creek Boulevard would connect to and with, as well as surrounding, the Plan Area.

Within the Plan Area, all roadways would be designed to incorporate either Class II bike lanes or Class III shared bike/vehicle lanes. Bicycle striping, green bike lanes, and bike boxes would be



used to reinforce and accommodate a multi-modal street network. The Plan Area would include a variety of bicyclist amenities, such as a bike café, bike repair shop, and shower facilities.

For safety and security reasons, bicycles would not be allowed onto the elevated Community Park and Nature Area. Bike parking areas would be provided throughout the Plan Area.

### Pedestrian Access

Pedestrian facilities within the Plan Area are shown on **Figure 3-14: Conceptual Pedestrian Connectivity Plan**. All pedestrian connections and facilities would meet Americans with Disabilities Act (ADA) accessibility standards.

Pedestrian sidewalks would follow the proposed street grid pattern. To accommodate the proposed bicycle lanes and designated commuter shuttle curbside stop areas on Perimeter Road, the sidewalks on portions of Perimeter Road would be reconfigured. Pedestrian improvements would include replacing the existing enclosed bridge over Wolfe Road with a pedestrian bridge that would connect the town squares East and West.

Pedestrians would be able to access the Community Park and Nature Area from various locations, including the town squares, at the intersection of Perimeter Road and Stevens Creek Boulevard, and near the intersection of Wolfe Road and Vallco Parkway. In addition, the proposed landscaped roof would connect across Wolfe Road.

### Transportation Demand Management Program

The Specific Plan includes Transportation Demand Management (TDM) strategies for the Town Center to proactively offer a multitude of subsidized services for residents, workers, visitors, and the community at large, to reduce the demand for driving. The TDM program may include trip reduction features such as:

- Bicycle and pedestrian facilities and incentives, including secure bike parking, on-site bike repair facilities, and showers and changing facilities;
- Funding for a free community shuttle in coordination and partnership with the City, VTA, school districts, property owners, and/or corporate employers;
- Carpool, carshare, and rideshare services, including matching services, priority parking, on-site rental services, and subsidized carshare memberships;
- Multimodal financial incentives, including discounted transit passes and the pre-tax commuter benefit program;
- A TDM coordinator to implement and sustain the TDM Plan; and
- Parking demand reduction strategies.

### Offsite Transportation Improvements

The Specific Plan identifies proactive measures to incorporate transportation solutions along key transportation corridors and I-280. This includes roadway improvements in support of

vehicular traffic, bike, pedestrian, and transit improvements and programs, and a substantial transportation demand management program to encourage carpooling, alternative transportation solutions, and off-peak travel.

In addition, the Town Center would implement a number of off-site transportation improvements, which would be coordinated with various agencies including Caltrans, VTA, and the City of Cupertino.

### **3.4.9 Stormwater Management**

Chapter 6: Infrastructure & Public Facilities of the Specific Plan calls for modification of the drainage on Wolfe Road to extend it farther north and realign it out of the proposed parking garage just south of the tunnel under Wolfe Road. A new public storm drain would be installed in 3<sup>rd</sup> Street up to the existing point of connection located in the public utility easement on Block 13 for discharge into the Junipero Serra Channel, along I-280.

Onsite storm drainage would be directed to retention cisterns for filtering and reuse as irrigation water for the Plan Area. These vaults would be sized per the San Francisco Bay Regional Water Quality Control Board requirements.

All overflow from the Plan Area for storms larger than the required treatment storm would discharge from the vaults directly to the public storm drain located in the adjacent properties to the North, in public utility easements and to the Junipero Serra Channel.

### **3.4.10 Water, Wastewater, and Dry Utilities**

#### **Domestic Water**

Domestic water for the Plan Area would be accessed from existing main water lines that extend along Stevens Creek Boulevard, Wolfe Road and Vallco Parkway.

#### **Sanitary Sewer**

The existing public sanitary sewer is owned and operated by Cupertino Sanitary District and extend along Stevens Creek Boulevard, Wolfe Road and Vallco Parkway. Proposed new public and private sewer lines would extend off of the existing system.

The Infrastructure & Public Facilities component of the Specific Plan calls for rerouting of the sewer main that flows through the northern portion of the Plan Area and extend it north under Wolfe Road, just south of the tunnel. It would then turn west between the tunnel and the underground garage. This main would be located in a new public utility easement and would connect to the existing sanitary sewer located in an easement in the northern portion of the Plan Area. This main discharges to the sewer main that crosses the I-280, which may need to be upgraded.

Based on the projected sewer flows, upgrades to the existing lines in Wolfe Road would be required to accommodate the projected flows from implementation of the Specific Plan. The anticipated pipe size would include a 21-inch line and a parallel 18-inch line.

### Recycled Water

The Specific Plan calls for collaborating and pursuing a public private partnership with the California Department of Transportation (Caltrans), Santa Clara Valley Water District, City of Sunnyvale, California Water Service Company, and City of Cupertino to provide recycled water from Sunnyvale, north of the Plan Area, across I-280.

In 2013, the City of Sunnyvale, Santa Clara Valley Water District (SCVWD), and other entities entered into a partnership to extend recycled water service in the City of Sunnyvale south on Wolfe Road to East Homestead Road to service a nearby tech campus. Service to the Plan Area would include extension of this recycled water line across I-280 to the intersection of Wolfe Road / Stevens Creek Boulevard, once the system is available.

### Dry Utilities

Existing gas, electrical and communication lines extend along Stevens Creek Boulevard, Wolfe Road and Vallco Parkway. Future development within the Plan Area would connect to these exiting utilities.

#### 3.4.11 Community Benefits

The Vallco Shopping District Special Area would provide the following exceptional community benefits within the Plan Area (unless otherwise indicated) as provided for in detail in the Specific Plan. These community benefits may be agreed to through a Development Agreement or, alternatively, may be set forth as conditions of approval in the Master Site Development Permit for the Town Center. These requirements would not apply to any development proposed on Block 13 or any portion of Block 14 not processed under the Master Site Development Permit.

#### Civic and Community Benefits

- **Green Roof and Community Park:** A 30-acre rooftop accessible to the public, privately constructed and maintained at no cost to taxpayers, and irrigated by recycled water.
- **Rooftop Trails:** A minimum of 3.8 miles of accessible walking and jogging trails, through native and drought-tolerant landscaping, meadows, vineyards, orchards and organic gardens in the Community Park and Nature Area.
- **Sustainability Leadership/Recycled Water:** A sustainable design goal of achieving the highest level of certification from a globally recognized environmental sustainability certification program, such as LEED Platinum certification or its equivalency, which would be achieved in part by providing recycled water for such purposes as irrigation, toilet flushing, and heating and cooling systems, among other design features.

- **Public Utility Infrastructure Improvements:** The Specific Plan calls for the implementation of substantial public-serving improvements to the existing utility infrastructural system, including those involving the sanitary sewer system, water service, stormwater drainage facilities, gas and electric support lines, and of course recycled water.
- **Town Squares:** Two ground-level Town Squares totaling at least 3 acres in area, programmed to accommodate civic, cultural, community, and school events, performances, and celebrations, among other uses.
- **Community Facilities:** Community amenity facilities including an approximately 20,000 square foot banquet/event hall; a community hub building of at least 6,000 square feet for potential uses such as community meetings, study groups, parent volunteer meetings, or birthday parties; an approximately 300-seat amphitheater for concerts, band or theater performances, or speaking engagements; and a destination children’s playground.
- **Charitable Civic Space:** A charitable lease or leases for at least 5,000 square feet of civic space dedicated for use and potentially shared by local non-profits and civic organizations, such as the Cupertino Historical Society (for museum and office space), the Cupertino Library (for a materials pick-up and/or return annex), the Sheriff’s Department (for a substation), and the Fire District (for a substation).
- **Civic Space Option:** The ability for a project applicant to provide up to an additional 50,000 square feet for an appropriate, necessary and meritorious civic use subject to a separate agreement with the City, thereby reducing the office use allocation.

### Education Benefits

In addition to paying the maximum state-required school fees, which are expected to be approximately \$4 million, the Plan Area would provide exceptional community benefits, summarized below, to the local schools including Fremont Union High School District (“FUHSD”) and Cupertino Union School District (“CUSD”). While the precise nature of these benefits must be determined in coordination and cooperation with the school districts pursuant to separate agreements, the community benefits for local schools would be valued in the aggregate at no less than 10 times the legally-required amount, which would represent a total financial contribution of approximately \$40 million. If the school districts agree to these benefits, the following are strongly encouraged:

- Construction and 34-year charitable lease of a new 10,000 square foot, turn-key High School science and engineering “Innovation Center” intended to serve as:
  - An incubator space for new student-led businesses,
  - A hub for FUHSD’s work-based learning initiatives,
  - A place for robotics teams to compete,
  - Space for student makers from a variety of disciplines to create, and
  - A Black Box Theatre and Stagecraft Center.

The purpose of this large, flexible, and multi-use space would be for FUHSD high school students to engage in projects together, collaboratively across all district schools, while collaborating with members of the greater community.

- Construction and 34-year charitable lease of up to 5,000 square feet of classroom and/or administrative space for FUHSD's Adult School to assist in its mission to prepare its students to achieve educational, career, and personal goals and its commitment to serve the life-long learning needs of the residents of the district's diverse community.

Solutions to create net additional enrollment capacity for hundreds of CUSD students, beyond what is generated by the Plan Area, and enhance the quality of instruction and student learning. The additional capacity solutions would be agreed to with CUSD through a definitive agreement and subsequent approval process. Examples of such enrollment capacity benefits could include:

- A new 700 student elementary school at the former Nan Allan Elementary School site;
- Replacement of all portable classrooms at Collins Elementary School with permanent classrooms;
- Improvement and expanded utilization of athletic and recreation facilities at the Nan Allan/Collins Elementary School location;
- Funding a \$1,000,000 endowment for the long-term sustainability of the CUSD 8<sup>th</sup> Grade Yosemite Science Program.
- In addition, despite the fact for-rent residential units within Plan Area would not enjoy the legal or economic benefits of individually parcelized "for-sale" units, payment of the equivalent applicable parcel tax to each of the districts for each unrestricted apartment unit allowed by the Specific Plan, subject to additional negotiated terms with the school districts, which annual payment is currently estimated to be approximately \$135,372 in the aggregate.
- **Facilitating Experienced Based Learning:** Leases would include obligations that office and retail tenants in the Plan Area participate in the enhancement of FUHSD students' experience-based knowledge and opportunities for learning-by-doing by, for example, offering business-environment internship, scholarship and/or mentoring opportunities or classroom-environment special curriculum, among others.

#### Housing Benefits

- **Affordable Worker Housing:** To the extent permitted by law, the Plan Area would be strongly encouraged to comply with the City's BMR Housing Mitigation Program by providing affordable units on-site rather than paying the City's in-lieu fee and, to the extent permitted by law, giving CUSD and FUHSD teachers housing priority.
- **Innovative Senior Housing:** Dedication of at least 80 housing units to senior housing use, in accordance with local, state and federal law, to allow local seniors to remain in their community and near friends and/or family and to promote longevity, where all or a portion of such units are strongly encouraged to be designed to accommodate an innovative, amenity-rich active senior "co-housing" environment.

### Land Use and City Revenue Benefits

- **Early Entertainment Uses:** Ensure the delivery of at least 25 percent of the retail component, including a new multiplex movie theater, in the initial construction sequence of the Plan Area (not including the hotel on Block 13) and allowing for the continuous operation of the existing multiplex movie theater during such initial construction sequence.
- **Prompt Demolition:** To ensure swift completion of the remainder of the Plan Area, a commitment to demolish 100 percent 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.
- **Incubator/Start-Up/Mid-Size Company Space:** Commitment to office tenant diversity by providing a minimum of 100,000 square feet of incubator work space and/or multi-tenant office spaces for multiple start-ups and/or emerging or mid-size companies, with a preference for local companies.
- **Residential-Area Plan Sensitivity:** Protect adjacent residential property owners by retaining healthy trees and existing walls and encouraging inactive and/or generously set-back building facades along the Plan Area's western property line.

### Mobility and Connectivity Benefits

- **Pedestrian Friendly Zone:** A goal to establish such a successful retail model, efficient traffic circulation plan, and popular bicyclist and pedestrian environment to enable the majority of the streets in the Plan Area to be permanently closed (market conditions permitting), thereby creating a "car-free" Town Center environment in the Plan Area west of Wolfe Road.
- **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, an unprecedented restriction on a "specific plan" area.
- **Free Community Shuttle:** Require that a project applicant spearhead and provide substantial funding for a community effort to provide a free community shuttle, in partnership with the City, VTA, local school districts, property owners, and/or corporate employers.
- **Bike-Pedestrian Trails Funding:** If approved by the City, provide a \$6 million cash donation to the City for the express purpose of analyzing and constructing an approximately 2-mile bicycle/pedestrian trail along the southern edge of I-280 between De Anza Boulevard and Wolfe Road.



- **Bike-Pedestrian Improvements:** Construct and/or fund additional improvements to pedestrian and bike trail(s) throughout the Plan Area, including along the entirety of the existing Perimeter Road, and in the Plan Area vicinity to improve Safe Routes to Schools and address both bike and pedestrian safety and traffic concerns.
- **Freeway Interchange, Overpass, and Segment Funding:** Consistent with the Plan Area’s environmental design features, provide a fair share financial contribution of \$30 million for freeway infrastructure, specifically the build-out of the roadway improvements planned for Wolfe Road and I-280 overpass and interchange and future I-280 freeway segment improvements, to address traffic congestion.
- **Traffic Signal Improvements:** Consistent with the Plan Area’s environmental design features, fund traffic signal timing improvements along Wolfe Road between Stevens Creek Boulevard and I-280, as well as locations throughout the City, to streamline traffic flow in the surrounding area.

**3.4.12 Environmental Design Features**

The Specific Plan incorporates Environmental Design Features (EDFs) to ensure that development in the Plan Area (excluding Block 13, which has an entitled hotel project) avoids or minimizes environmental effects with appropriate sensitivity to the land, its resources, and adjacent property. The Specific Plan applicant(s) or designee(s) (excluding Block 13 or a Block 14 applicant not processed as part of the Town Center/Community Park) would implement all EDFs and the City would implement a monitoring and enforcement program to ensure compliance. The monitoring and enforcement program would be administered by the Community Development Director or designee. The EDFs are listed in **Table 3-2: Environmental Design Features**. The Environmental Design Features (EDFs) included in this EA are from the Vallco Town Center Specific Plan (Appendix A). To make the EDFs from the Specific Plan easily recognizable in this document, the EDF number from the Specific Plan is referenced.

**Table 3-2: Environmental Design Features**

<b>Aesthetics</b>
<p><b>24. Lighting:</b> The Town Center/Community Park applicant and other project applicants for future development shall comply with the lighting guidelines in the Specific Plan which would prevent unnecessary glare from unshielded or undiffused light sources. The following guidelines are required to avoid light trespass across property lines:</p> <ul style="list-style-type: none"> <li>• Unnecessary glare from unshielded or undiffused light sources should be avoided. Commercial buildings and landscaping can be illuminated indirectly by concealing light features within buildings and landscaping to highlight architectural features and avoid intrusion into neighboring properties.</li> <li>• Light fixtures should be directed downward from the horizontal plane of the light source to prevent unnecessary light spillover.</li> </ul>
<b>Air Quality</b>
<p><b>25. Dust Control:</b> The Bay Area Air Quality Management District (BAAQMD) Best Management Practices for dust control shall be required for all construction activities within the Town Center/Community Park. These measures will reduce dust emissions primarily during soil movement, grading and demolition activities, but also during vehicle and equipment movement on unpaved project sites:</p>

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 mph.
5. All streets, 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 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of CCR). 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. A publicly visible sign shall be posted 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. BAAQMD’s phone number shall also be visible to ensure compliance with applicable regulations.

**26. Construction Emissions Minimization:** The Town Center/Community Park applicant and other project applicants for future development shall require in its construction specifications an Emissions Reduction Plan that requires the following:

- That all off-road equipment shall have engines that meet either U.S. EPA or California Air Resources Board (CARB) Tier 4 final off-road emission standards. If engines that comply with Tier 4 off-road emission standards are not commercially available, then the contractor shall provide the next cleanest piece of off-road equipment as provided by the step down schedules in the table below. “Commercially available” shall mean the availability of Tier 4 equipment taking into consideration factors such as: (i) critical path timing of construction; (ii) geographic proximity to the Project site of equipment; and (iii) geographic proximity of access to off haul deposit sites. The applicant(s) and contractor shall maintain records concerning its efforts to comply with this requirement.

**Off-Road Equipment Compliance Step-Down Schedule**

Compliance Alternative	Engine Emission Standard
• 1	• Tier 4 Interim
• 2	• Tier 3
• 3	• Tier 2

Abbreviations:

CARB = California Air Resources Board

N/A = not applicable

Note: How to use the table: If the requirements of the above bullet cannot be met, Compliance Alternative 1 shall be met. If Compliance Alternative 1 cannot be met, then Compliance Alternative 2 would need to be met. If Compliance Alternative 2 cannot be met, then Compliance Alternative 3 would need to be met.

- The idling time for off-road and on-road equipment be limited to no more than two minutes, except as provided in exceptions to the applicable state regulations regarding idling for off-road and on-road equipment. Legible and visible signs shall be posted in multiple languages (English, Spanish, and Chinese) in designated queuing areas and at the construction site to remind operators of the two minute idling limit.
- Construction operators shall properly maintain and tune equipment in accordance with manufacturer specifications.

**Biological Resources**

**27. Building Materials:** To limit reflectivity and prevent exterior glass from attracting birds, projects shall use low-reflectivity glass to minimize bird collision. Low-reflectivity glass shall be used for the entirety of a building’s glass surface (not just the lower levels nearest trees where bird collisions may be the most common), and other measures shall be undertaken for avian safety.

**28. Tree Replacement:** Prior to the issuance of the first demolition permit, the Town Center/Community Park applicant and other project applicants for future development shall submit a Tree Management Plan for review and approval by the City of Cupertino. The Tree Management Plan shall be prepared in compliance with the Municipal Code sections that address retention, relocation, and replacement of trees.

**29. Nesting and Migratory Bird Surveys:** The Town Center/Community Park applicant and other project applicants for future development shall retain a qualified biologist to perform nesting bird surveys prior to prior to tree pruning, tree removal, transplantation, ground disturbing activities, or construction activities that could affect nesting and migratory birds. Preconstruction surveys are not required for tree removal, tree pruning, and ground disturbance or construction activities outside the nesting period. All necessary vegetation clearing shall be performed prior to the nesting season, if at all possible. Vegetation can be cleared and maintained to prevent migratory bird nesting. Recommendations of the biologist shall be implemented such that no birds, nests with eggs, or nests with hatchlings are disturbed. An annual report shall be submitted to the City of Cupertino and the California Department of Fish and Wildlife (CDFW) documenting the observations and actions implemented to comply with this Environmental Design Feature.

**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.

**Cultural Resources**

**31. Signage Program:** If the Town Center/Community Park applicant desires to maintain the existing Vallco Freeway Oriented Sign, it shall do so in accordance with the signage program included in the Specific Plan. In view of the changes in land use and new design themes and characteristics described in this Specific Plan, the applicable signage program includes guidelines to address the architectural integrity of the Vallco Freeway-Oriented Sign, while also allowing for modifications.

**32. Archaeological monitor:** The Town Center/Community Park applicant and other project applicants for future development shall retain an archaeological monitor to inspect the ground surface at the completion of demolition activities as they occur to search for archaeological site indicators. If archaeological resources are found to be significant, the archaeological monitor shall determine appropriate actions, in coordination with a qualified archaeologist, City staff, and the project applicant(s).

<p><b>33. Paleontological monitor:</b> The Town Center/Community Park applicant and other project applicants for future development shall retain a paleontological monitor to respond on an as-needed basis to address unanticipated paleontological discoveries. In the event that paleontological resources are encountered during grading and construction operations, all construction activities shall be temporarily halted or redirected to permit a qualified paleontologist to assess the find for significance. If paleontological resources are found to be significant, the paleontological monitor shall determine appropriate actions, in coordination with a qualified paleontologist, City staff, and the project applicant(s).</p>
<p><b>Geology, Soils, and Mineral Resources</b></p>
<p><b>34. Geotechnical Report Recommendations:</b> Prior to the issuance of grading permits or improvements plans, the Town Center/Community Park applicant and other project applicants for future development shall demonstrate to the satisfaction of the Director of Public Works that all earthwork operations, including site preparation, and the selection, placement, and compaction of fill materials have incorporated the recommendations and the project specifications set forth in the <i>Geotechnical Investigation</i> (TRC, 2015) to ensure the safety of people and structures.</p>
<p><b>35. Site-Specific Geotechnical Reports:</b> Prior to the issuance of grading permits or improvements plans, the Town Center/Community Park applicant shall be required to prepare and submit site-specific Geotechnical Reports that would be reviewed and approved by the City of Cupertino. All earthwork operations, including site preparation, and the selection, placement, and compaction of fill materials shall incorporate the recommendations and the project specifications set forth in the site-specific Geotechnical Report to ensure the safety of people and structures.</p>
<p><b>Greenhouse Gas Emissions</b></p>
<p><b>36. Central Plant Boilers Carbon Offsets:</b> Prior to completion and operation of any Central Plant Boilers with emissions above 10,000 MT CO<sub>2</sub>e/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 CO<sub>2</sub>e/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.</p> <p>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.</p>
<p><b>Hazards and Hazardous Materials</b></p>
<p><b>37. Hazardous Materials Business Plan:</b> 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.</p>
<p><b>38. Renovation or Demolition of Existing Structures:</b> 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.</p>
<p><b>39. Soil Management Plan:</b> 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.</p>

Noise
<p><b>40. On-Site Construction Noise:</b> 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.</p> <p>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:</p> <ul style="list-style-type: none"> <li>• Along the western boundary of the Town Center/Community Park and Block 14, 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.</li> <li>• Require that all equipment be fitted with properly sized mufflers, and if necessary, engine intake silencers.</li> <li>• Require that all equipment be in good working order.</li> <li>• Use quieter construction equipment models if available, and whenever possible, use pneumatic tools rather than using diesel or gas-powered tools.</li> <li>• Place portable stationary equipment as far as possible from existing residential areas, and if necessary, place temporary barriers around stationary equipment.</li> <li>• Whenever possible, require that construction contractors lift heavy equipment rather than drag.</li> <li>• 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.</li> <li>• Assign a noise control officer to ensure that the above requirements are being implemented.</li> <li>• 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.</li> </ul>
<p><b>41. Haul Traffic Noise:</b> 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.</p>
<p><b>42. Acoustical Assessment:</b> 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:</p> <ul style="list-style-type: none"> <li>• Install HVAC systems for all residential units to ensure that windows and doors can remain closed during warm weather;</li> <li>• Install double-glazed windows, especially on sides of buildings that are adjacent to busy roadways;</li> <li>• Ensure that all windows and doors are properly sealed; and</li> <li>• Ensure that exterior wall building materials are of an adequately rated Sound Transmission Class.</li> </ul>

Transportation and Circulation	
<p><b>43. Level of Service (LOS) at Local Intersections:</b> Prior to the issuance of the first certificate of occupancy, 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 geometric and/or signal improvements (in close collaboration with the applicable governing agencies) have been implemented at the following intersections alleviating the increase in delay due to the addition of net project traffic. To improve traffic operations where no geometrical improvements are deemed necessary, the Town Center/Community Park applicant, in conjunction with City Staff, shall contribute toward software acquisition and implementation that would improve traffic signal operations and signal coordination along the study area roadways. These improvements are subject to future City approval. The City shall have the discretion to modify these improvements or require alternative improvements, as determined by the Public Works Director, provided the modified or alternative improvements provide similar congestion relief and are similar in scope and cost.</p>	
Intersection	Improvements
De Anza Blvd / Homestead Rd	In the AM peak, provide an eastbound right turn overlap phase
De Anza Blvd / Stevens Creek Blvd	In the PM peak, provide an eastbound right turn and a northbound right turn overlap phases
De Anza Blvd / McClellan Rd	In the PM peak, provide an eastbound right turn overlap phase
De Anza Blvd / Bollinger Rd	In the AM peak, provide a westbound right turn overlap phase
Wolfe Rd / Stevens Creek Blvd	Add a second southbound left turn lane by widening 400 feet along project frontage and modify the signal accordingly. In addition, provide an overlap phase for the southbound right turn and the eastbound right turn. Alternatively, if the City prioritizes the retention of trees, the City has the option to require the applicant to provide \$250,000 as an in lieu payment for traffic improvements in the area
Stevens Creek Blvd / Calvert Dr /I-280 Ramps	The intersection traffic operations will benefit due to the implementation of new traffic signal software
<p><b>44. Level of Service at Freeway Segments:</b> Prior to the issuance of the first certificate of occupancy, the Town Center/Community Park applicant and other project applicants for future development shall pay a voluntary fair share contribution of \$4,000,000 towards planned transportation projects identified in VTA’s Valley Transportation Plan 2040 (VTP 2040) that would improve traffic operations of the impacted freeway segments and provide added transportation capacity on parallel facilities. The fair share contribution amount will be calculated in consultation with VTA staff with the development’s contribution to the impacted freeway segment.</p>	
<p><b>45. Queues at Local Intersections:</b> Prior to the issuance of the first certificate of occupancy, the Town Center/Community Park applicant and other project applicants for future development shall demonstrate to the satisfaction of the Public Works Director that geometrical improvements and signal phasing improvements (in close collaboration with the applicable governing agencies) have been implemented at the following intersections to alleviate queue length due to the addition of the net project traffic. To improve traffic</p>	



operations where no geometrical improvements are deemed necessary, the Town Center/Community Park applicant and other project applicants for future development shall contribute \$2,000,000 to \$3,000,000 toward software acquisition and implementation that would improve traffic signal operations and signal coordination along the following study area intersections, subject to modifications approved by the Director of Public Works in coordination with other agencies:

**Intersections**

- De Anza Boulevard/I-280 Ramps North
- De Anza Boulevard/Stevens Creek Boulevard
- De Anza Boulevard/McClellan Road
- De Anza Boulevard/Bollinger Road
- De Anza Boulevard/SR 85 Ramps South
- Stevens Creek Blvd/Perimeter Road
- Wolfe Road/El Camino Real
- Wolfe Road/Fremont Ave
- Wolfe Road/Inverness Avenue
- Wolfe Road/Vallco Parkway
- Wolfe Road/Stevens Creek Boulevard
- Tantau Avenue/Pruneridge Avenue
- Stevens Creek Blvd/Agilent Driveway

**46. Queues at Intersection - De Anza Boulevard/Stevens Creek Boulevard, PM Peak, Westbound Left:** To potentially eliminate the need to lengthen the westbound left turn pocket at this intersection, and prior to the issuance of final occupancy for each building sequence, the Town Center/Community Park applicant and other project applicants for future development shall evaluate the PM peak hour queue length to confirm if alternative signal phasing and/or geometric improvements would achieve level of service or queue that is equivalent to lengthening the westbound left turn pocket at this intersection. If geometric and/or signal phasing improvements would result in the same or better level of service and queue, then lengthening the left-turn pocket would not be required.

**47. Transit/East Side Transit Center & Community Shuttle:** The Town Center/Community Park applicant and other project applicants for future development shall implement the following transit improvements prior to issuance of certificate(s) of occupancy that trigger a level of service equivalent to the existing occupied Vallco Mall level of service:

1. Install a public transit center on the east side of the Specific Plan Area to serve office workers.
2. Spearhead and provide substantial funding for a partnership with the City, VTA, local school districts, property owners, and/or corporate employers (see Community Benefit 16 above).

**48. Transit/Mobility Hub:** The Town Center/Community Park applicant and other project applicants for future development shall implement the following transit improvements prior to issuance of certificate(s) of occupancy for (i) the Block 1 buildings or (ii) the entirety of the Residential allocation:

Install a public transit center as part of the Mobility Hub on the north side of Stevens Creek Boulevard.

**49. Bicycles and Pedestrian Improvements:** The Town Center/Community Park applicant shall, prior to the issuance of the first certificate of occupancy, and to the extent not already constructed or funded by other existing commitments, implement the following bicycle and pedestrian improvements:

1. Install green color backed sharrows on Tantau Avenue between Stevens Creek Boulevard and Bollinger Road for Class III facilities.

<ol style="list-style-type: none"> <li>2. Install marked bike loop-detectors on southbound Portal Avenue at Stevens Creek Boulevard and convert all-way stop-control to two-way stop-control at the Portal Avenue and Wheaton Drive intersection with stops on Wheaton Drive.</li> <li>3. On Portal Avenue between Stevens Creek Boulevard and Wheaton Drive, install green color backed sharrows for a Class III facility, and install a ladder-style crosswalk at Amherst Drive and Portal Avenue, and install “neighborhood greenway” signage along Portal Avenue.</li> </ol>
<p><b>50. Bicycle and Pedestrian Funding:</b> The Town Center/Community Park applicant shall, prior to the issuance of the final certificate of occupancy, and to the extent not already constructed or funded by other existing commitments, implement the following bicycle and pedestrian improvements:</p> <p>If approved by the City, provide a \$6 million cash donation to the City for the express purpose to analyze and construct a 2-mile bicycle/pedestrian trail along the southern edge of Interstate 280 between De Anza Boulevard and Wolfe Road (See Community Benefit 17).</p>
<p><b>51. Construction Traffic Management:</b> The Town Center/Community Park applicant and other project applicants for future development shall prepare and maintain a Construction Management Plan (CMP) to minimize disruption to transportation facilities caused by short term construction activities. The CMP will include flagmen, schedules of potential closures, a construction hotline, delineation layout, truck routes, delivery schedules, and alternative routes, per city industry standards and requirements.</p>
<p><b>52. Transportation Demand Management Plan:</b> Prior to the issuance of the first certificate of occupancy, the Town Center/Community Park applicant and other project applicants for future office development shall prepare and implement 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. Future project applicant(s) for office developments must demonstrate to the satisfaction of the Public Works Director that a TDM manager has been appointed and retained with the responsibility to implement and monitor the TDM Plan and that the TDM Plan incorporates the following:</p> <p><i>Vehicle Trip Reduction Targets</i></p> <p>The TDM Plan shall achieve an overall target reduction of 30 percent below applicable Institute of Transportation Engineers Office Use trip generation rates. These reductions shall be measured through counts of vehicles that enter and exit the site and comparing the results to established trip thresholds.</p> <p>The TDM Plan shall reduce the amount of vehicle traffic generated by future development within the Plan Area by shifting office employees from driving alone to using transit, carpooling, cycling, and walking modes through TDM measures, strategies, incentives, and policies. The TDM obligation in this measure is to apply for the lifetime of all Plan Area projects.</p> <p>The TDM Plan shall specify a phased implementation approach that provides initially for implementation of the TDM measures that are appropriate for multi-tenant offices (e.g., measures aimed at increased transit use), which are expected to be developed during the first phase of development, and then provides for more expansive TDM measures that are appropriate for large corporate office tenants in the remaining phases (such as shuttles). The Cupertino Director of Community Development shall have the authority and discretion to permit modification of the measures provided that the modifications continue to achieve the overall trip reduction objective and/or Cupertino Director of Community Development is satisfied that all feasible TDM measures are being implemented if the overall trip reduction objective is not being met.</p> <p>As part of the annual monitoring process, vehicle trip generation estimates, based on the land uses and their sizes, shall be prepared by a transportation professional, who shall use the trip generation rates and internalization, public transit ridership reductions, and TDM reductions to create the thresholds. The estimates and thresholds shall be reviewed and approved by the City's Traffic Engineer.</p>

*Measures and Strategies*

The TDM Plan shall identify the vehicle trip-reducing measures and strategies to be provided and implemented by future project applicant(s) for office developments within the Plan Area and those to be provided by individual tenants/employers. Some TDM measures and strategies shall be incorporated into the design of the site and the buildings. The following TDM measures should be considered for inclusion in the TDM Plan for some of all portions of the office development, to the extent feasible and appropriate, either as part of an initial TDM Plan or as options for enhanced or remedial measures if trip reduction targets are not met:

- Valet bicycle parking
- Bike supply vending machines (lights, batteries, locks, tubes, patches, small tools, etc.)
- On-site bicycle mechanic
- Bike share pods / community bike program
- Towel and laundry service for on-site showers
- Giveaway programs (bicycle, helmet, lock, light, etc.)
- Bike to School encouragement and incentive program
- Advanced carshare and rideshare matching services, such as real-time matching
- Financial incentives for carpoolers, e.g., gas cards
- Subsidized vanpools
- Subsidies for on-demand shared ride services
- Private shuttles for medium- or long-distance commutes
- Guaranteed ride home services

*Automobile Parking*

Future project applicant(s) for office development within the Plan Area shall implement aggressive shared parking and parking management programs to more efficiently utilize the available parking area. Applicant(s) shall provide monitoring of adjacent neighborhoods to identify parking intrusion due to insufficient parking supply.

*Monitoring*

The TDM Plan shall be monitored annually for the first 10 years from when the first certificate of occupancy is issued to gauge its effectiveness in meeting the thresholds and to make modifications to add, intensify, or change TDM measures. Monitoring shall commence one year after occupancy of the first phase of development. If the monitoring reveals that the trip reduction targets have not been exceeded in the last 3 years of the first 10 years of annual monitoring, the TDM monitoring shall be reduced to once every 2 years. However, if any biennial report reveals that the trip thresholds have been exceeded, the monitoring shall revert to annual monitoring until such time that the trip reduction targets have been met for three consecutive annual reports.

The TDM Coordinator shall be responsible for implementing monitoring activities consisting of traffic counts at the driveways to office parking locations, and reporting the results to the City of Cupertino. Traffic counts shall be conducted annually using mechanical counters or other devices approved by the City of Cupertino to measure the peak-hour entering and exiting vehicle volumes over a 3-day period, Tuesday through Thursday. The counts shall be conducted when schools are in session and during non-holiday weeks with fair weather. Counts will be averaged across the three days. The individual driveway volumes will be summed to provide the total office traffic volumes. The method(s) used to isolate office trips in shared-use parking facilities will be based on the site conditions, configuration, and occupancy at the time of the survey and will be approved by the City at that time. The volumes will be compared to the trip thresholds to determine whether the reduction in vehicle trips is being met for office use.

The TDM Coordinator shall use the results of the annual vehicle counts to prepare an annual report to be submitted to the City of Cupertino within 60 days of the vehicle counts presenting progress towards achieving the vehicle trip reduction target. The report shall include descriptions of the TDM measures in place, highlights of new or modified measures, summary results of the counts, and a conclusion whether the trip reduction targets are being met. If the morning and afternoon peak-hour trip reduction targets are met, no additional TDM strategies would be required.

#### *Remedial Action and Penalties*

If TDM Plan monitoring results show that the trip reduction target is not being met, future project applicant(s) for projects in the Plan Area will begin to accrue a penalty of \$5 per trip per weekday that exceeds the peak-hour thresholds, commencing from the first weekday following the end of the just-concluded count period. If no further action is taken by the project applicant(s), the penalty will be payable to the City every four months until the next annual count period (for a total of three payments per year), at which time a new count and monitoring cycle would start.

Future office development project applicant(s) may choose to amend the TDM Plan within 60 days following delivery of the annual report, subject to approval of the Public Works Director. An amendment shall identify changes to be implemented to attempt to meet the target trip reduction, which could include replacement and/or additional feasible TDM strategies. If the Public Works Director approves the amended TDM Plan, the penalty accrual shall resume 90 days after approval. However, future project applicant(s) shall have the option of conducting a new set of counts at any time after approval to determine whether the trip reduction target has been met. If the new counts indicate that the trip reduction target has been met, then the penalties accrued for the entire current annual cycle shall be waived. If the trip reduction target has still not been met, then the penalty shall be assessed starting from 90 days after approval of the amended TDM Plan, at a rate of \$3 per trip per weekday that exceeds the peak-hour thresholds, until the start of the next annual cycle.

If the City and future office development project applicant(s) cannot reach agreement on an amended TDM Plan, then the penalty shall resume accrual at the time the amended TDM Plan is rejected, and the penalty shall accrue at a rate of \$3 per trip per weekday that exceeds the peak-hour thresholds.

All penalty rates will be adjusted annually starting in 2016 according to the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose area.

**53. Potential Neighborhood Intrusion:** The Town Center/Community Park applicant and other project applicants for future development shall fund neighborhood traffic monitoring studies and provide fees to implement potential traffic calming improvements to minimize neighborhood traffic if needed. The City of Cupertino Traffic Calming Programs should be considered when evaluating traffic calming measures. Prior to the issuance of the first certificate of occupancy, the Town Center/Community Park applicant and other project applicants for future development shall provide up to \$300,000 for the City of Cupertino for potential neighborhood traffic improvements.

The monitoring program could include the following items:

- Identifying the monitoring areas (roadways where the monitoring will occur);
- Setting baseline conditions (number of parked vehicles and traffic volumes on the roadways);
- Determining thresholds for parking and traffic volume increases requiring action;
- Establishing the monitoring schedule; and
- Creating reporting protocols.

The baseline conditions shall be established prior to but within 1 year of initial occupancy. Monitoring would then occur annually for 5 years.

<p><b>54. Wolfe Road Interchange:</b> Prior to the issuance of certificate(s) of occupancy that triggers a level of service equivalent to the existing occupied Vallco Mall level of service, the Town Center/Community Park applicant and other project applicants for future development shall pay \$26 million contribution towards the planned transportation improvements at the I-280 and Wolfe Road interchange subject to design optimization based on level of service standard, other funding sources, and local match.</p>
<p><b>55. Queues at Intersection– Lawrence Expressway / Saratoga Avenue, AM Peak, Eastbound Left:</b> To potentially eliminate the need to lengthen the eastbound left turn pocket at this intersection, and prior to the issuance of certificate(s) of occupancy that triggers a level of service equivalent to the existing occupied Vallco Mall level of service, the Town Center/Community Park applicant and other project applicants for future development shall evaluate the queue length to confirm if alternative signal phasing and/or geometric improvements would achieve level of service and queue that is environmentally equivalent to lengthening the eastbound left turn pocket at this intersection. If geometric and/or signal phasing improvements would result in an equivalent level of service and queue, then lengthening of the left-turn pocket would not be required.</p>
<p><b>56. County Expressway Facilities: Lawrence Expressway:</b> Prior to the issuance of certificate(s) of occupancy that triggers a level of service equivalent to the existing occupied Vallco Mall level of service, the Town Center/Community Park applicant and other project applicants for future development shall pay a fair share contribution towards the following planned transportation improvements along Lawrence Expressway. The fair share shall be calculated as a portion of the total Specific Plan percentage fair share and consultation with County Roads and Airports Department subject to design optimization based on level of service standard, other funding sources, and local match.</p> <ul style="list-style-type: none"> <li>• Lawrence Expressway / Homestead Rd</li> <li>• Lawrence Expressway / Pruneridge Ave</li> <li>• Lawrence Expressway / Prospect Rd</li> </ul>
<p><b>Utilities and Service Systems</b></p>
<p><b>57. Sanitary Sewer Conveyance Facilities:</b> 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.</p>
<p><b>58. Potable Water Supply:</b> Prior to the issuance of building permits, the Town Center/Community Park applicant and other project applicants for future development shall demonstrate, to the satisfaction of the Public Works Director, that adequate water facilities are available at the time of permit issuance and will continue to be available until time of occupancy.</p>
<p><b>59. Potable Water Lines:</b> Prior to the issuance of any grading permits or improvement plans, the Town Center/Community Park applicant and other project applicants for future development shall design public water facilities in conjunction with the California Water Service Company engineer and City and the City of Cupertino engineer for implementation into the proposed improvements.</p>
<p><b>60. Recycled Water Lines:</b> Prior to the issuance of any grading permits or improvement plans, the Town Center/Community Park applicant and other project applicants for future development shall design landscape and irrigation plans utilizing recycled water as a source to meet all non-potable water demands as discussed in the Sustainability Strategies element in the Specific Plan.</p>
<p><b>61. Recycled Water Line Extension:</b> Prior to the issuance of final occupancy permits for 500,000 square feet of office space, the Town Center/Community Park applicant and other project applicants for future development shall provide to the Director of Public Works a status update of the Santa Clara Valley Water District’s Wolfe Road Recycled Water Facilities Project. Once the Wolfe Road Recycled Water Facilities Project is complete north to I-280, the applicant shall initiate the design, permitting and construction of the recycled line extension across I-280 to Wolfe Road at Stevens Creek Boulevard.</p>

### 3.5 Plan Area Construction Sequencing

The Specific Plan may be implemented over time and in a sequenced approach. All or any portion of the existing development would be permitted to remain in place and continue in commercial use, such that at any time the Plan Area may be improved partially with all or some of the existing buildings and partially with new development, which new development may include any of the uses authorized in the Specific Plan. If the Specific Plan is implemented over time, then any undeveloped site(s) for future phase(s) shall include provisions for interim landscaping and other attractive low maintenance improvements, and security and maintenance of any undeveloped land to be developed under future construction.

The Specific Plan contemplates that construction of the 148-room hotel on Block 13 would commence in the near term and would be built in a single phase. As there are no pending applications for a majority of Block 14, a portion of Block 14 may be used for Services, Facility Management & Loading and may be included in Construction Sequence 2.

Demolition and subsequent construction of the Mall portion of the Plan Area is expected to occur in a single phase over five years, with both sequenced and concurrent openings, assuming economic conditions are supportive. The actual timing of construction may vary from the expected duration. Staging of construction equipment and vehicles would primarily be on-site with some staging within the public right-of-way for the improvement/construction of the tunnels under Wolfe Road and the bridge over Wolfe Road.

Initial development of this part of the Plan Area is expected to start in the northwestern portion of the Vallco Shopping Mall property, in the location of the former Macy's department store and parking structure. Once this construction is completed, it is expected that the existing movie theaters, bowling alley, fitness center, and ice rink uses would be relocated and demolished. Construction may need to work around existing tenants until long term integration into other parts of the development are completed. Construction would likely continue south towards Stevens Creek Boulevard and on the remaining areas on the east side of Wolfe Road. Construction of the office and residential mixed-use components is expected to occur last.

As noted in Specific Plan Section 9.6, Construction Sequencing, it is the intent of the City that the entire Specific Plan would be built out quickly with a focus on delivering the retail and entertainment district for the public's enjoyment early. To ensure the timely construction of the Town Center Entertainment/Office/Residential District, no Certificate of Occupancy shall be issued for any office building until the shell and core of building located in Blocks 3 and 6 (entertainment, civic, and office uses) has been substantially completed.

Parking would be provided either in structured or surface parking such that adequate parking would be provided for each phase as they occur.

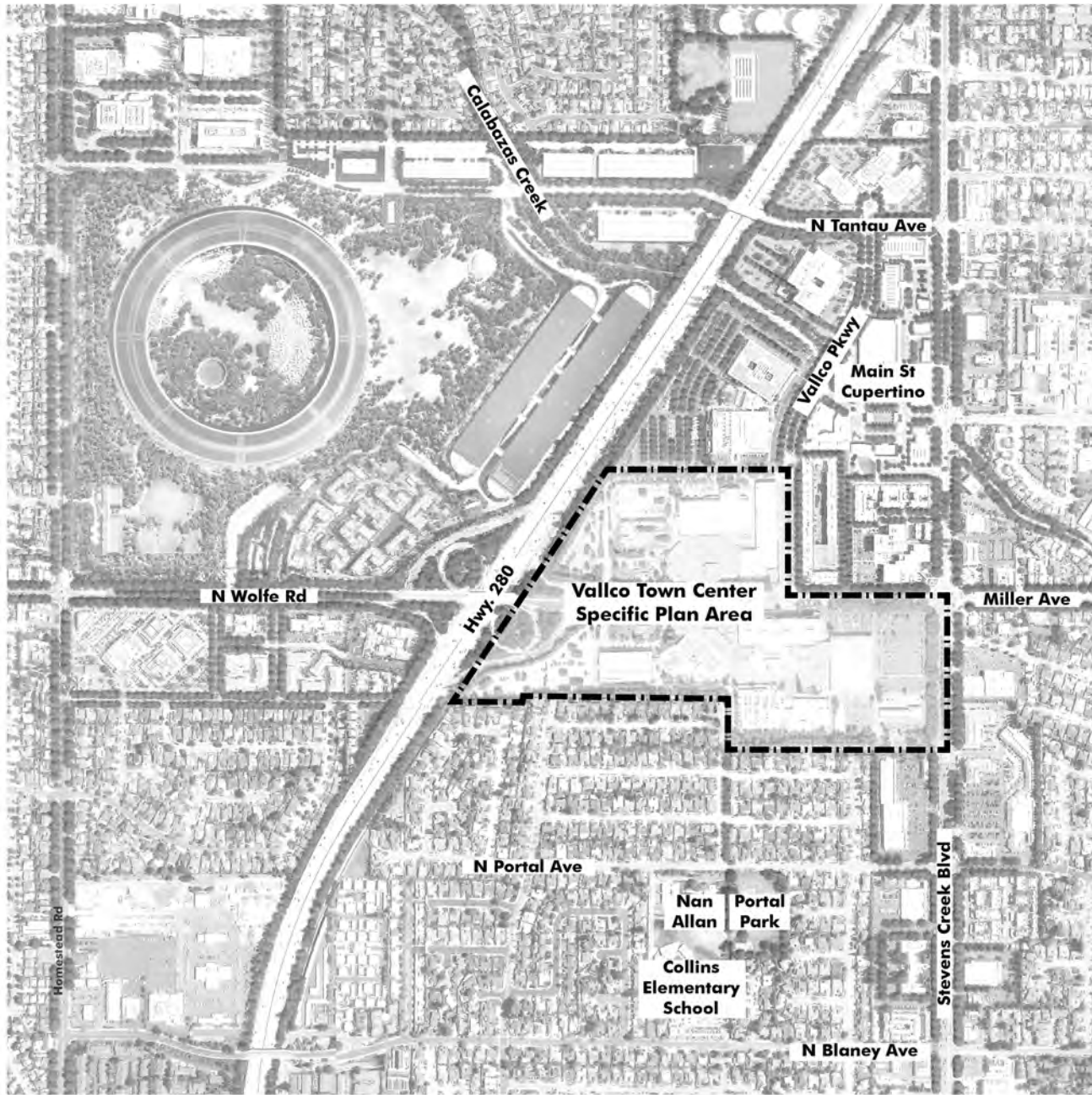


### 3.6 Environmental Sustainability

Chapter 5: Sustainable & Smart Cities of the Specific Plan establishes a number of environmental sustainability goals for the Plan Area. A critical aspect of the sustainability strategy would be a commitment to the construction of the Community Park and Nature Area within the Town Center/Community Park portion of the Plan Area, which would result in the following benefits:

- Improved outdoor comfort and user experience;
- Reduced stormwater runoff;
- Improved water quality;
- Reduced urban heat island;
- Minimizing impacts to air quality;
- Improved thermal insulation;
- Reduced energy consumption;
- Reduced noise;
- Extended life of building roof;
- Improved carbon storage; and
- Improved biodiversity;
- Improved community health and wellbeing;
- Improved social and financial systems;
- Improved infrastructure and environment; and
- Strengthened leadership and strategy.

Other initiatives, some in coordination with other agencies, include seeking to achieve the highest level of certification from a globally recognized environmental sustainability certification program, such as LEED Platinum certification or equivalent; using recycled water as the primary source of landscape irrigation; exploring strategies to maximize the use of renewable energy; and meeting or exceeding the requirements of the most current California Green Building Standards Code and California Energy Code.



Source: RVA, 2016

### Figure 3-1: Specific Plan Location

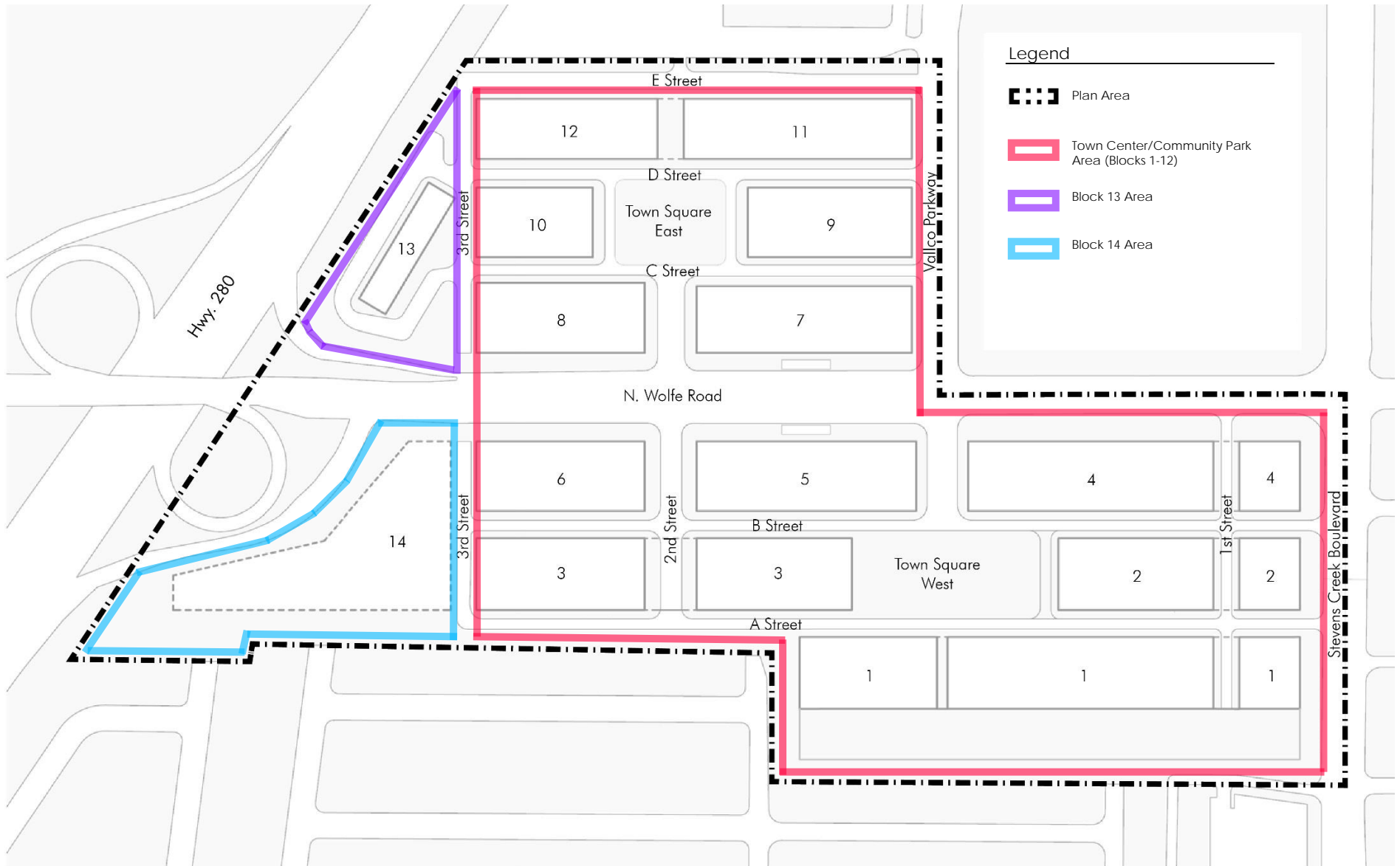
Vallco Town Center Specific Plan  
Environmental Assessment



Not to scale

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Source: RVA, 2016

### Figure 3-2: Specific Plan Area

Vallco Town Center Specific Plan  
Environmental Assessment

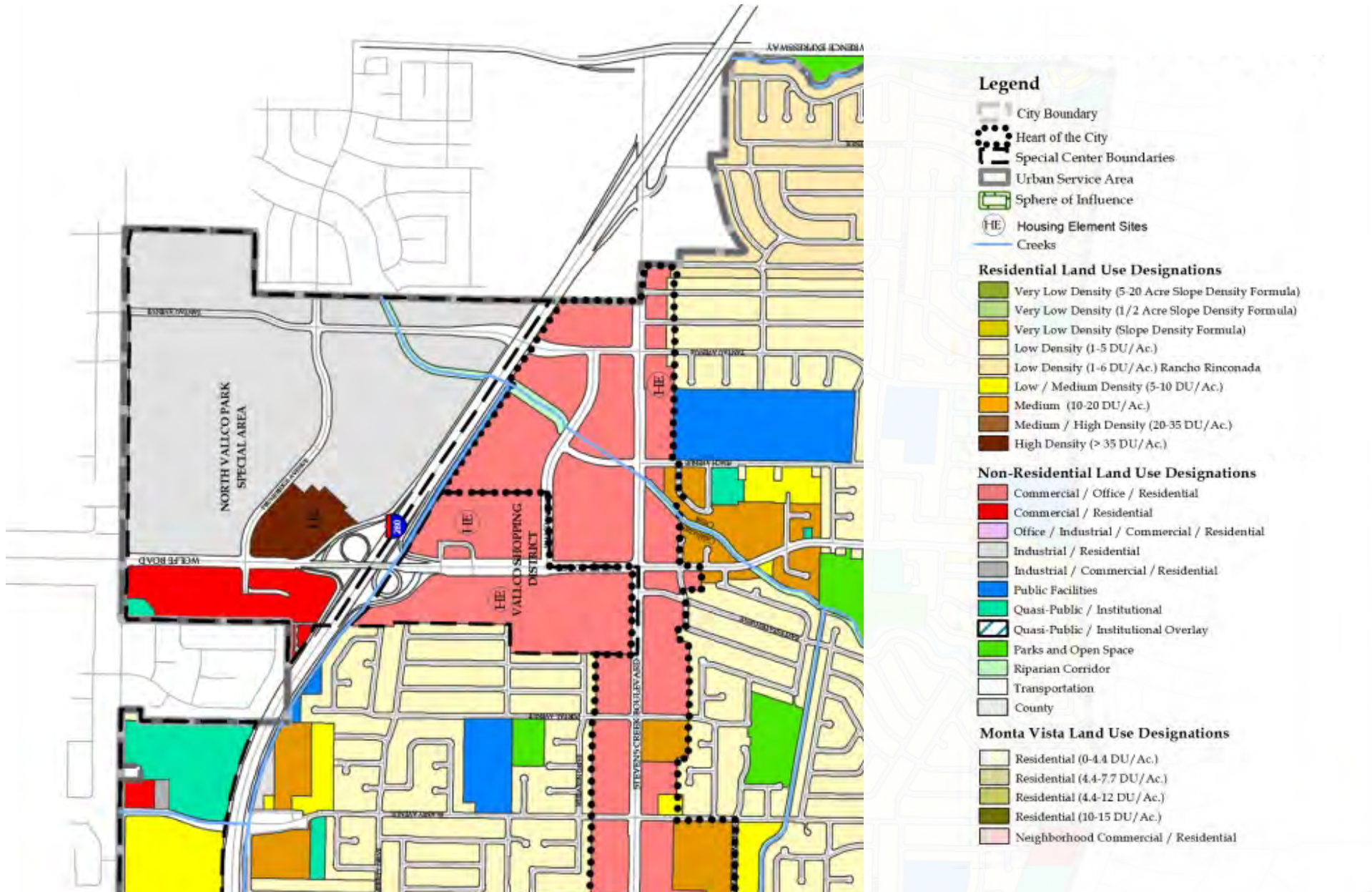


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Source: City of Cupertino General Plan, 2015

**Figure 3-3a: Existing General Plan Land Use Map**

Vallco Town Center Specific Plan  
 Environmental Assessment

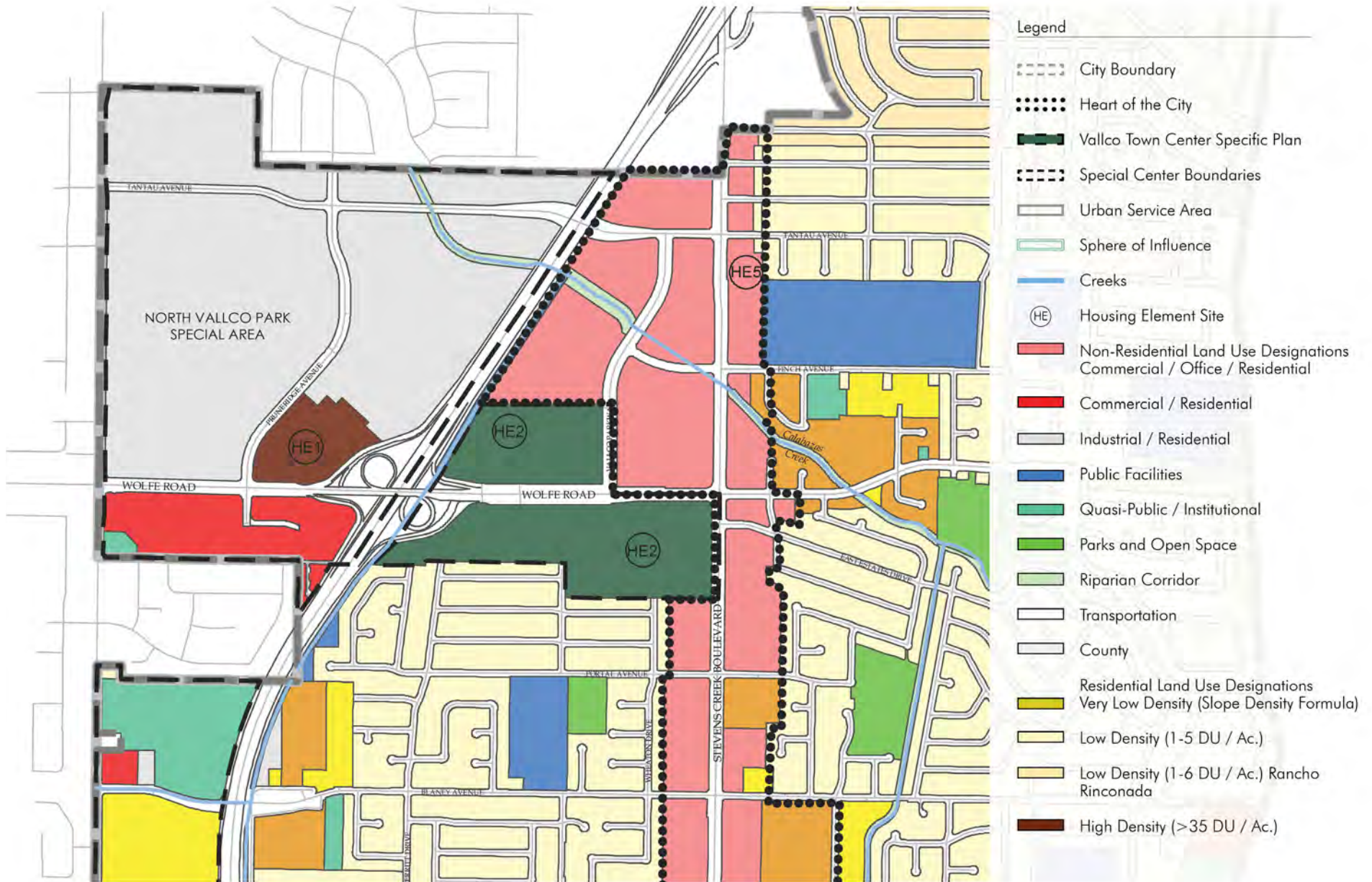


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Source: City of Cupertino, 2015; RVA, 2016;

### Figure 3-3b: General Plan Land Use Map As Amended by Initiative

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Environmental Assessment

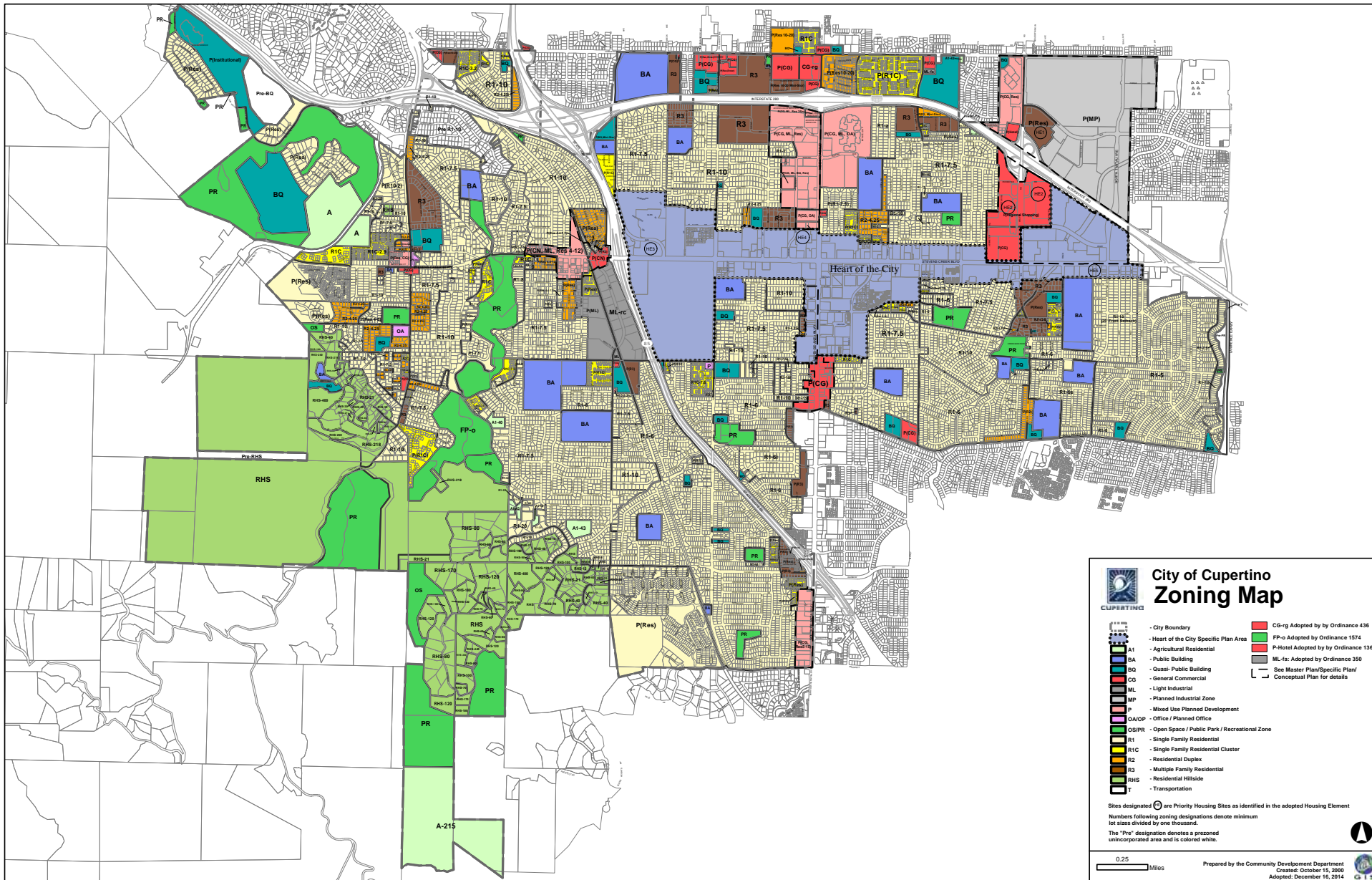


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Source: City of Cupertino Zoning Map, 2014

### Figure 3-4a: Existing Zoning Map

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 Environmental Assessment

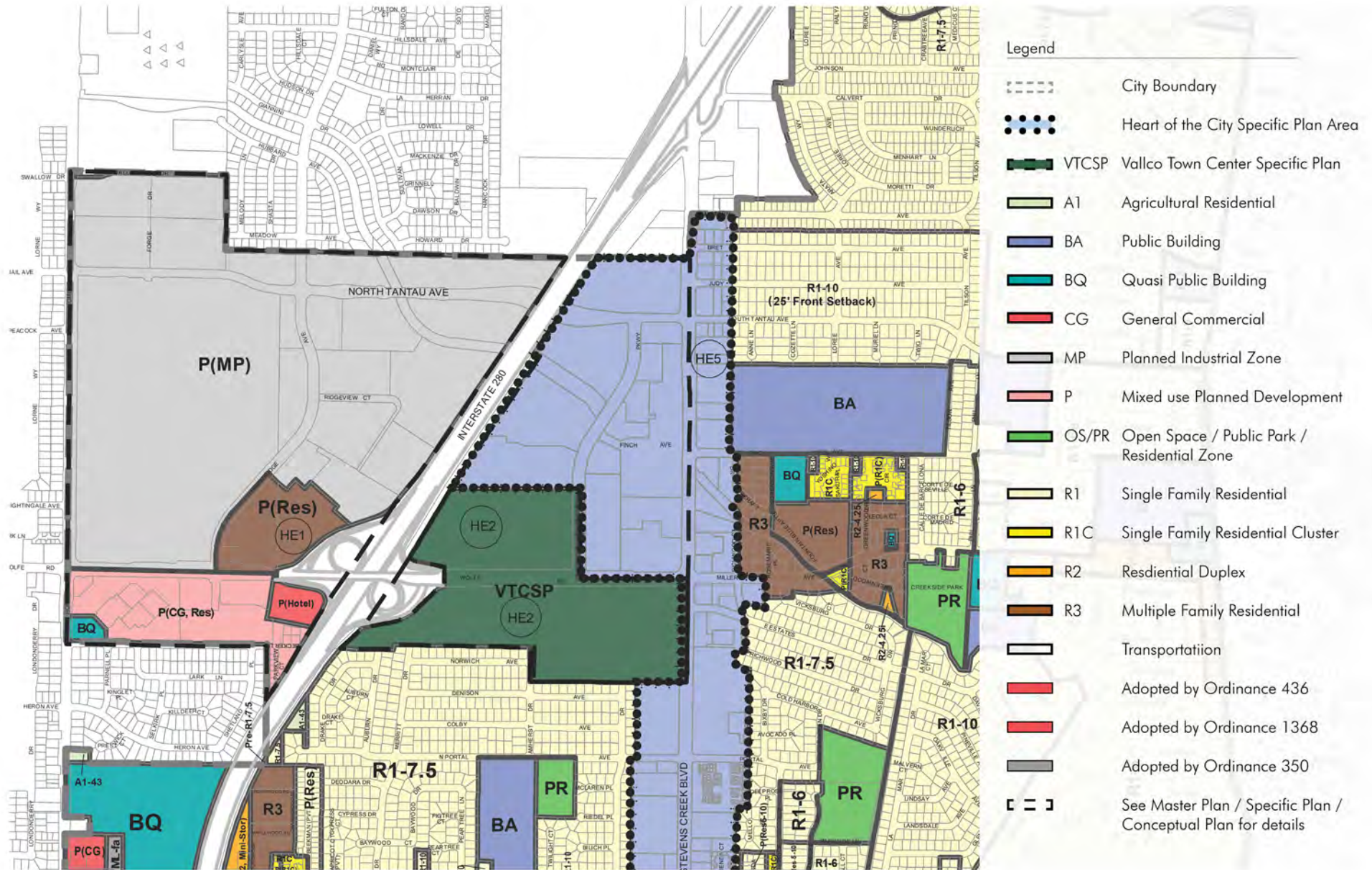


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Source: City of Cupertino, 2015; RVA, 2016;

### Figure 3-4b: Zoning As Amended by Initiative

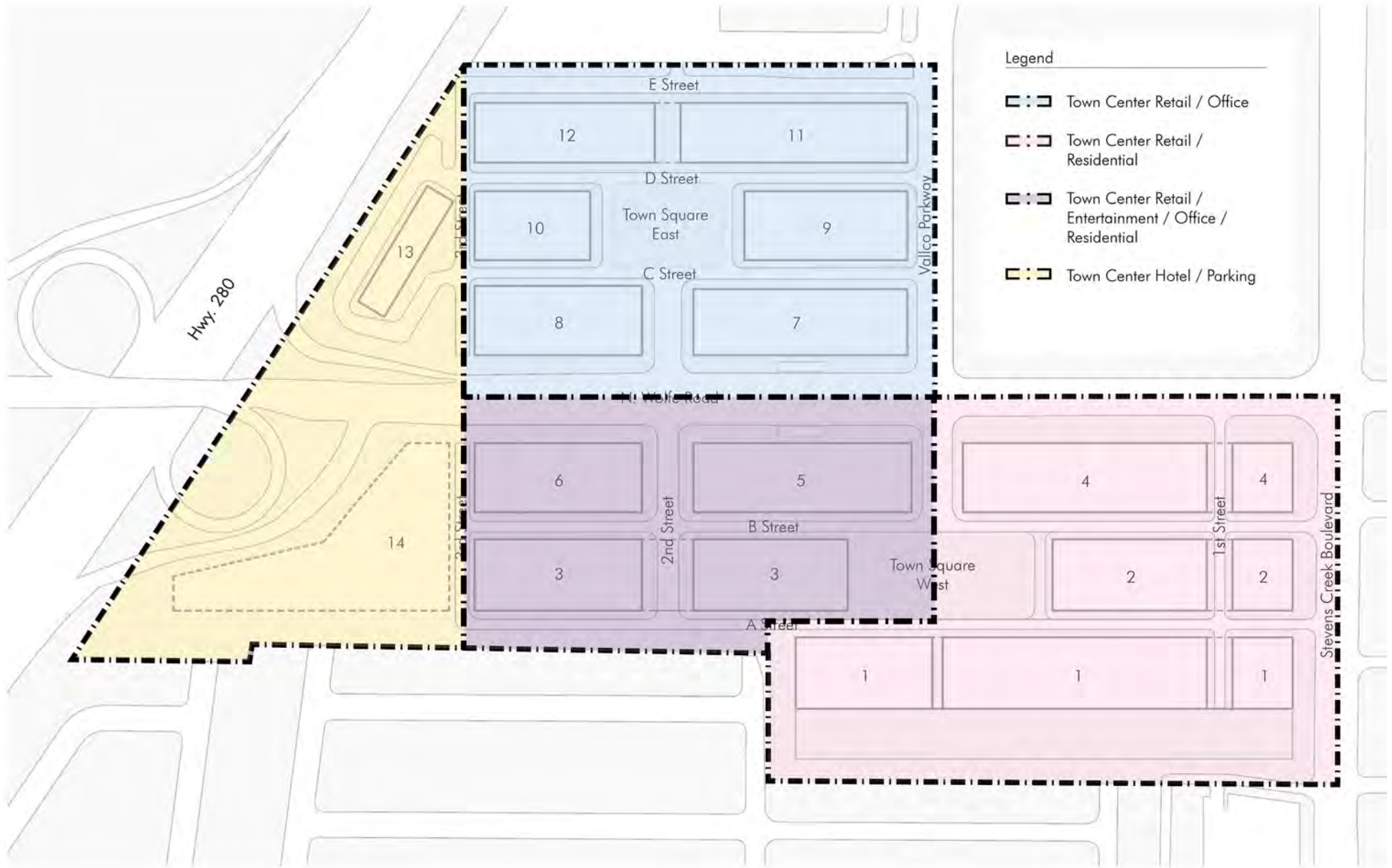
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Environmental Assessment



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Source: RVA, 2016

**Figure 3-5: Town Center Districts**

Vallco Town Center Specific Plan  
 Environmental Assessment

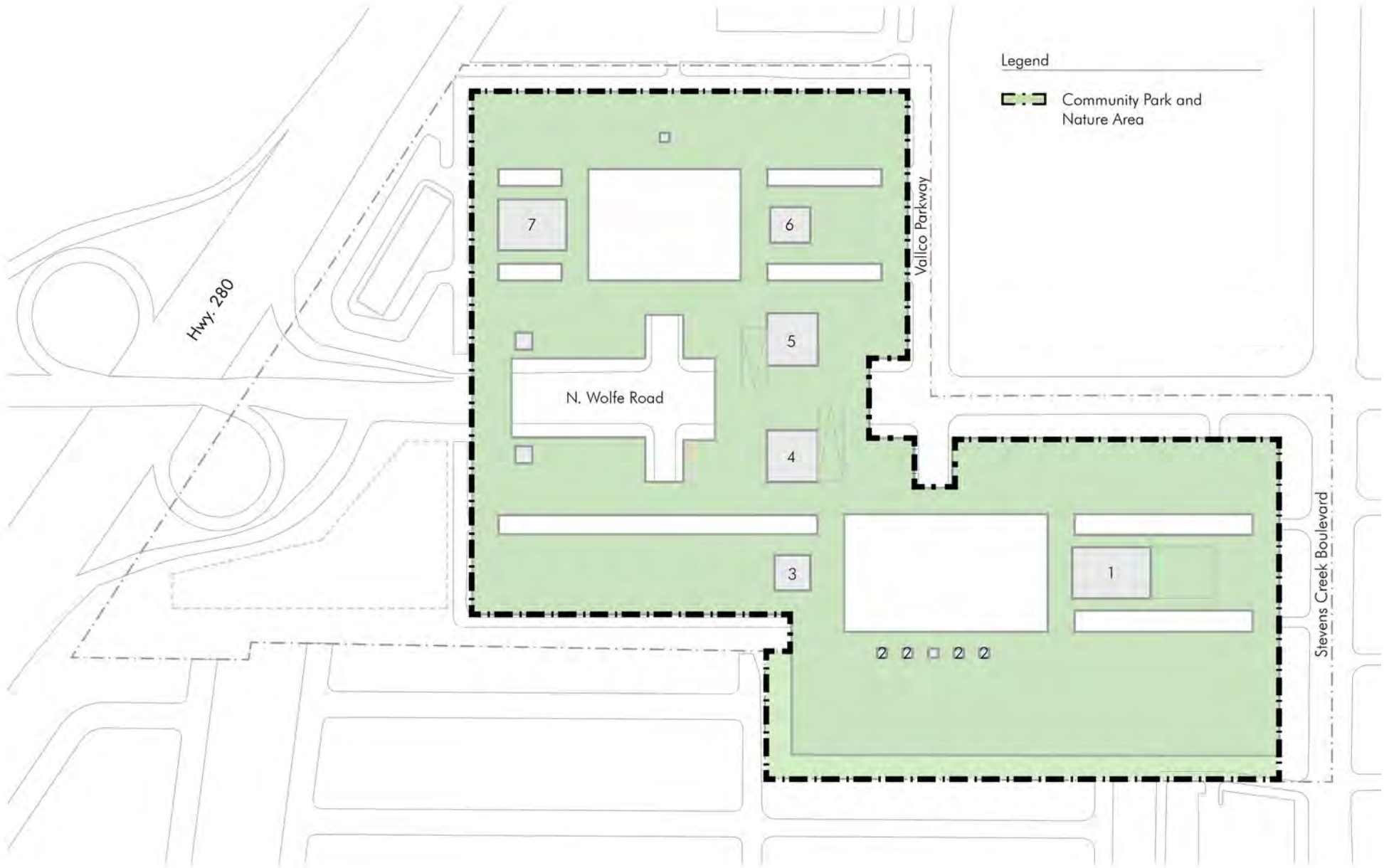


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Source: RVA, 2016

**Figure 3-6: Community Park and Nature Area District**

Vallco Town Center Specific Plan  
 Environmental Assessment



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Source: RVA, 2016

**Figure 3-7: Conceptual View of the Vallco Town Center Looking North from Stevens Creek Boulevard on A Street**

Vallco Town Center Specific Plan  
Environmental Assessment



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Source: RVA, 2016

### Figure 3-8: Conceptual View of the Vallco Town Center Looking East on Stevens Creek Boulevard

Vallco Town Center Specific Plan  
Environmental Assessment



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Source: RVA, 2016

**Figure 3-9: Conceptual View of the Vallco Town Center Looking North in Town Square West**

Vallco Town Center Specific Plan  
Environmental Assessment



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Source: RVA, 2016

### Figure 3-10: Conceptual Community Park and Nature Area

Vallco Town Center Specific Plan  
Environmental Assessment



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Source: RVA, 2016

### Figure 3-11: Conceptual Trail Network

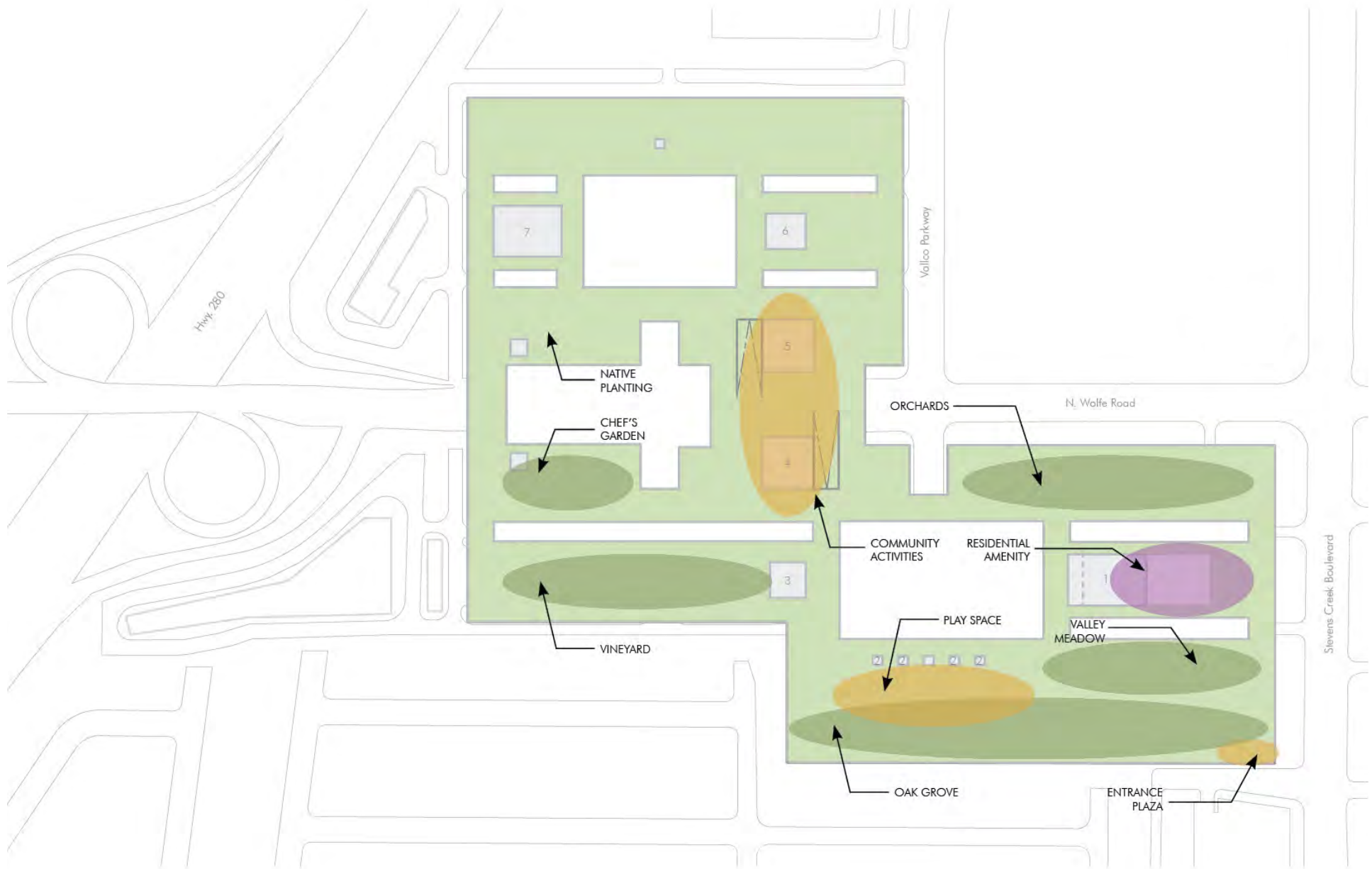
Vallco Town Center Specific Plan  
 Environmental Assessment



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Source: RVA, 2016

### Figure 3-12: Community Park and Nature Area

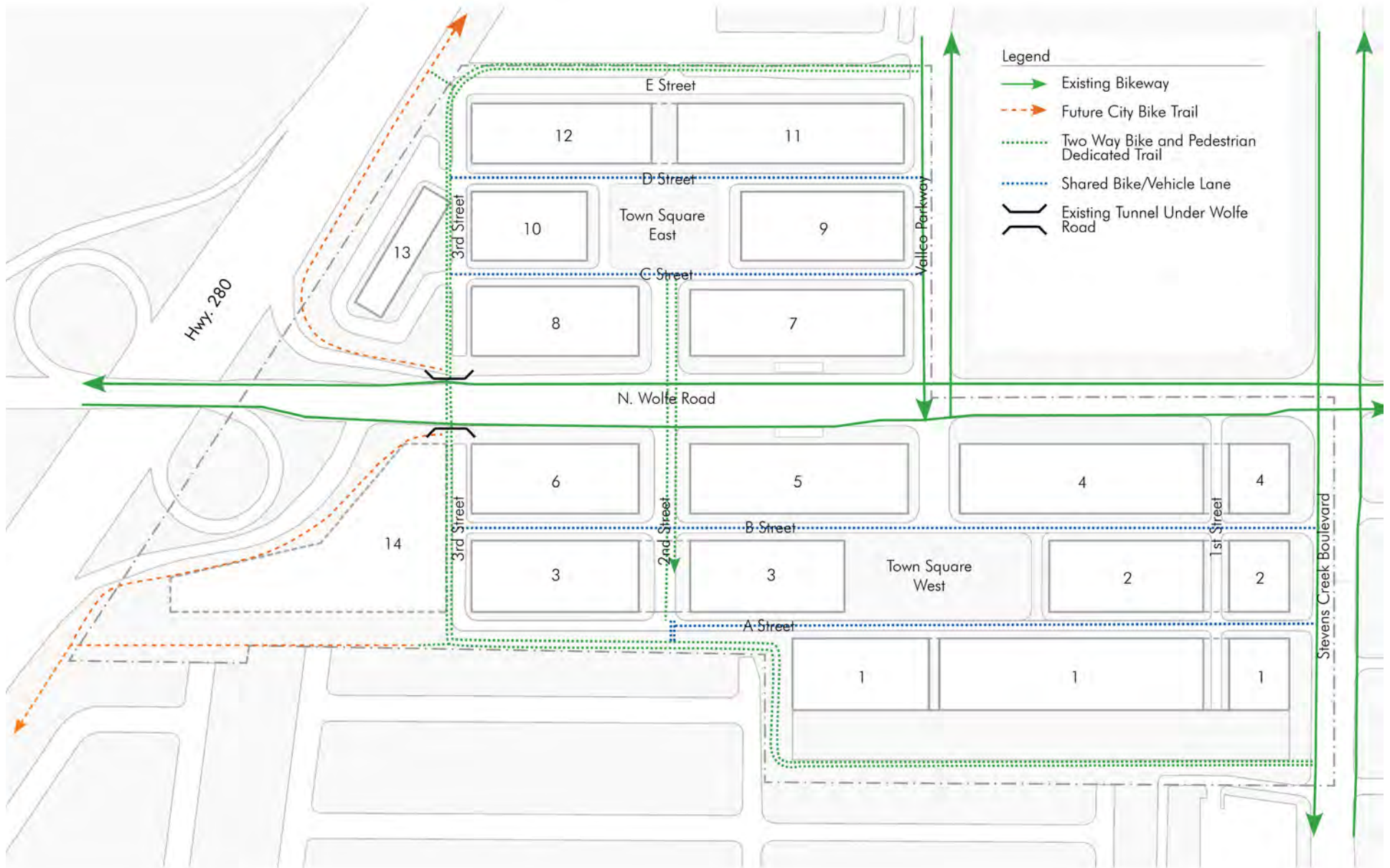
Vallco Town Center Specific Plan  
Environmental Assessment



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Source: RVA, 2016

### Figure 3-13: Conceptual Bicycle Connectivity Plan

Vallco Town Center Specific Plan  
 Environmental Assessment

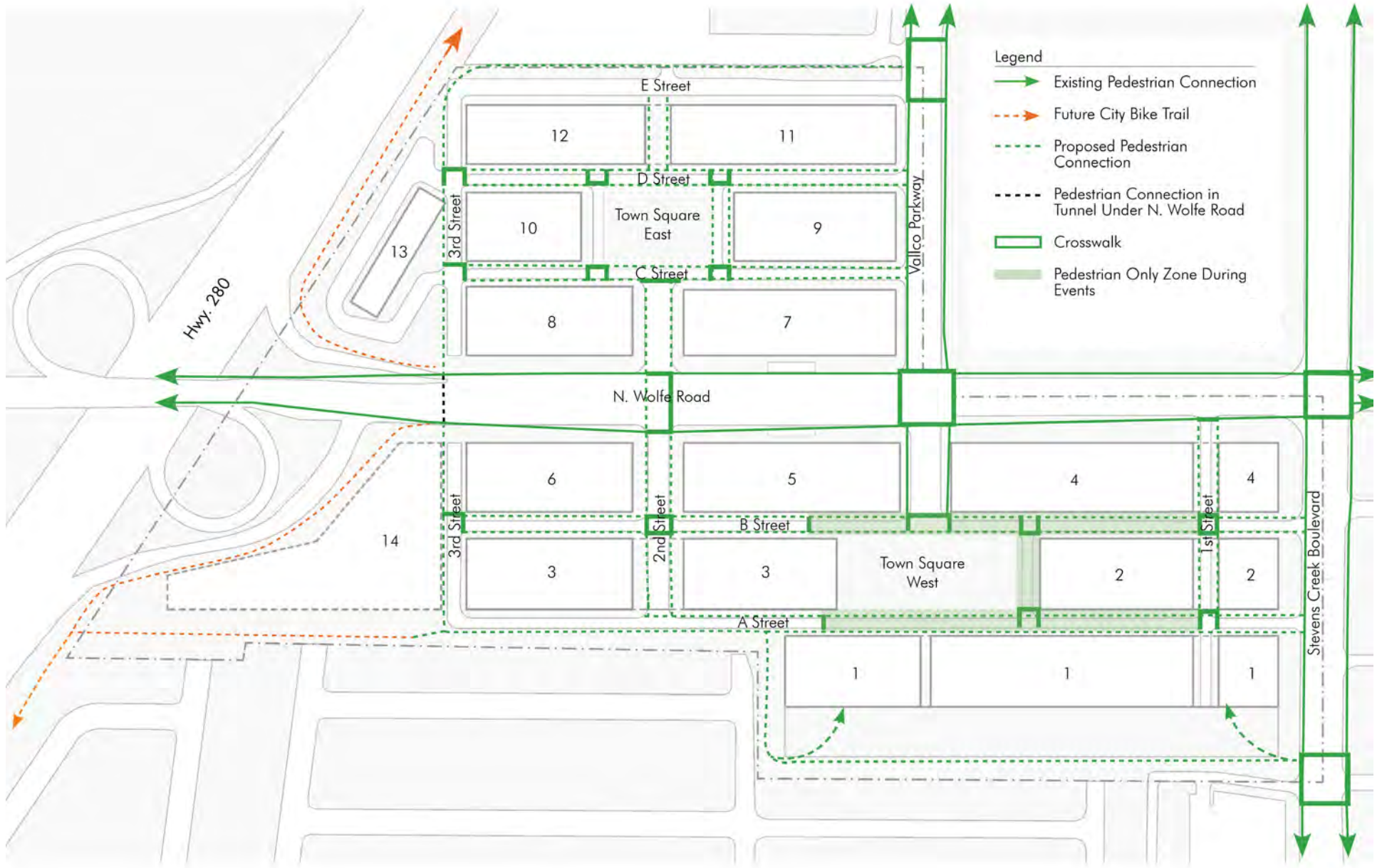


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Source: RVA, 2016

**Figure 3-14: Conceptual Pedestrian Connectivity Plan**

Vallco Town Center Specific Plan  
 Environmental Assessment



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