## Debby Fernandez

**From:** Debby Fernandez
**Sent:** Wednesday, November 18, 2015 5:37 PM
**To:** 'Kirk Vartan'
**Cc:** Kevin Riley; jdavidson@santaclara.gov; Rod Diridon
**Subject:** RE: City Place Santa Clara EIR comments

Hi Kirk, thank you. I did receive both emails with the same message. Odd that it bumped back to you. In any case, we will review and prepare responses to comments for incorporation into the Final EIR. Please inform the individual who generated and passed along the comments to you.

Best regards, Debby

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**From:** Kirk Vartan [mailto:kirk@kvartan.com]
**Sent:** Wednesday, November 18, 2015 10:03 AM
**To:** Debby Fernandez
**Cc:** Kevin Riley; jdavidson@santaclara.gov; Kirk Vartan; Rod Diridon
**Subject:** Fwd: City Place Santa Clara EIR comments

Hello,

I am resending this as I got a "bounce" reply saying it could not be delivered. I am now copying the City Clerk to make sure it flows to the right department and does not get lost.

Thank you.

Kirk Vartan

Begin forwarded message:

From: Kirk Vartan <kirk@kvartan.com>
Date: November 17, 2015 at 9:50:53 PM HST
To: DFernandez@santaclaraca.gov
Cc: Kevin Riley <KRiley@santaclaraca.gov>, jdavidson@santaclara.gov, Kirk Vartan <kirk@kvartan.com>
Subject: City Place Santa Clara EIR comments

Hello Debby,

I am attaching a document that was sent to me from a Santa Clara resident that would like to remain anonymous in this process and sent their comments directly to me to forward to you.

Please read the attached comments and make it part of the EIR process. Any direct feedback and commentary would be greatly appreciated.

Thank you.

Kirk Vartan

Hello Related

I have reviewed Related's brief summary of the proposed City Place project that is accessible from the City of Santa Clara online connection, and have the following questions:

1) Although 1,360 residential units does not sound like a lot of housing when compared to the volume of commercial development proposed, how are you proposing to address impacts on Santa Clara Unified schools? The closest elementary school is already over-capacity and I don't know of any high school planned for the north side of Santa Clara.

2) How many residential units are proposed for each phase and what portion of these units, by phase, will be affordable housing? What standard are you using to define affordable housing (affordable to Very Low, Low and/or Moderate Income Households)? Are you receiving any financial support or other incentives from the City to provide the affordable units? How many units will be reserved for seniors and how many of these senior units will be affordable (and by what income level)?

3) How many residents are anticipated and how many onsite jobs will be created by phase and at maximum build-out? What will be the ratio of residents to jobs? As you know, the City of Santa Clara has an existing jobs/housing imbalance and is under State and Regional pressure to increase housing opportunities in the City. How will your development improve this situation?

4) There is only one on-ramp and exit for Highway 237 to north Santa Clara. Lafayette Street does not connect directly to either 237 or 101. What specific local and regional traffic improvements will you be funding? How will you directly connect new residents and onsite employees to and from Caltrain? Do you propose to help fund additional Capitol Corridor and ACE trains, either full trains or additional rail-cars? Will you be extending the platform at the nearby Santa Clara/Great America train station? What contributions will you be making to improve and increase Light Rail and local and commuter bus services?

5) Your development is replacing an existing public recreational open space. What community park space will be created and of what type, by phase of development? What portion or percentage of acreage of the park/open space will be accessible to the general public? Will your development be providing space to accommodate the relocated youth soccer fields, as proposed by the 49ers?

6) It is my understanding that the existing landfill site needs to be vented. How will this be accomplished, given that you are creating a man-made deck over the entire landfill site? Are you aware that City staff that oversaw the completion of the landfill site, identified the area at the south end of the landfill northeasterly of Lafayette and Tasman as the most unstable? As the City proposes a Tasman-North Focus Area Specific Plan to replace the industrial area immediately adjacent to the south of this unstable part of the landfill with residential development, what will Related be doing to stabilize this portion of the landfill and protect this new residential neighborhood, before development of that adjacent neighborhood occurs?

7) One last question; as you identify this as a new Downtown/City Center for Santa Clara, will you be providing an office building and plaza onsite to accommodate the replacement City Hall? The adopted General Plan for the City identifies the current 1960s-built City Hall location as a site for high density housing by the year 2025. No replacement location for the City Hall/Civic Center has been identified as yet by the City or in the General Plan.

Please address each of these questions with specifics in your reply. Providing this information on the Related Santa Clara web-site would also be helpful. I understand that some of these issues may have been addressed in the Draft EIR, but the person who connected concerned citizens with your online summary has indicated that the EIR document is so massive that one person cannot possibly understand it by themselves.

Thank you for providing a complete and timely response.

Santa Clara Resident 239

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November 23, 2015

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Debby Fernandez
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

Subject: DEIR for City Place Santa Clara

Dear Ms. Fernandez,

Bay Area Air Quality Management District (Air District) staff reviewed the Draft Environmental Impact Report (DEIR) prepared by the City of Santa Clara (City) for City Place Santa Clara (Project). The Project is located on seven City-owned parcels north of Tasman Drive, east of Great America Parkway, west of the Guadalupe River, and south of State Route 237.

The City is proposing to build up to 9.16 million square feet of office buildings, retail and entertainment facilities, residential units, and hotel rooms. In addition the Project would also include surface and structured parking facilities, large open spaces, pedestrian and vehicular entrances, roadway networks, and expanded infrastructure. To accommodate the Project, the City is proposing a new General Plan land use designation (Urban Center/Entertainment District) within the Mixed-Use designations.

The DEIR identified significant and unavoidable air quality impacts from reactive organic gas (ROG), oxides of nitrogen (NOx), particulate matter (PM 2.5), and greenhouse gas (GHG) emissions associated with long-term operational emissions generated by the Project (Impacts AQ-1, AQ-3, AQ-4, GHG-1). Emissions for ROG and NOx are estimated to be 7-10 times greater than the significance thresholds identified in Table 3.4-8. This substantial increase in emissions will make it more difficult for the region to attain and maintain health based National Ambient Air Quality Standards (NAAQS). As NAAQS become more stringent over time, as recently occurred for the ozone standard, it will be more important for projects like this to implement all feasible mitigation measures to reduce the severity of the air quality impacts.

Air District staff commends the City for including a number of mitigation measures (MM GHG 1.2, TRA 1.1) that will reduce these impacts. However, due to the magnitude of the Project's anticipated impacts, Air District staff recommends the City implement the following additional mitigation measures to futher reduce the identified impacts to the maximum extent feasible:

- Increase the transportation demand management (TDM) plan requirement to reduce peak-hour and daily vehicle trips from 10% to at least 25%;
- Prepare a comprehensive parking plan for the entire project area that establishes parking pricing strategies, unbundling of parking costs, and shared parking for visitors and employees;
- Require electrical hook-ups for diesel trucks at loading docks;
- Prohibit all diesel powered trucks from idling for more than 2 minutes;
- Require truck fleets based within the Project site meet CARB's highest engine tier standard in place at the time the building permits are issued;
- Require only electrical landscaping equipment;

- Require solar hot water heating systems;
- Require electric heat pumps for space heating;
- Require recycling and composting programs for offices and residences;
- Require energy efficiency reductions at least 25% beyond Title 24 on all new development at the time the building permits are issued;
- Require on-site photovoltaic (PV) solar to meet at least 50% of the electricity demand; and
- For electricity not generated on-site (e.g., via PV), require that buildings receive the maximum amount achievable from renewable energy.

According to the DEIR, implementation of the Project could result in exposure of sensitive populations to increased local air pollution from roadway traffic, diesel-related truck activity, trains, and stationary sources such as emergency generators. To reduce these impacts, the DEIR includes mitigation measure AQ-7.1, which requires the implementation of filtration in residences and daycare facilities. Air District staff supports AQ-7.1 because it will help to reduce the exposure of sensitive populations to increased local air pollution. To further protect the health of new residents and children (who will utilize the daycare facilities referenced on pg. 3.4-39) from increased local air pollution, Air District staff recommends that the following measures be included as part of mitigation measure AQ-7.1:

- Locate residences or daycare facilities as far from major pollution sources as feasible;
- Require that all filtration systems be equipped with MERV 13 or higher filters;
- Build the residential and/or daycare facilities that are the closest to roadway and/or truck emission sources at a later date in time, as feasible (as new regulations to clean up the mobile fleet are phased in, potential cancer risks are anticipated to decrease);
- Place windows, balconies, and building air intakes as far away from any emission source(s) as possible;
- Plant trees and other vegetation between sensitive land uses (including residential and daycare facilities) and emission sources; and
- Avoid placing truck activity, including loading docks, near planned sensitive land uses such as residences and daycare facilities.

Air District staff is available to assist the City in addressing these comments. If you have any questions, please contact Jennifer Langfield, Senior Planner, at (415) 749-8619 or jlangfield@baaqmd.gov.

Sincerely,

Jean Roggenkamp
Deputy Executive Officer

cc: BAAQMD Director Cindy Chavez
BAAQMD Director Liz Kniss
BAAQMD Director Jan Pepper
BAAQMD Director Rod G. Sinks

## Debby Fernandez

**From:** Bill Camille <bcamille@wjcpm.com>
**Sent:** Wednesday, November 11, 2015 9:25 AM
**To:** Debby Fernandez
**Cc:** Gordon E. Hart; Steve Eimer
**Subject:** City Place Santa Clara - DEIR comment

Debby: I believe you are aware that Related set up a web site for the project some time back. The website has always contained a link to allow visitors to the site to comment or submit questions about the project to Related via email.

Recently, a link to the DEIR was added to website. As a result of the two links, someone visiting the site has posted questions about the DEIR at the comment / questions section of the Related website. Rather than ask that individual to resubmit the comments to you directly as stated in the DEIR, I thought it more courteous to forward the comment email directly to you, which follows below.

Please let me know if you think this needs to be handled differently from a protocol standpoint.

Bill

William J. Camille
PO Box 221208
Carmel, CA 93922-1208
Phone: (831) 620-1015
Fax: (831) 625-2422
bcamille@wjcpm.com

*Please note that I will be out of the office beginning Thursday, Nov 12 and returning on Tuesday, Nov 17. I will be checking emails sporadically during that period.*

**From:** brendanpcroom@yahoo.com [mailto:brendanpcroom@yahoo.com]
**Sent:** Tuesday, November 10, 2015 12:05 AM
**To:** RelatedSantaClara@related.com
**Subject:** City Place Santa Clara

Hello,

I live near the proposed site on Avenida de Lago. I have lived here for over five years now, so I have a sense of a comparison of the area before and after the stadium. I am very concerned with the affect the City Place project will have on traffic in the area.

Prior to the stadium opening, my family and I would drive to Our Lady of Peace Church via Tasman Drive to Great America Parkway. We live only 2.4 miles from the church, and it would only take 7 to

10 minutes depending on the lights. After the stadium opened, the same drive took twice as long, so we now drive up Lafayette to Agnew. The new route now takes 7 to 10 minutes on average when there isn't a game. This past Sunday, we went to Our Lady of Peace for 5:00 PM Mass. We took the new route via Agnew, but the traffic was so bad that it took us 45 minutes to drive just 2.4 miles.

This evening I was browsing through the traffic portion of the Environmental Impact Report. I have never reviewed one of these reports, but it appeared to me that the existing traffic data for the areas round the project site were recorded prior to the opening of the stadium or prior to the opening of football season at the stadium. Since the stadium opened, Tasman was reduced from six lanes down to four lanes right were the project is slated. Are there any factors added to the projected traffic to account for the added traffic from the stadium (general traffic, not even game day traffic) and the reduced lanes on Tasman? How is traffic going to be affected during game days since Tasman is currently closed to through traffic and the traffic on Great America can only flow away from the stadium?

Also, in reviewing the projected traffic data, it appears that your model is predicting that traffic at Great America Parkway and 101 N will be slightly reduced after the project goes in. I have a very hard time believing this data to be correct as that is the most direct access to a major freeway for the City Place project. Also, does this take into account the projected added traffic from the major project currently under construction on Bowers on the other side of 101? Also, it seems that each intersection in the immediate area of the project will be negatively affected and brought below the established acceptable delay times.

I am very concerned with the general flow of traffic into and out of City Place. Part of this concern stems from the accessibility to City Place Santa Clara along Lafayette. Since the railroad tracks run along Lafayette, I have a hard time visualizing how traffic is planned to access the area. I have heard it said that City Place Santa Clara would be similar to Santana Row in San Jose, but a lot bigger. I believe Santa Row is approximately 42 acres, and City Place Santa Clara is projected at 239 acres. This only causes me more concern with the traffic as Santana Row ultimately has ten access points to Winchester or Stevens Creek, but City Place Santa Clara only has five access points to Tasman, Lafayette, or Great America Parkway (as best I can tell in the conceptual rendering). What is the plan for the flow of traffic?

While in general the project is intriguing, I feel the added traffic is going to make traffic unbearable here in the area. I truly believe there needs to be a lot more thought put into how traffic will be handled.

I look forward to your response.

Thanks,
Brendan Croom

CalRecycle

DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

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November 17, 2015

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**ALL-PURPOSE LANDFILL, SANTA CLARA COUNTY (43-AO-0001)**
**CITY PLACE SANTA CLARA POSTCLOSURE LAND USE**
**DRAFT ENVIRONMENTAL IMPACT REPORT - SCH 2014072078**
**REVIEW COMMENTS**

Dear Sir or Madam:

California Department of Resources Recycling and Recovery (CalRecycle) Engineering Support Branch has received the Draft Environmental Impact Report (DEIR) for the City Place Santa Clara Project (Project). The DEIR evaluates the environmental impacts of the proposed Project which includes development on top of the closed All Purpose Landfill located in the City of Santa Clara in Santa Clara County. The landfill is owned and maintained by the City of Santa Clara (City). The proposed development consists of a mixed uses including, but not limited to, residential, commercial, entertainment, and offices.

CalRecycle is an agency, along with the State and Regional Water Quality Control Boards (RWQCB), responsible for the regulation and oversight of solid waste handling and disposal by implementing both State and Federal standards, including Subtitle D of the Resource Conservation and Recovery Act (RCRA). CalRecycle concentrates its expertise on the non-water quality issues with landfills including landfill gas. CalRecycle has expertise relative to solid waste and environmental, public health, and safety issues associated with land uses on or near solid waste facilities including landfills. CalRecycle works with and through local agencies that act as the Solid Waste Local Enforcement Agency (LEA), in this case the Santa Clara County Department of Environmental Health.

CalRecycle staff has focused our review of the DEIR on Chapter 4-11 (Hazards and Hazardous Materials) and provides the following comments.

1. CalRecycle appreciates and supports the inclusion and use of the California Code of Regulations, Title 27 (27 CCR) regulatory standards for closure and postclosure maintenance plans, postclosure land use, and landfill gas monitoring and control as part of the proposed mitigation measures for the Project. However, these postclosure land use design requirements are not utilized regarding Parcel 5. CalRecycle staff asks that they also be utilized for Parcel 5.

   CalRecycle regulations prescribe standards for construction of structures on the landfill footprint and for structures that are within 1,000 feet of a disposal area (27 CCR 21190[g]).

   While the disposal site operator is required to control landfill gas from migrating off site and within structures at concentrations that are dangerous to public health and safety, landfill gas control measures are not always 100% effective. Landfill gas control facilities can be idled periodically for routine maintenance and infrequently for major (and/or minor) repairs. Furthermore, the control facilities can become inoperable as a result of causal events. Additionally, gas migration can occur even during normal, non-upset gas control operations. CalRecycle has seen situations where onsite monitoring and controls have not been fully effective in detecting and/or controlling

landfill gas migration. Some examples where landfill gas has migrated off site toward adjacent residential development even though a gas control system was functioning include: Canyon Park Landfill and Mission Canyon Landfill, Los Angeles County; Pleasanton Landfill, Alameda County; and Sparks-Rains Landfill and Newport Dump No. 1, Orange County.

Because of these concerns CalRecycle staff have found that non-irrigated open space to be the most environmentally benign postclosure land use. It is generally recommended that there be no or a very limited number of structures within 1,000 feet of the disposal areas whether they are within the permitted boundary or outside of the boundary. However, it is recognized that because of development potential, especially in urban areas, this is not often a likely scenario.

Landfill gas generated within the landfill will continue to have the potential to migrate away from the disposal area and into surrounding properties, and landfill gas will continue to have the potential to cause harm by creating hazardous and explosive environments. Therefore, as an additional safety measure, CalRecycle staff recommends that all enclosed structures (i.e., residence or other public use structure) within 1,000 feet of the disposal area be required to include mitigations similar to the requirements found in 27 CCR 21190(g) (e.g., barrier layer, venting, in-structure alarms, etc.). CalRecycle strongly recommends that structures planned for Parcel 5 also include mitigations similar to those described in 27 CCR 21190.

2. For long-term effectiveness of the environmental control systems and efficient postclosure maintenance, it is imperative that there is a viable party responsible for the upkeep of the landfill control measures and postclosure maintenance. At this time, the City of Santa Clara is the responsible party, and City representatives have indicated to CalRecycle staff that the City intends to maintain land ownership and responsibility. To the extent possible, CalRecycle requests that as a condition of development the City continue to be the land owner and with it the responsibility for maintaining the landfill and the postclosure financial assurance mechanism throughout the postclosure maintenance period which may be several decades into the future.

Thank you for the opportunity to review the DEIR. Should you have any questions or comments concerning the above matter, please contact Alfred Worcester or Michael Wochnick of my staff at (916) 341-6353 or (916) 341-6289, respectively. Alternatively, CalRecycle staff may be reached by email at alfred.worcestercalrecycle.ca.gov or michael.wochnick@calrecycle.ca.gov.

Sincerely,

Wes Mindermann, P.E., Manager
Engineering Support Branch

cc: Stan Chau, Santa Clara County Environmental Health Department
Terry Seward, San Francisco Bay Regional Water Quality Control Board
Debby Fernandez, City of Santa Clara, Planning Division

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City of Santa Clara
Attention: Debby Fernandez, Associate Planner
1500 Warburton Avenue
Santa Clara, CA 95050

November 23, 2015

**Subject: City Place Santa Clara Project Draft Environmental Impact Report (DEIR) Comments**

Dear Ms. Fernandez,

The Capitol Corridor Joint Powers Authority (CCJPA) submits the comments below for the City Place Santa Clara Draft Environmental Impact Report (DEIR). The CCJPA manages the Capitol Corridor Intercity Passenger Rail (IPR) service, working in partnership with Caltrans, owner of the rolling stock, the Union Pacific Railroad (UPRR) and Caltrain, the respective owners of the right-of-way and dispatching authorities for their respective territories, and Amtrak, CCJPA's contract operator for the service. Capitol Corridor trains, along with Altamont Commuter Express (ACE) trains, serve the Great America/Santa Clara station (hereafter "Station"), which is directly adjacent to the southeastern corner of the City Place Project (hereafter "Project"), closest to Parcel 5. The Station is owned by and is the responsibility of the City of Santa Clara with the exception of the platform area, which is leased to Amtrak, who is responsible for maintenance and operations.

In general, the CCJPA is excited that the existing Station is so close in proximity to the Project. While we have concerns about the present Station design and access issues to the existing Station, as well as the present day function/access to the VTA Light Rail system, there is a clear opportunity for the enhancement of the Station, its connection to the Project and the improvement of transit as a whole. We see the Project uses as beneficial and supportive of greater transit ridership overall, and indeed the DEIR analysis bears this out for the Project. We remain concerned that some missing design features obscure our evaluation of transit system performance and station function, including all manners of access to the Station. These observations, based on our interpretation of the DEIR, are explained below.

The current level of Capitol Corridor service is at 14 daily trips that serve the Station. There are currently eight weekday ACE trips that serve the Station as well. The train patrons utilizing this Station are, for the most part, doing so for work or business trips. As such, there are extensive employment/work shuttle bus services to connect train patrons to/from their work or business destinations. VTA Light Rail connections via Tasman

Drive above the station at Lick Mill or Great America also provide connections to local employment centers. Travel time and safety to/from the Station, regardless of mode of access (bicycle, pedestrian, transit, private vehicle), is vital to ensuring ridership is not negatively impacted in the short term (during construction) or in the design and flow after the various Project phases are implemented. As currently configured, the existing Station is not designed in a manner to suitably support the passenger rail transit service as described in the DEIR. There is insufficient construction phase detail to ensure that safe and direct bicycle/pedestrian connections to the Station will be maintained. In addition, the vital employer shuttles that serve the Station are not sufficiently documented to ensure that safe and timely operations are maintained during construction.

In reviewing the DEIR, the CCJPA noted that several Project Objectives pertained to the Project but also to all the nearby transit services (Capitol Corridor IPR service, ACE Commuter Rail, associated employer shuttles, and VTA Light Rail). These are:

- Establish a new and vibrant mixed-use City neighborhood with a well-defined center to serve as a focal point for a pedestrian-friendly "live, work, and play" environment.
- Promote transit-oriented infill development by placing job-creating commercial buildings, residential units, and entertainment, dining, and shopping options in close proximity to each other and to existing transit and other multimodal transportation facilities.

With these objectives and the proximity of the nearby transit services in mind, the expectation is that active transportation (bicycling and walking) connections to/from the Project site to the Station would be new features, since there are no such connections at this time due to functional incompatibility with existing land uses. We note the addition of a new connector street that seems to serve as an extension of the existing Stars and Stripes Drive that appears, based on Figure 2-9, to propose added bicycle street infrastructure. Figure 2-10 and Figure 3.3-27, however, appear to show existing pedestrian facilities, but these do not actually exist at this time to our knowledge. Figure 2-10 and Figure 3.3-27 should be corrected to show the intended pedestrian connections between the Station (and beyond), and the Project pursuant to the objectives of the Project and consistent with the bicycle improvements. These observations should be noted because no actual details or design plans are included in the DEIR to be able to assess the viability of the transit-oriented development and its connection to transit in the immediately adjacent area. It can be surmised that with a Project of this scale, perhaps such detail is yet to be developed. However, with transit support being integral to the Project as a stated objective, we could not identify a section of the DEIR where a plan to show how transit and connectivity to transit, albeit off the Project site, would be developed in partnership with the nearby transit operators. As a vast body of literature demonstrates, the use of transit is highly affected by access-design and amenities accessible at the nearby Station, traditional examples

being shelters and benches, but even more recently, the emergence of bike share stations. The planning and design for these transit access and amenities elements should be incorporated early on in the Project, in addition to developing partnerships with nearby transit operators.

The widened area of Stars and Stripes Drive beneath the Tasman Drive overpass serves as existing employer shuttle parking as shown in Figure 3.3-6: Existing Commuter Rail Shuttle Service. The employer shuttle system is a key feature of ridership viability of the Station for Capitol Corridor service and especially for ACE. The detail provided in the associated Figures for roadway modifications is not sufficient to determine if the width/use of the existing employer shuttle area will remain or where the new staging area for employer shuttles will be placed. Modifications which are shown at a high scale on the DEIR figures do not adequately demonstrate the street design modifications that could affect the employer shuttles. More disclosure and analysis for significant impact focusing on the function of the employer shuttles that serve the Station will be required if physical design alterations change existing conditions.

We note that Parcel 5 (in Scheme A or B and Phase 1 in construction), the closest development to the Station, includes parking (790 spaces), which would be provided in above and below finished grade parking structures and within surface parking lots. The utilization of this nearby parking for transit uses is not documented or discussed in the Parking section (page 2-19) and the Impact TRA-13: Parking section or through the various phases of construction. What effect the Project will have upon the existing parking used for the Station is not discussed in terms of the Project or Stars and Stripes Drive modifications. There are many rail patrons who leave a second car in the existing Station parking overnight and over weekends so that they may have access to the vehicle to get to/from their jobs that are inaccessible by transit or employer shuttle. Loss or gain of parking, including due to parking policies, for the transit services at the Station should be noted in the FEIR and analyzed for significant impact and possible mitigation based on a reasonable proximity of access to/from the Station.

We note that during construction of the Project, construction or contractor vehicles could be parked and be utilizing the employer shuttle area on Stars and Stripes Drive. For reasons of safety and smooth flow of these time sensitive employer shuttles, we request that during construction, construction and contractor vehicles be prohibited from using any part of the access to and from the shuttle area on Stars & Stripes (which runs from the Tasman Drive overpass south to the cul-de-sac) between the hours of 6:00 a.m. – 9:30 a.m. and from 3:30 p.m. – 7:00 p.m, or that there would be alternative access provided that does not negatively disrupt shuttle travel time. These are the operating windows for the peak hour Capitol Corridor IPR trains and the ACE commuter trains at Great America Station. During those hours, it is very congested in that area, with 25 shuttle vehicles, 250 passenger vehicles, and 1,600 pedestrians trying to access or leave the station. TRA-18.1, Construction Management does not go far enough to minimize the significant impacts to the

employer shuttles. The Project Developer should prepare a construction management plan as identified, but be required to consult with both CCJPA and ACE staff and the employer shuttle management to establish a plan which minimizes conflicts and delays to the employer shuttles, and does so in as safe a manner as possible. At a minimum, consultation should be an included element in the Construction Management Plan. We mention this due to the recent negative experiences during nearby Levi's Stadium construction, when there were many occasions where construction trucks parked overnight on Stars & Stripes where the shuttles normally parked. Frequently, construction trucks were entering or leaving the area during peak shuttle operating times. This timing and physical conflict negatively impacted staging and employer shuttle function at the Station and made walking for train patrons catching the various shuttles unsafe. Construction parking should be addressed for this Project in a manner that does not cause this conflict again.

For the noise and vibration analysis, the track capacity within the UPRR owned right-of-way may be expanded by the addition of additional tracks which would permit additional trains. Both Capitol Corridor and ACE service have documented plans to expand service in the corridor. These plans appear to not have been included in the analysis of consistency to the Santa Clara General Plan.

Page 3.3-1, near the bottom where it refers to transit agencies, should be revised to correct CCJPA as the managing agency for the Capitol Corridor service while correctly referencing Amtrak as the operator of both the Capitol Corridor and the Coast Starlight long distance passenger trains. Likewise, the description of the Capitol Corridor service on page 3.3-30 should be changed to "a state supported IPR service operated by Amtrak". Management by the CCJPA is correctly mentioned. It would provide the reader more clarity to note that the Station is shared by both ACE and Capitol Corridor service in this section. We note on 3.3-31, second paragraph of the Local Transit Network Connectivity, that Capitol Corridor IPR service is called commuter rail and this is not the case. It is used for work commute trips by patrons but remains an IPR service both administratively and according to the access right agreement with UPRR, and as such, the naming convention in this case should be corrected in this instance and throughout the document. Table 3.3-10 and Table 3.3-39 are other such cases where Capitol Corridor should not be shown as Commuter Rail or the title be expanded to include all passenger rail. There are some inconsistencies as well in that table with the text in the Capitol Corridor description section about the hours of Capitol Corridor operation. This may be as a result of discussing Capitol Corridor trains in general operations versus the current times of operations on weekdays and weekends at the Station. The suggested correction is to convey the Capitol Corridor operating hours at the Station, which are between roughly 7:00 AM and 9:30 PM including all weekdays and weekend schedules.

We note in Table 3.3-2: Santa Clara General Plan Mobility and Transportation Goals and Policies, especially in the General Mobility and Transportation Plan Policies and Transit Network Policies and Goals, and Transportation Demand Management Goals

and Policies, that opportunities to enhance connections with transit services are a goal of the Santa Clara General Plan. Given the reliance on TDM measures in the analysis of transportation impacts and the significant negative impacts to LOS in the analyzed intersections, the utilization of the Station as a means of access for workers and visitors to the Project area is vital. Given these considerations, the Project's ongoing support of an additional employer shuttle service for the Project area to/from the Station would further enhance the transit mode share for at least the two passenger rail services, and would be an appropriate mitigation to reduce significant impacts in LOS to Project area (degraded) intersections generally on the northern and eastern edge of the Project.

Given the degraded LOS for the myriad of intersections, the operations of employer shuttles to/from the Station would be negatively impacted with respect to operations. It is unclear if Impact TRA-11 was assessed to include all transit including the employer shuttles. Without mitigation, the resulting net travel time combined with passenger rail service and employer shuttle would increase as a result, thus negatively impacting passenger rail service. With the lack of clarity regarding the inclusion of these employer shuttles into this analysis, additional analysis should be conducted and documented to investigate the inclusion of signal pre-emption devices for the employer shuttles. In concept those devices would mitigate the employer shuttle travel time to be consistent with present day travel time. Or it may be as is suggested that LOS would not change even including pre-emption devices. Regardless, this tradeoff should be analyzed for the employer shuttles, because it appears to have not been included in the initial Project analysis.

Another unexplored mitigation for loss in travel time due to LOS congestion negatively affecting the employer shuttles is the use of a connector road from Stars and Stripes Drive to allow employer shuttles to connect to Marie P Bartolo Way. This mitigation strategy may be located off the Project site, but just as mitigations for intersections can be far from the Project site, this mitigation in addition to or in lieu of signal pre-emption would be consistent with Santa Clara's authority to require mitigation via a Development Agreement.

Impact TRA-10 only examines Station platform function as capacity to accommodate patrons on the platform, but we agree with the conclusion for the platform capacity. The function of the Station to accommodate growth also needs to be examined from the roadway, pedestrian, and bicycle facilities that permit ingress/egress to the platform. Safe and ADA compliant access is not available at present in any situations. While it appears new bicycle access related to the Project will be added, the above noted pedestrian access is not as presented on the maps and would need to be shown. It is off the Project site but it should be added via a Development Agreement or other method related to the Project. Most notably, the access to Lafayette Street from the Station platform via the at-grade railroad crossing will need to be eliminated due to planned access and capacity improvements for Capitol Corridor and ACE passenger rail service. Already regarded as a crossing of concern for CCJPA, elimination of this crossing will shift the need for ADA accessible access to

destinations along and beyond Lafayette Street as requiring accommodation. The solution appears to be access improvement associated with the other identified street and pedestrian facilities associated with this Station's improvements. We strongly encourage Santa Clara to consider a means to provide safe ADA access to the Station and incorporate that solution into the Project area improvements being conducted with this Project. The recent construction of Levi's Stadium to the south and this Project to the northwest elevates the need for a long-term ADA access solution for the Station from all directions. The TDM aspects of this Project are consistent with improvements in safe access for all to the Station and should be considered, analyzed, and incorporated into the Project.

The timely function of VTA Light Rail is of critical importance to passenger rail patrons who use the service to connect to their place of work and business meetings. CCJPA maintains a free transit transfer pass for round trip use of select transit providers along the Capitol Corridor route, and the VTA Light Rail system is one of them. The DEIR identifies degradation of transit travel times as an impact, with no feasible mitigation measures specified. We view such degradation of travel times for VTA Light Rail service as decreasing the viability of using Capitol Corridor and would expect a negative affect on Capitol Corridor ridership for those patrons who presently rely upon such connections. It is imperative to optimize the connections and performance of all transit services to the Project site.

We note that the very Project objectives cited above in this letter, the transportation demand portions of the DEIR and the City of Santa Clara General Plan identify trying to maximize transit ridership. There is very consistent and seemingly coordinated mention of these shared objectives, yet significant impacts that would negatively impact transit ridership are projected even after some mitigation strategies are applied. We feel that insufficient coordination with the various transit operators will deteriorate the performance and sustainability of these services to the Project. The CCJPA and other transit operators have a positive role to play in enhancing non-automobile connectivity to the Project.

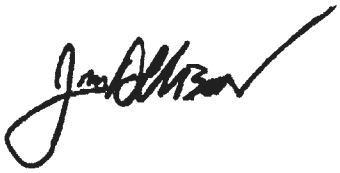
In recent months, the City, the Project Developer and VTA have discussed opportunities to improve the Station along with the proposed development. The Project Developer has shared concepts for an improved near-term Transit Center at this location, which would include improve bus/shuttle access, additional bus bays, passenger waiting facilities and pedestrian/bicycle access. This would presumptively be consistent with the maps in the DEIR and ensure design features that enhance the transit and pedestrian/bicycle connectivity to/from the Station. However, these concepts are not acknowledged in the DEIR and thus have necessitated the comments made above. Regardless of how these Transit Center concepts are advanced, as with intersection improvements elsewhere even more far removed from the Project site, we request that the City require the Project Developer to construct the near-term Transit Center as part of the Project. Whether this is captured in a Station Area Master Plan or designed as a phased Transit Center enhancement program, a coordinated system that brings together ACE, Capitol

Corridor, VTA Light Rail, buses, and public/private shuttles will be required. A commitment to minimize significant impacts for transit and the road transportation system to less than significant where feasible would include a more developed and detailed transit integration plan for the Project. The unavoidable transportation impacts identified in the DEIR do not include the detail to sufficiently demonstrate that the significant impacts are, in fact, unavoidable.

If any clarifications or coordination with CCJPA regarding these comments are required, please contact Jim Allison, CCJPA Manager of Planning, at (510) 464-6994 or jima@capitolcorridor.org.

Thank you for your careful consideration of these comments.

Sincerely,



Jim R. Allison
Manager of Planning
Capitol Corridor Joint Powers Authority

cc: Dan Leavitt, ACE
Melissa Cerezo, VTA
David B. Kutrosky, CCJPA

COMMITTEE FOR
GREEN FOOTHILLS

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PLANNING DIVISION

November 23, 2015

Debby Fernandez, Associate Planner
City of Santa Clara Planning Division
1500 Warburton Avenue
Santa Clara, CA 95050
dfernandez@santaclaraca.gov

Re: City Place Santa Clara Draft Environmental Impact Report
SCH#2014072078, CEQ2014-01180 and PLN2014-10440

Dear Ms. Fernandez,

The Committee for Green Foothills (CGF) submits these comments on the Draft Environmental Impact Report (DEIR) for City Place Santa Clara. The Committee for Green Foothills is a nonprofit environmental organization working to protect open space and natural resources in San Mateo and Santa Clara Counties. We have members throughout these two counties, including in the city of Santa Clara, and we have a strong interest in environmental issues in Santa Clara, including any potential impacts resulting from the City Place Project (Project).

The Project would convert 240 acres of what is currently recreational open space to a high-density mixed-use development, with over 9 million square feet of combined office, retail, hotel, entertainment, and residential uses (not including any parking facilities). As recognized in the DEIR, the potential impacts of the Project on land use, traffic, air quality, and biological resources are significant and unavoidable. In addition, significant questions remain concerning geotechnical, groundwater, and hazardous air emissions, as well as the potential impacts of the Project on the city's open space, parks, and other services. The DEIR fails to adequately analyze these potential impacts.

Many of the Project's impacts result from its sheer size. At over 9 million square feet, the Project is by far the largest such development ever proposed in this area (it is more than five times the size of Santana Row, just as an example). Full build-out of the Project as proposed would result in approximately 28,720 employees and 200 residential units under Scheme B, and 24,760 employees and 1360 residential units under Scheme A. By comparison, the ABAG projections for 2015 for Santa Clara indicate 121,950 jobs in the city; thus, the Project would increase this figure by over 23%. The Project is, in essence, the equivalent of the City approving a whole slew of new commercial developments all at once.

As part of its Alternatives Analysis, the DEIR examines a Reduced Intensity Alternative that would reduce the size of the Project by about 30% by eliminating some of the office uses. Under the Reduced Intensity Alternative, the total square footage of the Project would be 6,458,000 instead of the 9,164,000 square feet as currently proposed. Total office square footage would thus be about 3,020,000 instead of 5,720,000 (under Scheme A), with all other land uses remaining the same. This would in turn reduce the number of new jobs to 14,730 instead of 24,760 (Scheme A) or 28,720 (Scheme B), which again would reduce the number of daily vehicle trips to 94,210 instead of 123,040 (Scheme A) or 140,730 (Scheme B). Although the Project would still have significant and unavoidable impacts on the jobs/housing imbalance, traffic, air quality, open space, and biological resources even with this 30% reduction, any lessening of environmental impacts would necessarily benefit the environment. Indeed, the mere fact that even this 30% reduction still results in significant and unavoidable impacts merely drives home the fact that the Project as proposed is far too large. According to the

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DEIR, the Reduced Intensity Alternative would still meet the Project objectives. DEIR, p. 5-11. The Reduced Intensity Alternative should be the preferred Project, rather than the Project as currently proposed.

A partial list of some of the problems with the Project and with the DEIR's analysis follows. Various other issues, including traffic and biological impacts, will be treated in comments submitted by other organizations and individuals, including the Santa Clara Valley Audubon Society, the Sierra Club Loma Prieta Chapter, and the Santa Clara Valley Habitat Agency. To avoid duplication of comments, we address only certain aspects of the Project here.

A. Land Use

Santa Clara's jobs/housing ratio is currently unbalanced, with 2.42 jobs in the city for every resident. This imbalance results in traffic problems and correspondent air quality and biological impacts. The General Plan aims to reduce the jobs/housing imbalance. General Plan Policies 5.3.1-P18 and 5.10.2-P2, which limit new commercial and industrial development and reduce vehicle miles traveled, and Housing Element Policy B-5, which aims to reduce the jobs/housing imbalance that is worsened by new developments with significant employment, have as their goal the mitigation of these impacts. The Project, however, would operate to entirely contravene these policies by introducing massive numbers of new jobs and only a few new residents. The Project would cause the jobs/housing ratio to worsen, from the current 2.42 figure to a projected 2.73 in 2035 with the Project. As stated above, this would have real world impacts on traffic, air quality, and biological resources.

The DEIR proposes as mitigation for these impacts Mitigation Measure LU-1.1: "During the next General Plan Update cycle, the City shall explore permitting higher residential densities in the City as well as allowing residential land uses in existing non-residential areas." DEIR, p. 3.1-15. Aside from the fact that this proposed action is necessarily speculative and therefore cannot be considered effective mitigation for Project impacts, such increased residential density and/or conversion of industrial or commercial land will not be able to adequately counteract the effects of such a gigantic influx of commercial density as the Project would provide. Considering the sheer size of the Project, it is not possible that any attempt to play "catch-up" by fitting in more residential uses wherever they can feasibly be crammed in can succeed in reducing the jobs/housing imbalance by any significant amount. Thus, the mitigation proposed is insufficient.

B. Air Quality

The huge size of the Project and the number of vehicle trips generated would result in significant unavoidable impacts to air quality. The Bay Area Air Quality Management District (BAAQMD) has established thresholds of significance for several air contaminants, which would be exceeded by the Project. In fact, the average daily emissions resulting from the Project, even with the proposed mitigation measures in the DEIR, would be up to nine times the stated thresholds. Table 3.4-9 in the DEIR summarizes these figures: the BAAQMD thresholds for reactive organic gas (ROG), nitrogen oxides (NOx), and particulate matter (PM10 and PM2.5) are, in pounds per day, 54, 54, 82, and 54, respectively. The average daily mitigated emissions attributable to the Project would be on the order of several hundred pounds per day (for example, NOx emissions would be 446 or 487 pounds per day). This is not a mere exceedance of standards – this is a level of violation of standards that makes a mockery of our region's goals to improve air quality and protect health.

This point is driven home by the statement in the DEIR that payment of fees in mitigation to offset these emissions is "not considered feasible" because it "would result in approximately $76 million in fees (Scheme B). Purchasing offsets in this magnitude and duration would place an undue financial burden on the Project that is not considered economically feasible." DEIR, p. 3.4-32. In other words, the air quality impacts generated by the Project are so severe that to offset them by payment of fees would apparently bankrupt the Project. When a

community is confronted with a project with impacts this severe, the only rational thing to do is require the impacts to be reduced to a level where they can actually be mitigated.

In this case, these air quality impacts can be directly traced to the size of the Project and the amount of vehicle traffic that is projected to occur as a result of the Project. By reducing the size of the Project and by adopting some of the recommendations suggested by other commenters (e.g. the San Joaquin Regional Rail Commission), the air quality impacts may be significantly reduced.

C. Geotechnical Issues

The DEIR states that the topography on the site, due to its nature as a former landfill, is highly variable, ranging from 5 to 82 feet. DEIR, p. 3.9-8. Settlement and compaction, both that which would occur under existing conditions due to natural degradation of the refuse material and that which may result from the additional weight of buildings, roads and other infrastructure related to the Project, may have impacts on the structural integrity of the Project infrastructure.

According to the DEIR, settlement of up to 8 feet may occur where the refuse layer is thickest, even under existing conditions. DEIR, p. 3.9-13. With the addition of the Project buildings, roads, etc., further settlement of as much as 14 feet may occur where the refuse layer is thickest. DEIR, p. 3.9-22. This could potentially result in settlement of as much as 22 feet. Because the refuse is not homogeneous, this settlement process is highly likely to occur unevenly, with some areas compacting significantly more or less than others.

The mitigation measures proposed by the DEIR include hinged ramps to allow the ends not attached to buildings to move, flexible utility connections between supported and unsupported areas, and the use of asphalt or interlocking pavers instead of more rigid paving materials such as concrete. A design-level geotechnical investigation is proposed to evaluate the likelihood of significant differential settlement. If this design-level investigation finds that potential differential settlement is significant enough that the proposed mitigation measures cannot be considered adequate to address these issues, will the Project design be modified so as to reduce these impacts to a less than significant level?

The probability that structural problems may arise within the life of the Project means that the Project must evaluate what measures to take in the event that such structural issues do arise. For example, the cost of repairs to roads, building foundations, utility connections, and other infrastructure may be significant – is the City prepared to take on this expense?

D. Groundwater

The Project proposes to use drilled displacement columns (DDC) and auger cast-in-place piles (ACIP) as foundational supports for Project buildings, with a concrete slab structure in the City Center area. However, these foundational supports will necessarily drill through the impermeable cap over the refuse. Breaching this cap has the potential to allow surface water to permeate into the refuse layer and to allow leachate to infiltrate the groundwater. The DEIR states that the DDC and ACIP processes will not allow this to occur because these breaches will be "sealed" by the injection of grout under pressure into the bore holes and the material surrounding them. However, our reviewers were unable to discover any supporting documentation or evidence in the DEIR indicating that this technology will successfully prevent any potential leaching of surface water into the refuse or of leachate into the groundwater. Can the Project provide any test results from other projects where this technology was used, demonstrating that levels of contaminants in groundwater remained at pre-project levels?

The Project site is located 0.5 mile from San Francisco Bay. As stated in the DEIR, groundwater flow at the site is to the north-northeast, towards the Bay. DEIR, p. 3.10-16. The groundwater table is generally in or

within 10 feet of the bottom layer of refuse. DEIR, p. 3.11-11. "Monitoring indicates that leachate occurs at an elevation similar to that of the groundwater table, suggesting that leachate mixes with the uppermost groundwater within the waste." DEIR, p. 3.10-16. It is worth noting that there is no clay liner underlying the refuse on most of the Project site (other than on Parcel 3 and the northwest corner of Parcel 1). DEIR, p. 3.10-16. Monitoring has detected several VOCs in groundwater near the center of the Project site, including 1,1-dichloroethene (DCE), cis-1,2-DCE, trans-1,2-DCE, trichloroethene (TCE), and vinyl chloride. DEIR, p. 3.10-17.

Although monitoring data since 2005 indicates that the area of contamination is not currently migrating to other parts of the Project site, the Project has the potential to alter these conditions. For example, the ACIP piles will be drilled deep into the soil below the site, at least 50 feet and potentially up to 150 feet. This could create a conduit for contaminants to migrate into deeper aquifers. Again, the DEIR states that this would not occur because the injection of grout under pressure in the ACIP process would "seal the interface" between the ACIP piles and the surrounding soil and waste, thus preventing any downward leaching of contaminated liquid or groundwater into deeper aquifer layers. However, again the DEIR presents no supporting evidence of other projects where this technology has been utilized and has successfully prevented any aquifer contamination from occurring. If there is such evidence or documentation, such as pre- and post-construction monitoring results over a period of years, the DEIR should include this data; if not, the DEIR should state this fact.

E. Landfill Gas Issues

The DEIR states that in March and October of 2014, soil investigations were performed on the Project site pursuant to a request from the Regional Water Quality Control Board (RWQCB). DEIR p. 3.11-9. These investigations reported levels of benzo(a)pyrene, PCBs, benzene, ethylbenzene, vinyl chloride, and tetrachloroethylene (PCE) that were above the Environmental Screening Levels (ESLs) for residential and/or commercial uses. DEIR p. 3.11-10. In addition, methane concentrations have been reported at the site at levels above the lower explosive limit. DEIR p. 3.11-27.

The DEIR proposes to mitigate these hazards by replacing the existing landfill gas collection system, by locating any residential uses only in buildings with a first-floor podium structure, and by requiring a landfill gas monitoring system. The DEIR mentions that if methane gas concentrations exceed a certain level, the monitoring system shall automatically alert the Santa Clara Fire Department, which may trigger an evacuation. Given the hazardous nature of the risks of methane concentrations over safe levels, the DEIR should include further mitigation measures with regard to ensuring the safety of future residents and workers at the Project site, including a detailed evacuation plan that takes into account any children, elderly or mobility impaired persons who might live or work at the Project site. In addition, since there may continue to be elevated levels of hazardous gases even with the new landfill gas collection system, a plan should be created for reducing these gases down to acceptable levels. Who will bear the financial responsibility for any upgrading or replacement of the landfill gas collection system if that becomes necessary?

F. Parks and Open Space

The Project site is currently in use as a golf and tennis facility and BMX bike track. Although the site is not officially included in the City's inventory of parkland, nevertheless the conversion of this recreational open space into a high-density mixed-use project will impact residents' access to nearby open space and parkland. In addition, the new residents as well as the office and retail workers at the Project site will increase the burden on Santa Clara's existing park resources. Americans are, more and more frequently, exercising at some point during their work day (e.g. going for a walk or a run during lunch hour) rather than only after returning home; thus, an increase in retail and commercial uses places a burden on park resources just as an increase in residential uses does.

The DEIR states that approximately 74.1 acres of the Project site would be devoted to "usable public open space" and approximately 5.3 acres would be "private open space." DEIR, p. 2-19. This public open space would include "approximately 31.9 acres of slope/habitat areas, 26.1 acres of park areas, 3.9 acres of pedestrian concourse, 3.4 acres of courtyards, and 8.8 acres at the Retention Basin." DEIR, p. 2-20.

The DEIR needs to further define these terms. For example, it is unclear whether the 74 acres of "usable public open space" would include the areas near the edges of the site boundaries, where the topography is extremely steep due to the underlying mounds of refuse, and if so, whether the term "slope/habitat areas" is intended to designate these perimeter areas. Similarly, courtyards of buildings are typically not considered open space or parkland, since they are more in the nature of public spaces such as sidewalks.

The 26.1 acres stated to be intended as "park areas" should also be further defined. True open space that features natural vegetation and pervious soils performs many important functions in the local ecosystem – functions that also provide an economic benefit to the community. The natural vegetation helps to sequester carbon and filter pollutants from the air, counteracts the "heat sink" effect of urbanized areas, and provides habitat for wildlife. This is true even of manicured, non-native landscaped areas such as golf courses (for example, as noted in the Santa Clara Valley Audubon Society's comments, burrowing owls – a species of special concern – have historically nested and foraged on the Project site). In addition, when "park areas" contain natural vegetation and pervious soils, they perform an important function of soaking up stormwater and filtering pollutants that would otherwise flow to the Bay and local waterways – thus also helping to reduce and prevent flooding of nearby homes and businesses. All of these functions have a measurable economic value for communities, as the damage resulting from loss of the open space that performs these functions would create a significant expense for communities. For these reasons, the DEIR should specify whether the "park areas" will be natural vegetated areas or will include hardscape, pavement, or other materials that will not perform these ecosystem services.

There are many opportunities for enhancement of the open space and park areas that will be included in the Project. For example, the Project site could provide valuable trail linkages to existing trails such as the San Tomas Aquino Creek Trail and the Guadalupe River Trail. With the proposed extension of Lick Mill Boulevard onto and through the Project site, a trail connection could be created along this roadway. Improved trail connections would have the benefit of reducing traffic and air quality impacts by making it possible for people to commute on bikes. Enhancements to existing trails are also possible, such as enhancing the San Tomas Aquino Trail by planting screening vegetation along the trail to compensate for the fact that trail users will lose their current view of open space on the golf course and will instead have a view of buildings and roads. In addition, as detailed in the comment letters from the Santa Clara Valley Audubon Society and the Santa Clara Valley Habitat Agency, an opportunity exists for the Project to provide critically important habitat for Western burrowing owls, a California species of special concern. The Project should consider these options, especially in light of the fact that the Project will be eliminating 240 acres of existing open space now available to the residents of Santa Clara.

G. Alternatives Analysis

In its scoping comment letter of August 26, 2014, the RWQCB stated:

> Our primary concern with the project is the proposal to build residential units above a former municipal landfill, as **this is something we have not approved previously at any other landfill in the Bay Area** due to potential adverse health impacts to residents that would reside in structures built over waste.

Letter from Terry Seward, Chief, Groundwater Protection Division, to City of Santa Clara, dated August 26, 2014 (emphasis added).

Similarly, the Santa Clara County Department of Environmental Health stated in its scoping comment letter:

> The biggest concern from a regulatory standpoint is the proposal for residential development directly over a landfill. **This has never been done in California at such a large scale as this project** and should be a main item of analysis. **The prospect of families living over buried tons of decomposing waste will require the most careful attention to every detail of safeguards** before approval can be granted. There can be a myriad of health and safety risks associated with long term exposure to hazardous gases, infrastructure breakdown due to differential settlement of the ground beneath the development, and underground fires, to name a few. In addition . . . there is a record of engineering failures over landfills with smaller sized developments.

Letter from Chris Rummel, Acting Program Manager, Solid Waste Programs, to City of Santa Clara, dated August 27, 2014 (emphasis added).

Given the roles of the RWQCB and the County Department of Environmental Health in regulating landfills and evaluating their safety hazards, these concerns should be given great weight. In addition, the RWQCB requested in their scoping letter that the DEIR discuss "an alternative that does not propose construction of residential units above the landfill." The DEIR, however, does not include an alternative without residential uses (though it does include one with increased residential uses). Although elimination of residential uses from the Project would worsen further the jobs/housing imbalance, obviously the safety and health of any potential residents ought to be of the first concern to the City of Santa Clara. The DEIR should evaluate a no-housing alternative as requested by the RWQCB.

Thank you for your attention to these comments.

Sincerely,

Alice Kaufman
Legislative Advocate, Committee for Green Foothills

**County of Santa Clara**

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November 19, 2015

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RE: City Place Santa Clara Project – Draft Environmental Impact Report (DEIR) SCH 2014072078

Dear Ms. Fernandez:

Thank you for the opportunity to comment on the City Place Santa Clara Project – Draft Environmental Impact Report (DEIR). The County of Santa Clara Department of Environmental Health is designated as a Local Enforcement Agency (LEA) by the California Department of Resources Recycling and Recovery (CalRecycle) and works with CalRecycle to carry out oversight and regulation of solid waste handling and disposal sites at the local level. As a responsible agency, the LEA would like to make these comments in concert with those submitted by CalRecycle regarding this DEIR.

Authority for Fiscal Generation:

- The analysis seems to make conclusions based on unexamined financial support to perform long term monitoring/maintenance needs for the project. The LEA believes that this closed landfill will need funds for monitoring/maintenance /regulatory oversight for at least multiple decades or longer and that an autonomous entity may be needed to satisfy these needs. In order to accomplish this successfully this project would need an adequate financial stream and reserve dedicated to just this project to help ensure that health and safety issues can be addressed. It is the LEAs understanding that the City of Santa Clara is planning to lease the surface of the landfill for development by the Related Companies who plan to develop the property with the potential to subsequently sell off

the surface improvements. When this happens, an entity that assumes financial responsibility and authority for maintenance and repair of the surface improvements is needed and must be clearly defined. These entities can be maintenance districts or property owners' associations with the ability to assess a tax or fee to maintain surface improvements – roads, sidewalks landscaping utilities, foundation support structures, landfill gas control systems and common property. These entities function in a way that is similar to a condominium or property owners association and must be established at the onset of the development except with clearly defined authority to promptly address health and safety issues. It is important for such an entity to be able to develop substantial reserves so that it can have the resources to respond to any unforeseen problems that may occur, as well as periodic routine maintenance that may include utility maintenance, street and road repairs, landscape planting and maintenance. The entity must be included in any Conditions, Covenants and Restrictions that are recorded in any deed for the property. All property owners must be a party to the district or property owner's association. With this in mind, please consider clarifying/analyzing/commenting on the impact of having and not having an appropriate entity to administer and have ultimate authority in setting up a financial paradigm to guarantee funds to take care of health and safety needs for however long it is needed. The LEA would like to see the proposed mitigation measures to address this comment.

Authority to take action in the case of Immediate Health and Safety issues:

- Unimpeded and immediate compliance action to deal with any imminent health and safety issue would be required and necessary for a project like this and the LEA believes this is a significant authority issue for examination. With this in mind, please consider clarifying/analyzing/commenting on the impact of having and not having an institutional entity to administer and have ultimate authority to immediately deal with health and safety issues in a time critical fashion. The LEA would like to see the proposed mitigation measures to address this comment.

Property Ownership and Health and Safety Operational Concerns:

- For long-term effectiveness of the environmental control systems and efficient postclosure maintenance, it is imperative that there is a viable party responsible for the upkeep of the landfill control measures and postclosure maintenance. At this time, the City of Santa Clara is the responsible party, and City representatives have indicated that the City intends to maintain land ownership and responsibility. To the extent possible, the LEA requests that as a condition of development the City (or a created maintenance district) continue to be the land owner and with it the responsibility for maintaining the landfill and the postclosure financial assurance mechanism throughout the postclosure maintenance period which may be several decades into the future.
- If the City or some type of maintenance district does not maintain land ownership and/or responsibility, the LEA has some significant concerns with subdividing and selling off individual properties. Basically, the LEA is strongly opposed to the idea due to the

possible complication in managing health and safety issues. We are concerned that doing so may interfere/obstruct/dilute regulatory effectiveness and create a significant blockades in addressing health and safety issues and would like to see mitigation measures to address this concern. Some concerns have to do with:

a. Ability to address health and safety needs/issues promptly if the type of property ownership impedes access/monitoring needs; and,
b. Diminished financial responsibility to address health and safety needs due to autonomous property ownership.

Please consider analyzing/commenting/exploring negative impacts and mitigation measures associated with of individual property ownership.

Fire Suppression:

- HAZ-9.3: Subsurface Fire Suppression. Because any fire in the fill would threaten the structures nearby, it should be put out quickly. Injecting Class A foam will accomplish this very effectively and would lead to injection of water into the fill, which is undesirable. A method to correct this problem is the injection of liquid carbon dioxide through perforated metal pipe into the area where combustion is detected. This method rapidly cools the fill material and the vapor (CO2) is a component of landfill gas. There are a few effective examples of this method of stopping combustion. The traditional method of controlling landfill fires – stopping withdrawal of gas from the fill and taking steps to seal the fill to prevent oxygen from entering it do work, but it often takes 1 to 3 years for the fill to cool to temperatures that are normal in the fill material. The LEA would like to submit this idea for analysis and comment.

Post Closure Land Use Plan – Future Test Results for Approval:

- The submitted design documents are predicated on the results of the appended draft geotechnical investigation that does include sufficient detail with respect to subsurface site characterization. Consequently, it remains for the applicant to complete the pending supplemental geotechnical investigation to refine their characterization of the subsurface conditions, perform additional geotechnical analyses to evaluate the anticipated performance of the site and proposed improvements, field test and evaluate proposed landfill gas collection and structure foundation systems, and modify the development plans and PCLUP for review and approval by the LEA prior to issuance of development and building permits.

  Based on previous communications with the applicant, it is our understanding that the final design documents are likely to reflect changes and refinements to many aspects of the draft submittals including, but not limited to, landfill gas collection and venting systems, building foundation systems, surface drainage systems, gravity flow utility

systems, and landfill gas monitoring systems. These documents would need review and approval by the LEA prior to issuance of development and building permits.

Gas Controls for All Structures within 1000 Feet of Buried Waste:

- The Post Closure Maintenance Plan (to be developed and reviewed at a future date) and the Post Closure Land Use Plan circulated with this Draft EIR for this project may not have regulatory authority for the Centennial Gateway Mixed Use Project since it is currently outside of the noted property boundary of the landfill. As exhibited in other projects adjacent to old landfills (Calrecycle notes these examples in their comments), landfill gas migration has occurred even with functioning landfill gas control systems in place. The LEA believes there may be a possible significant issue with development if appropriate construction and gas controls are not implemented for construction within 1000 feet of buried waste. As a result, the LEA recommends that, as a condition of development approval, any enclosed structure within 1000 feet of the landfill waste footprint be required to comply with the standards similar to those contained in Title 27 California Code of Regulations Section 21190(g) (i.e. barrier layer, venting, in-structure alarms, etc). Furthermore, the LEA would also strongly recommend the requirement to other future proposed development outside this proposed project, but within 1000 feet of waste (i.e. Parcel 2 – Calle Del Mundo street area) to also adhere to this Title 27 Section 21190(g) standard. And lastly, the LEA would also like to recommend the consideration of the installation of a gas curtain wall, like that installed along Parcel 3, as a possible mitigation measure in these areas.

The LEA is grateful for this opportunity to review and comment on this DEIR. We hope that our comments are incorporated to facilitate the health and safety protection of our community for years to come. Should you have any questions, please feel free to contact Stan Chau (408.918.1961 Stan.Chau@deh.sccgov.org) or Roel Meregillano (408.918.1962 Roel.Meregillano@deh.sccgov.org).

Sincerely,

Jim Blamey
Director of Environmental Health
County of Santa Clara

Cc: Terry Seward, San Francisco Bay Regional Water Quality Control Board
Wes Mindermann, Calrecycle
Bob Van Heuit
Barry Milstone

# County of Santa Clara

**Parks and Recreation Department**

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Reservations (408) 355-2201
www.parkhere.org


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PLANNING DIVISION

November 16, 2015

City of Santa Clara
Planning Division
Attn: Debby Fernandez, Associate Planner
1500 Warburton Avenue
Santa Clara, CA 95050

**Subject: Notice of Availability for a Draft Environmental Impact Report for City Place Santa Clara Project**

Dear Ms. Debby Fernandez:

The County of Santa Clara Parks and Recreation Department ("County Parks Department") is in receipt of Notice of Availability for a Draft Environmental Impact Report (DEIR) for the City Place Santa Clara Project. The County Parks Department's comments are primarily focused on potential impacts related to the *Santa Clara County Countywide Trails Master Plan Update,* an element of the Parks and Recreation element of the County General Plan that the Board of Supervisors adopted on November 14, 1995, relative to countywide trail routes, public access, and regional parks.

**Relationship to the *Santa Clara County Countywide Trails Master Plan Update***
The *Countywide Trails Master Plan Update* indicates the following trail route adjacent to the project site. The DEIR should describe the following countywide trail routes, which offer opportunities for non-motorized transportation connections to the surrounding neighborhoods, parks, trails, and open space areas.

- ***San Tomas Aquino Creek Connector Trail*** (Route C-5) – designated as hiking and off-road cycling route.
- ***Guadalupe Sub-Regional Trail*** – designated as hiking and off-road cycling route.

**Chapter 3.13 – Public Services and Recreation**

The DEIR includes a discussion of impacts to recreation to the existing San Tomas Aquino/Saratoga Creek Trail and the Guadalupe River Trail. The DEIR states that impacts to recreation are less than significant, because the project includes on-site recreational facilities that would offset the use of these trails. The County Parks Department recommends that the DEIR should also reference the *Countywide Trails Master Plan Update* and *San Tomas Aquino/Saratoga Creek Trail Master Plan*.

**Chapter 3.3 – Transportation/Traffic**

The DEIR evaluates how the project's potential traffic and circulation may impact the regional and sub-regional trail routes adjacent to the project site. The DEIR states that impacts to recreation are significant unless mitigated, because the project includes on-site recreational facilities, including bicycle facilities that would offset the use of these trails. The County Parks Department recommends that Impact TRA-8: Bicycle Facilities should also be designed to be consistent with each respective trail it connects to and include safety measures, such as signs to direct users.

Thank you for the opportunity to comment on the DEIR for the City Place Santa Clara Project. If you have any questions regarding these comments, please feel free to contact me at (408) 355-2228 or via email at Hannah.Cha@prk.sccgov.org.

Sincerely,

Hannah Cha
Provisional Park Planner II

cc: Kimberly Brosseau, Acting Principal Planner

**County of Santa Clara**
Roads and Airports Department

101 Skyport Drive
San Jose, California 95110-1302
1-408-573-2400

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NOV 23 2015
PLANNING DIVISION

November 23, 2015

Debby Fernandez
Associate Planner
1500 Warburton Avenue
Santa Clara, CA 95050

**SUBJECT: Notice of Availability of Draft Environmental Impact Report**
**City Place Santa Clara**

Dear Ms. Fernandez:

The County of Santa Clara Roads and Airports Department appreciates the opportunity to review the Draft Environmental Impact Report (DEIR) for the subject project and is submitting the following comments.

1) Transportation mitigation measure TRA-1.2: Intersection Improvements (page ES-15) of the DEIR states that "*where there is no feasible mitigation measure, no fair share is identified (0 percent)*". Section 3.3 of the DEIR identified the intersection of Lawrence Expressway/Tasman Drive as one such location with no feasible mitigation measure. County does not agree with this determination. The preliminary Comprehensive County Expressway Planning Study 2040 identified grade separation of light rail track from the intersection as a feasible measure. Please incorporate this improvement into the study. The project should make a fair share contribution towards this improvement.

2) Transportation mitigation measure TRA-1.2: Intersection Improvements (pages ES-12 through ES-15) of the DEIR state "*The intersection improvements and off-setting mitigation measures summarized in Table 3.3-20 shall be implemented, and Project Developer shall pay the fair-share contributions for the mitigation measures summarized in Table 3.3-20.*" County supports this mitigation strategy. It is the County's understanding and expectation that fair-share contributions will be provided for expressway system improvements at locations recommended for a finding of "significant and unavoidable".

If you have any questions about these comments, please contact Aruna Bodduna at 408-573-2462 or at aruna.bodduna@rda.sccgov.org.

Sincerely,

Dawn S. Cameron
County Transportation Planner

cc: MA, AP

Board of Supervisors: Mike Wasserman, Cindy Chavez, Dave Cortese, Ken Yeager, S. Joseph Simitian
County Executive: Jeffrey V. Smith

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City of Santa Clara
Planning Division

CENTER FOR PUBLIC ENVIRONMENTAL OVERSIGHT
A project of the Pacific Studies Center
278-A Hope Street, Mountain View, CA 94041
Voice: 650-961-8918 or 650-969-1545 Fax: 650-961-8918 <lsiegel@cpeo.org> http://www.cpeo.org

December 7, 2015

Debby Fernandez
City of Santa Clara Planning Division
1500 Warburton Avenue
Santa Clara, CA 95050

Dear Ms. Fernandez:

I appreciate the opportunity to comment on the October 2015 City Place Santa Clara Draft Environmental Impact Report (DEIR). Because the focus of my comments is on the potential risk to future building occupants from vapor intrusion, I have also reviewed the January 2015 Draft Site Investigation and Environmental Risk Assessment (ERA), the July 2015 Feasibility Study of Groundwater Remediation Alternatives (FS), and the September 2015 Draft Post Closure Land Use Plan (PCLUP).

Please note that although I am an elected member of the Mountain View City Council, I am submitting these comments on behalf of the Center for Public Environmental Oversight, not the City of Mountain View.

At this site, Related Santa LLC proposes to build up to 9.16 million gross square feet of office buildings, retail and entertainment facilities, residential units, hotel rooms and parking structures on 230.5 acres containing the former 183-acre All Purpose Landfill.

In summary, I find:

1. The sources and distribution of chlorinated volatile organic compounds (VOCs), particularly trichloroethylene (TCE), have not been adequately characterized.

2. The documents understate the risk of vapor intrusion in the absence of proposed mitigation.

3. Proposed mitigation may reduce the risk to building occupants to acceptable levels, but only if supported by a robust long-term management plan and continuing oversight by regulatory agencies and the public.

4. If buildings on this property can be made safe for other uses, they can be made safe for multi-family residences. For any use, the physical risks (settling, compaction, liquefaction, etc.) and the risk of fires, within the landfill and from potential methane releases, must be addressed.

**The sources and distribution of chlorinated volatile organic compounds, particularly TCE, have not been adequately characterized.**

TCE is found at elevated levels in the soil gas in some locations throughout the property, and it is found in the groundwater in portions of Parcel 3/6 and Parcel 4. TCE nationally is perhaps the most common contaminant of concern at vapor intrusion sites, and its seriousness is intensified by U.S. EPA's finding that pregnant women exposed to low levels of TCE have an increased risk of bearing children with cardiac birth defects.

The DEIR (page 3-11-10) notes: "Discarded items such as household cleaning products, materials coated with or containing paints and adhesives, and other items are common sources of VOCs in landfill gas." Yet there is no evidence that such products are the principal sources of TCE in the former landfill.

In fact, the San Francisco Bay Regional Water Quality Control Board (Water Board), in its February 2015 comments on the draft ERA (page 1), expressed its "concern about the possible presence of drums of hazardous waste buried in the Santa Clara Landfill." Most of the TCE groundwater plumes in Silicon Valley are known to have resulted from leaking underground storage tanks and piping. As such, characterization is straightforward. However, at this site landfill refuse is believed to be the source of TCE and its breakdown products in groundwater as well as landfill gas. The potential presence of containerized waste, whether it be industrial barrels or household cans and bottles, magnifies the potential for both geospatial and temporal variability typically documented in vapor intrusion investigations. Indeed, it may be that intact containers of TCE and other industrial pollutants will release their contents in the future, raising subsurface concentrations.

The FS (page 6) asserts, "there has been a significant decrease of COPC [chemicals of potential concern] concentrations since groundwater data collection began in 2005 in the majority of monitoring wells (Table 1)." Yet of the six wells where TCE readings exceed the five parts per billion (ppb) drinking water standard, two actually had higher levels in 2014 than in 2005, and one of the others registered a higher level in 2014 than in 2011. Since high levels of TCE breakdown products demonstrate the dechlorination (degradation) of the TCE, there should be an explanation of why, at half the wells with TCE, concentrations are actually rising.

Furthermore, the documents (for example, Figure 3 in the FS) show an outline of the Approximate Extent of VOC Plume that is not supported by the associated tables. One-time grab sample B-18-GW, at the southern end of the portrayed plume, registered 15 ppb in late 2014. Monitoring well G-13, on the western edge of the "plume," was measured at 30 ppb in 2014, down from repeatedly sampled levels over 100 ppb from 2005 to 2008. Those levels are too high to mark the plume boundary. Furthermore, since all monitoring wells were placed on what appears to be a roadway dividing Parcel 1/3 and Parcel 4, there are actually very few sampling points properly positioned to delineate the plume.

For all their hard work, the investigators do not know where the TCE is coming from nor what future levels will be.

**The documents understate the risk of vapor intrusion in the absence of proposed mitigation.**

The risk posed by TCE is that future buildings will suck up the TCE soil gas contamination and expose building occupants. Exposure standards for residential use are more protective than workplace standards—the commercial scenario—because residents may spend more hours per week, year, and lifetime inside.

The ERA (page 26) concludes, "TCE and [sic] was not detected in soil and was detected below residential and commercial ESLs [Environmental Screening Levels] for chronic exposure to soil gas, indicating limited flux of TCE from the aquifer toward the ground surface." While I understand why the consultants continue to use the Water Board's ESLs, I believe those thresholds are unprotective and out of date.

The Water Board, in its October 2014 Interim Framework for Assessment of Vapor Intrusion at TCE-Contaminated Sites in the San Francisco Bay Region, has accepted U.S. EPA Region 9's July 2014 Accelerated Response Action Levels of 2 micrograms per cubic meter ($\mu g/m^3$) for residential exposures and 8 $\mu g/m^3$ for commercial (eight hours a day) scenarios. This is based upon the short-term exposure risk of birth defects.

In its December 2013 Lookup Tables, the Water Board actually recognizes a lower (more protective) exposure threshold for chronic (cancer) risk. For residential exposure, it's .59 $\mu g/m^3$. For commercial/industrial exposure, it's 3 $\mu g/m^3$.

But in the same document the Water Board keeps the soil gas ESLs at 300 $\mu g/m^3$ for residential and 3,000 $\mu g/m^3$ for workplaces, based on California's default attenuation factor, the ratio of indoor air concentrations for a substance to its level in soil gas.

I believe the proper soil gas screening levels should apply the default attenuation factor of .03 from U.S. EPA's June 2015 Vapor Intrusion Technical Guide. This number is based upon real world data collected across the country, including sites not too far from Santa Clara. Using this factor, the non-cancer soil gas screening levels would be 67 $\mu g/m^3$ for residential and 267 $\mu g/m^3$ for workplaces. The cancer-based soil gas

screening levels would be 19.7 μg/m$^3$ for residential exposures and 100 μg/m$^3$ for commercial scenarios.

In 2014 TCE was measured in landfill (soil) gas as high as 170 μg/m$^3$ in Parcel 1, 99 μg/m$^3$ in Parcel 2, 230 μg/m$^3$ in Parcel 3, and 160 μg/m$^3$ in Parcel 4. Since all those levels are below the 300 μg/m$^3$ ESL, the consultants wrote them off, in my opinion unjustifiably.

**Proposed mitigation may reduce the risk to building occupants to acceptable levels, but only if supported by a robust long-term management plan and continuing oversight by regulatory agencies and the public.**

The numbers above don't mean that every exceedance will necessarily cause indoor air contamination above the indoor air exposure standards, but they should be used to guide risk management decisions. Fortunately, that's what the consultants are recommending. They plan to install an improved landfill gas collection system, and they have proposed landfill gas mitigation systems (LFGMS). The FS states (Page 15):

> The purpose of the LFGMS is to mitigate the potential building occupants' exposure to compounds that may be present in the shallow subsurface. Although the LFGMS is primarily designed to address high concentrations of methane in landfill gas, it would also serve to mitigate VOCs that may be present from underlying groundwater impacts.
>
> The LFGMS will consist of a (i) a VBM [vapor barrier membrane], and (ii) a horizontal vapor collection and venting system installed below the VBM so that accumulated sub-slab vapors can migrate, and vent, to the atmosphere, outside the building. The horizontal vapor collection system will be primarily passively-driven, but will include a contingency active extraction component that may supplement the passive system based on automated methane monitoring....
>
> Each of the two components of the LFGMS, the VBM and the horizontal vapor collection and venting system will serve to reduce potential vapor intrusion risk. Langan [the consultant] has designed and monitored vapor mitigation systems within the San Francisco Bay Area, with oversight and approval from the Water Board, that have effectively mitigated vapor intrusion risk at properties overlying similar groundwater impacts as present within the VOC Plume.

Indeed, this strategy has proven effective at conventional vapor intrusion sites, but City Place will require extra care for two reasons. First, it's huge project entirely dependent upon successful mitigation of potentially intruding gases. If mistakes are made during construction—for example, if workers damage vapor membranes—it may be difficult to recover.

Second, this is a landfill, not a release from an underground storage tank. The texture and toxicity of the refuse is heterogeneous, creating a great deal of uncertainty about potential exposures. To avoid the disastrous impacts of likely settlement and other land movement, the buildings will be constructed on piles drive through the refuse. Though project designers have proposed innovative technologies to prevent the

opening of preferential vapor pathways, that risk remains. And if there are buried barrels containing toxic compounds, there is a risk of puncture.

Thus, this project is unusually challenging. It will take a robust long-term management program that includes inspection of passive systems, operation and maintenance of active mitigation systems, institutional controls, and monitoring.

The consultants propose a continuous methane monitoring systems to warn of the buildup of combustible gases. That's a good thing, but the monitoring system could be improved with the use of innovative, commercially available software for managing real-time data. Such software can identify trends, instead of simply sending out alarms when methane concentrations exceed identified thresholds.

Furthermore, given the heterogeneity of the landfill, I am not convinced that methane monitoring will adequately indicate, as the consultant suggests, the movement of volatile organic compounds such as TCE and vinyl chloride. Remember, even a short-term intrusion of TCE into any of the buildings poses a serious risk to the offspring of pregnant women inside.

To ensure that long-term management is effective, there needs to be a guarantee that funds will remain available to support the program as long as the landfill contains methane and VOCs. Furthermore, the Water Board will need robust, continuing funding to remain constantly and indefinitely vigilant.

And the buildings' occupants will need to know what is supposed to be happening, not just because they have a right to know, but because they may spot problems first. To its credit, the DEIR proposes (page 3.11-33), "Information about the existing subsurface hazardous materials conditions and the ongoing mitigation and monitoring requirements described in the PCLUP shall be included in all ground leases and space leases for space located over the Landfill." That disclosure should be extended to all building occupants, including employees and visitors, with references to hardcopy or on-line information and explanations.

**If buildings on this property can be made safe for other uses, they can be made safe for multi-family residences. For any use, the physical risks (settling, compaction, liquefaction, etc.) and the risk of fires, within the landfill and from potential methane releases, must be addressed.**

The Water Board has repeatedly made it clear that residential development on a landfill is unprecedented—that is, historically unacceptable—within its jurisdiction. I personally have written that landfills are not a suitable place for residences and other sensitive uses. But this is an unusual situation. Developable land in Silicon Valley is today so valuable, particularly at the proposed density, that Related is willing to spend the money on massive podium construction and the landfill gas systems. It has proposed (page 4 of the PCLUP), "all residential apartments would be constructed above a podium garage structure or above at least one floor of retail space." If they follow the California Department of Toxic Substances Control's advisory on podium construction, including the sealing of elevators, utility lines, and ventilation systems, this

may well turn out to be protective.

Thus, the landfill gas mitigation systems—assuming they work well enough to protect office and retail workers—and podium design should protect residents from TCE and other VOC vapor intrusion. Indeed, the relatively small amount of housing (540,000 square feet vs. more than 9 million square feet total) is planned to be built above or near the TCE groundwater plume

Engineering the buildings and other surfaces to remain intact and level in the face of land movement is a more daunting challenge than vapor mitigation. Preventing methane buildup and fires will also be difficult. But fires and partial collapse are unacceptable in all buildings, not just apartments.

Meanwhile, the project is under criticism as likely to exacerbate Silicon Valley's already devastating jobs-housing imbalance. The City of San Jose, just across the Guadalupe River, says it will result in 24,760 "net" new jobs, creating a demand of 15,408 residential units outside of Santa Clara. Since the Water Board has questioned residential development on site, many have concluded that balancing housing has to be built elsewhere.

However, as I have suggested above, if the project can be made safe enough for other uses, it can be made safe for housing. And building more housing will go a long way toward addressing the worsening of the regional housing shortage and consequent rent/price crisis, the further jamming of traffic, the fiscal impact on San Jose as the region's biggest bedroom community, and the greenhouse gas emissions generated by massive increases in commuting.

I look forward to hearing the responses to my concerns as well as to learning if I have misinterpreted the data in the multifarious lengthy documents.

Sincerely,

Lenny Siegel

Lenny Siegel
Executive Director

STATE OF CALIFORNIA—CALIFORNIA STATE TRANSPORTATION AGENCY EDMUND G. BROWN Jr., Governor

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November 23, 2015

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Ms. Debbie Fernandez
Planning Division
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

Dear Ms. Fernandez:

**City Place Santa Clara – Draft Environmental Impact Report**

Thank you for continuing to include the California Department of Transportation (Caltrans) in the environmental review process for the project referenced above (Project). The mission of Caltrans is to provide a safe, sustainable, integrated and efficient transportation system to enhance California's economy and livability. Caltrans has reviewed the Draft Environmental Impact Report (DEIR) to ensure consistency with its mission and state planning priorities of infill, conservationism, and efficient development. Please refer to the previous Notice of Preparation comment letter, dated August 29, 2014, on this Project. Caltrans provides these comments consistent with the State's smart mobility goals to support a vibrant economy and build communities, not sprawl.

***Project Understanding***

The proposed Project is located immediately south of State Route (SR) 237 in the southwest and southeast quadrants of the overcrossing at Lafayette Street. The Project site is located on seven City-owned parcels. The parcels total approximately 240 acres. The Project site is currently designated in the *City of Santa Clara 2010–2035 General Plan* as Parks/Open Space and Regional Commercial. To accommodate high-intensity urban-oriented development such as the Project, a new General Plan land use designation (Urban Center/Entertainment District) is proposed within the category of Mixed-Use designations. In addition, an amendment to the Climate Action Plan element of the General Plan is proposed to reflect the new land use designation.

The Project would include up to 9.16 million gross square feet (gsf) of office buildings, retail and entertainment facilities, residential units, and hotel rooms. It would also include surface and structured parking facilities. In addition, the Project would include large shared open spaces throughout the Project site; new pedestrian and vehicular entrances and roadway networks; new

roads; new, upgraded, and expanded infrastructure; and new utilities with improvements to off-site connections. To accommodate proposed roadways, construction would occur at off-site locations, which would include the demolition of three existing office buildings in Tasman East for the Lick Mill Boulevard extension.

***Lead Agency***
As the lead agency, the City of Santa Clara (City) is responsible for all project mitigation, including any needed improvements to State highways. The Project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

***Traffic Impacts***
1. The proposed plan is likely to have impacts on the operations of the following metered freeway on-ramps:

    - Eastbound (EB) SR 237/Great America Parkway diagonal on-ramp (metered Monday through Friday 2:30 am to 7:00 am);
    - Westbound (WB) SR 237/Great America Parkway diagonal on-ramp (metered Monday through Friday 6:00 am to 9:00 am and 3:00 pm to 7:00 pm);
    - WB SR 237/Lawrence Expressway loop on-ramp (metered Monday through Friday 6:00 am to 9:00 am and 3:00 pm to 7:00 pm);
    - Southbound (SB) US Highway (US) 101/Bowers Avenue diagonal on-ramp (metered Monday through Friday 3:00 pm to 7:00 pm); and
    - SB US 101/De La Cruz Boulevard diagonal on-ramp (metered Monday through Friday 3:00 pm to 7:00 pm).

2. During ramp metering (metering hours maybe extended to both morning and afternoon peaks in the future), the on-ramp queues will likely be lengthened with the additional traffic demand by this Project, and they may impede onto the local streets affecting their operations. Please provide additional storage on the on-ramps/local streets for the freeway on-ramp traffic to avoid such impacts.

***Vehicle Trip Reduction***
Caltrans encourages the City to locate future housing, jobs and employee-related services near major mass transit centers with connecting streets configured to facilitate walking and biking. Caltrans encourages the Project to add housing units to achieve a better housing to jobs balance and reduce vehicle trips. This would promote mass transit use thereby reducing regional vehicle miles traveled (VMT) and traffic impacts. Given this Project's location, in an area well-served by transit and regional rail, and adjacent to an existing trail network, Caltrans suggests the Travel Demand Management (TDM) strategy of reducing the proposed parking supply and refer the City to "Reforming Parking Policies to Support Smart Growth," an MTC study funded by Caltrans, for sample parking ratios and strategies that support compact growth.

Reducing parking supply can encourage alternate forms of transportation, reduce regional vehicle miles traveled, and lessen future traffic impacts on SR 237 and the State Highways System (SHS). TDM programs should be monitored and documented with annual reports by an onsite TDM coordinator to demonstrate effectiveness. This smart growth approach is consistent with MTC's Regional Transportation Plan (RTP)/Sustainable Community Strategy (SCS) goals of both increasing non-auto mode transportation, and reducing per capita VMT by 10 percent each.

Considering these smart growth goals, please explain why the Increased Housing Alternative was not selected as the preferred alternative to carry forward. This alternative would help better meet the City's job/housing balance policy, conform better to the region's SCS, and produce less traffic impacts and greenhouse gas emissions. Also, when compared to the Project Alternative, the Increased Housing Alternative would result in a similar number of impact categories that are significant and unavoidable, but the degree of impacts would be less severe. The only exceptions where this alternative has more severe significant unavoidable impacts than the Project Alternative are "Conflicts with airport land use plan and City policies related to airport noise" and "Population growth" categories.

Mitigation Measures TRA-1.2, 1A.1, 6.1, 6.2, 14.1, and 16.1 state that "if the removal of bicycle facilities was required...." Caltrans recommends that the Project not remove any bicycle facilities, and that any impact to bicyclists be fully mitigated.

***Traffic Impact Fees***
Given the Project's contribution to area traffic and its proximity to SR 237 the Project should contribute fair share traffic impact fees. These contributions would be used to lessen future traffic congestion and improve transit in the project vicinity.

In addition to the Express Lane projects toward which the City will contribute mitigation fees, the Santa Clara Valley Transportation Authority (VTA) also submitted the following projects to MTC to be included in the next RTP. Contributions towards these projects should also be considered as viable mitigation measures to address the Project's traffic impacts to SR 237 WB/EB Aux Lanes (N. 1st Street to Coyote Creek and Zanker Road to N. 1st Street). Alternatively, contributions could go towards SR 237/Great America Parkway WB off-ramp improvements and a second SB US 101 off-ramp to SB SR 87.

***Voluntary Contribution Program***
Caltrans encourages the City to participate in the VTA's voluntary contribution program and plan for the impact of future growth on the regional transportation system.

***Traffic Control Plan (TCP)***
Since it is anticipated that vehicular, bicycle, and pedestrian traffic along SR 237 will be impacted during the construction of the proposed Project requiring traffic restrictions and detours, a Caltrans-approved TCP is required to avoid project-related impacts to the SHS. The TCP must also comply with the requirements of corresponding jurisdictions. In addition, pedestrian access through the construction zone must be in accordance with the Americans with

Disabilities Act regulations (see Caltrans' *Temporary Pedestrian Facilities Handbook* for maintaining pedestrian access and meeting ADA requirements during construction at: www.dot.ca.gov/hq/construc/safety/Temporary_Pedestrian_Facilities_Handbook.pdf) (see also Caltrans' Traffic Operations Policy Directive 11-01 "Accommodating Bicyclists in Temporary Traffic Control Zones" at: www.dot.ca.gov/hq/traffops/policy/11-01.pdf).

For further TCP assistance, please contact the Caltrans District 4 Office of Traffic Management Operations at (510) 286-4579. Further traffic management information is available at the following website:
www.dot.ca.gov/hq/traffops/trafmgmt/tmp_lcs/index.htm.

***Hazardous Materials***
Since the Project is partially on a landfill site, all motor carriers and drivers involved in transportation of hazardous materials must comply with the requirements contained in federal and State regulations, and must apply for and obtain a hazardous materials transportation license from the California Highway Patrol. When transporting certain types of hazardous materials including inhalation hazards, safe routing and safe stopping places are required. A route map must be carried in the vehicle. More information is available at:
www.dot.ca.gov/hq/traffops/trucks/ops-guide/hazard.htm.

***Transportation Permit***
Project work that requires movement of oversized or excessive load vehicles on State roadways requires a transportation permit that is issued by Caltrans. To apply, a completed transportation permit application with the determined specific route(s) for the shipper to follow from origin to destination must be submitted to: David Salladay, District Office Chief, Office of Permits, California Department of Transportation, District 4, P.O. Box 23660, Oakland, CA 94623-0660. See the following website for more information: www.dot.ca.gov/hq/traffops/permits.

***Encroachment Permit***
Please be advised that any work or traffic control that encroaches onto the State right-of-way (ROW) requires an encroachment permit that is issued by Caltrans. To apply, a completed encroachment permit application, environmental documentation, and five (5) sets of plans clearly indicating State ROW must be submitted to: David Salladay, District Office Chief, Office of Permits, California Department of Transportation, District 4, P.O. Box 23660, Oakland, CA 94623-0660. Traffic-related mitigation measures should be incorporated into the construction plans prior to the encroachment permit process. See this website for more information:
www.dot.ca.gov/hq/traffops/developserv/permits.

Should you have any questions regarding this letter, please contact Brian Ashurst at (510) 286-5505 or brian.ashurst@dot.ca.gov.

Sincerely,

Pat

PATRICIA MAURICE
District Branch Chief
Local Development - Intergovernmental Review

c: Scott Morgan, State Clearinghouse
Robert Swierk, Santa Clara Valley Transportation Authority (VTA) – electronic copy
Robert Cunningham, Santa Clara Valley Transportation Authority (VTA) – electronic copy

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November 23, 2015

Debby Fernandez, Associate Planner
City of Santa Clara Planning Division
1500 Warburton Avenue
Santa Clara, CA 95050
dfernandez@santaclaraca.gov

Re: City Place Santa Clara Draft Environmental Impact Report
SCH#2014072078, CEQ2014-01180 and PLN2014-10440

Dear Ms. Fernandez,

**Santa Clara CityPlace EIR comments**

Friends of Caltrain is a 501c3 nonprofit with over 5,000 participants focusing on sustainable transportation and supportive policies in the corridor from San Francisco through San Jose. Thank you for the opportunity to comment on the Environmental Impact Report for CityPlace.

**Jobs and Housing**

Land use patterns in the Bay Area, where jobs sites are far from housing, are a major contributor to vehicle miles travelled, greenhouse gas and particulate emissions.

The City of Santa Clara already has the second-highest jobs-housing imbalance in Santa Clara County, at 2.8:1. The EIR discloses that full buildout, this project would worsen the city's jobs housing ratio, in contradiction to the city's policy in the General Plan (Table 3.1-3). The project and would similarly worsen the jobs/housing ratio assumed in Plan Bay Area (p 3.1-12).

The mitigation recommended in the EIR (LU-1.1) is to "explore permitting higher residential densities in the city as well as allowing residential land uses in existing non-residential areas." This is described in tentative language ("explore permitting") rather than as a commitment to improve the balance.

Full buildout of the project would add 28,720 employees and 200 residential units under "Scheme A". Under Scheme B, the buildout would accommodate up to 1,360 units. Assuming slightly over 1 employed resident per housing unit, that represents a deficit of over 25,000 units.

During the General Plan period time window from the present to 2035, the City was expecting to add approximately 15,000 housing units. In order to catch up, Santa Clara would need to nearly triple the amount of housing it has been planning according to the General Plan. This analysis does not consider any additional impacts and infrastructure requirements to accommodate the increased housing. Nor does this EIR does examine cumulative impact of additional job growth in nearby areas of Santa Clara and adjacent locations in San Jose and Milpitas.

One way to mitigate the jobs/housing imbalance would be to condition the full build-out of the project on a General Plan update that includes sufficient housing to avoid exacerbating the jobs/housing balance.

In addition to severe implications for transportation impact, the increase in the jobs/housing imbalance is likely to have severe social impacts, putting increased pressure on housing prices. Santa Clara is currently participating in a Nexus Study regarding potential funding for affordable housing. A partial mitigation would be to subject this development to any fees assessed as a result of the Nexus study.

However, even if 50% or 100% of the units in the development were designated below market rate, the development is planned to have about 2,000,000 square feet of retail, entertainment, and hotel uses. At 2.5 employees per 1,000 square foot, there would be ~5,000 employees for those workers, who would be largely lower-wage workers. who would need places to live, in an area where there is essentially no housing attainable at the wage level. Meanwhile, the highest paid workers will further bid up housing prices in the absence of sufficient supply.

**Transportation and traffic**

The jobs/housing imbalance exacerbated by this project contributes to transportation impacts. EIR Table 3.5-6 shows that, at full build-out, the Scheme B with less housing has greater greenhouse gas emissions (97,847 MT CO2e) compared scheme A (89,482 MT CO2e). This difference indicates the benefit of housing to reduce vehicle miles traveled, and the contribution of the housing deficit to vehicle miles travelled and vehicle trips.

In addition to the mitigating transportation impact with a better jobs/housing balance, the project could have much stronger policies to reduce vehicle trips. The EIR projects that the development will reduce daily trips from by office use by 4% and peak-hour traffic by 10%. For residential use the EIR projects daily trips will be reduced by 2% and peak-hour traffic by 4%.

These projections are much more modest than the strict trip limits and mode share goals set by the City of Mountain View in the North Bayshore Precise Plan. Developers are required to stay within the threshold in order to be allowed to expand. *"The Precise Plan has strict transportation improvement requirements, including a vehicle trip cap and single-occupancy vehicle (SOV) trip target. New development must demonstrate how it meets the Plan's vehicle trip cap for all inbound vehicles to the plan area at peak hours <u>and</u> meets a 45 percent SOV target at peak hours."*

<u>Shoreline Boulevard Corridor Study</u> (<u>http://www.shorelinecorridor.com/</u>)
<u>North Bayshore Precise Plan</u>
(<u>http://www.mountainview.gov/civicax/filebank/blobdload.aspx?BlobID=15038</u>)

Cities including Mountain View and San Mateo require transparent, public, perpetual reporting of the performance of projects against vehicle trip limits. In addition, San Mateo has a "re-investment requirement" in its Rail Corridor Specific Plan, requiring developments to invest in more stronger trip reduction measures (such as paid parking) if less stringent measures do not achieve trip goals. If trip goals are not achieved after repeated efforts, financial penalties are imposed for exceeding the thresholds. For example, in the Mountain View North Bayshore Precise Plan, there is a fine of $100,000 for missing the 45% target by 1% and a fine of $50,000 for each additional percentage point above 46%.

The mitigation measures for the Santa Clara City Place project require TDM plan (EIR p. 3.1-39), however this provision lacks metrics, goals, and accountability provisions.

*"A TDM plan, as required per Mitigation Measure TRA-1.1, would include incentives for the use of alternative travel modes to reduce the number of single-occupant vehicles. Participation by major employers in programs that would reduce the amount of driving would be encouraged, potentially including efforts that would promote private commuter bus service, carpooling, vanpooling, ridesharing, parking management, subsidized transit passes for employees, secure bicycle facilities, telecommuting, and flexible work schedules." EIR p 3.1-39*

*In addition, this project allows city staff to exempt the developer from trip reduction requirements. " "The Santa Clara Director of Planning and Inspection 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 Santa Clara Director of Planning and Inspection is satisfied that all feasible TDM measures are being implemented if the overall trip reduction objective is not being met."* Table ES-1.

The TDM mitigations for <u>this project could be much stronger with specific metrics, firm trip and mode share goals goals, reporting and accountability provisions.</u>

**Vehicle parking and transportation impacts**

The high expected driving rate is visible in the parking ratios presented in the EIR. Office developments require 3 parking spaces per 1000 sqft, an expectation of about 75% driving. With stronger vehicle trip reduction, that amount of parking would be excessive. Paid parking should be included in the list of TDM measures to help achieve a strong trip reduction goal.

In addition, there is an increasing likelihood that autonomous vehicles will become prevalent during the lifetime of this development, requiring many fewer parking spaces. We would therefore recommend reducing the initial parking provisions, and leaving parking area in landscape reserve. The forecasted level of parking may never need to be built.

Another technology change expected during the lifetime of the project is much greater adoption of electric vehicles. If 11.5% of cars will be electric by 2025 across California will be electric, and the Bay Area leads in EV adoption, the full build-out percentages of 10% and 2% (residential, commercial, respectively) should be higher.

The EIR reports that residential units require 1.5 parking spaces per unit. Given the extreme housing affordability issues in our region, for low and middle income residents, the development should provide "unbundled parking", allowing residents to rent fewer parking spaces for households that are car-free or car-light (less than one car per adult).

If there are concerns that households will take advantage of unbundled parking to rent fewer spaces and then park on neighborhood streets, the City should implement a Residential Parking Permit Program to protect the neighborhood streets, and the developer should be required to pay for implementation. The benefit of using land for purposes with higher value than vehicle storage will be greater than the cost of supporting a residential parking permit program.

**Transit and active transportation improvements**

In order to increase mode share for transit and active transportation, it will be important to invest in transit and active transportation infrastructure. The DEIR proposes a voluntary contribution for transportation improvements to partially mitigate freeway impacts (Mitigation Measure TRA-3.1). This contribution should also include fair share funding for transit, bicycle and pedestrian improvements that will help reduce solo driving and therefore reduce transportation impact.

The project is located near the Great America, with a station for ACE and Capitol Corridor heavy rail and VTA light rail stations at Great America and Lick Mill. The use of transit could be increased by investing in upgrades to the Great America rail facilities, and improving bus and shuttle connecting access to the rail areas.

Pedestrian access to the Great American station area could be improved by extending the development footprint and pedestrian connection directly to the station. This could add more retail foot traffic for the development while making transit use more appealing. Additional pedestrian improvement can be provided at the Tasman overcrossing, and a sidewalk on the North side of Tasman connecting to the Lick Mill VTA Light Rail station. One proposal to study is to consolidate the heavy rail station with a light rail station, to provide easy transfers for riders, and a more attractive station with higher pedestrian foot traffic and greater real estate value.

In addition, the development should contribute to improvements to light rail speed in the area, including signal priority / traffic light coordination between light rail and vehicle uses.

With the extension of BART to Milpitas, VTA will be adding faster, direct light rail service from Milpitas, shortening a trip that is currently 30 minutes. The development should provide fair share contribution to this investment which will bring commuters from the BART system.

The CityPlace development is one stop on the ACE/Capital corridor from the Santa Clara Caltrain station, also identified as the location of additional BART service, and two stops from the Diridon multi-modal transit hub. The development should provide bus/shuttle service from the Caltrain/BART station, and should work with ACE/Capital Corridor to assess the feasibility of supplementary rail shuttle service between Diridon and Great America, to serve the high potential volume of shorter-distance commuters.

**Pedestrian and bicycle access enhancements**

The project includes pedestrian and bicycle improvements within the development; it is as important to provide pedestrian and bike connections to adjacent areas outside the development, to facilitate active commuting and reduce vehicle transportation impacts.

The City Place development will be walking distance from nearby residential developments including Tasman East and RiverMark. City Place should make fair share contributions to ensure safe and attractive pedestrian connections to these nearby residential areas to facilitate pedestrian commuting and use of retail and entertainment areas.

The region's current "gold standard" for bicycle access planning is Google's plan for access to its North Bayshore headquarters in Mountain View. Currently, 20% of Google employees who

live within 5 miles of campus bicycle to work, and Google has a plan to reduce high-stress barriers to enable 40% of employees to commute within a 5 mile radius.

The CityPlace development and City of Santa Clara should partner to identify and implement low-stress connectivity within a 5 mile bicycle commute radius. Opportunities for improvement include, but are not limited to:

- A bicycle/pedestrian bridge adjacent to the Lafayette crossing over 101
- Improved access and complete segment Coyote Creek Trail
- Improved access from Guadalupe River Trail
- Enhance existing bicycle lanes on Great America and Lafayette, converting existing Class II lanes to Class IV (cycle tracks)
- With the extension of Lick Mill Boulevard onto and through the Project site, create a Class IV Cycle Track
- Fill gaps in the existing on-street lane network within a 5 mile radius (e.g. Lafayette south of Agnew, potentially via a parallel route on Basset)

Lastly, to support an increased rate of bicycle commuting, we would recommend a greater supply of bicycle parking, following the guidelines of the City of Palo Alto to provide one bicycle parking space per ten employees, rather than the current one space per 30 employees, and one bicycle space per residential unit, rather than one bicycle parking space per 3 units.

Substantial improvements to transit and active transportation facilities should be required as transportation mitigation and/or components of the Development Agreement.

Thank you for your attention to these comments.

Adina Levin
Friends of Caltrain
http://greencaltrain.com
650-646-4344

IRVINE COMPANY
Since 1864

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City of Santa Clara
Planning Division

November 18, 2015

Debby Fernandez, Associate Planner
City of Santa Clara Planning Division
1500 Warburton Avenue, Santa Clara, CA 95050

**Subject: City Place Santa Clara Project Draft Environmental Impact Report (SCH#2014072078)**

Dear Ms. Fernandez:

Thank you for the opportunity to review the subject Draft Environmental Impact (DEIR) for the City Place Santa Clara Project, which is located on seven-City owned parcels generally located north of Tasman Drive, east of Great America Parkway, west of Guadalupe River and south of Great America Way. As noted on page 2-17 of the DEIR, the Project site is located adjacent to an Irvine Company owned and operated office park, Santa Clara Gateway, along Great America Parkway and Great America Way.

The DEIR includes an assessment of an alternative vehicular access to the Project site identified as the "Santa Clara Gateway Variant". Under this variant, the existing entrance to the southern portion of Santa Clara Gateway at the Great America Parkway/Old Mountain View-Alviso Road intersection would be significantly modified by extending the existing entrance road to Santa Clara Gateway further east and then south to connect with the new City Place Parkway between Parcels 3 and 4.

The proposed Santa Clara Gateway Variant is unacceptable to the Company as it would cause significant impacts to our existing office park as outlined below:

1. **Fragmentation of Santa Clara Gateway Property** – The proposed City Place access roadway will bisect the existing Santa Clara Gateway project creating a separate and disconnected parcel of land approximately 4.1 acres in size. The scale of the proposed roadway including turning pockets will create a substantial barrier between the bulk of the project and this remaining fragment parcel.

   The created dislocated parcel has an irregular size and is impracticable to utilize in an efficient manner for commercial purposes consistent with uses and densities found in the surrounding area. We have tested the configuration and size with multiple site plan alternatives and none has been found to allow a project design consistent in character and density with the remaining existing portion of the SCG project.

2. **Impact on Existing Tenants** – Construction of the Santa Clara Gateway project was completed only last year (2014) with leasing still in progress. Many tenants have only recently signed after evaluation of many factors including the project's parking distribution and convenience for their employees. The new roadway proposed by the applicant will create an inconvenient and

hazardous barrier to accessing a large field of existing surface parking south of the proposed roadway.

3. **Issues with Suggested Parking Deck- The** DEIR has suggested the dislocated parking could be resolved with a new parking deck on the north side of the new roadway adjacent to existing buildings. This is an impractical solution due to 1) the existing parking, which is currently very convenient to the tenants will be inaccessible for 12-18 months while the new deck is constructed, and 2) there is no practical location for temporary relocation of spaces vacated while the deck is being constructed. The temporary disruption, lack of access to parking and general inconvenience will trigger breach of contract issues between the Irvine Company and our tenants as well as a general degradation of the project and quality of work life for hundreds of workers.

4. **Interference with Project Financing:** The Variant proposal would conflict with the project financing and cause financial damages to the Gateway project.

5. **Damage to Underlying Fee Value:** The fee ownership is in transition. The Redevelopment Disposition Agency, which now has the property, will not be able to see the fee interest if it is divided by a road separating the parking from the property.

In conclusion, the Irvine Company does not support the Santa Clara Gateway Variant for a number of significant reasons and requests that this alternative be eliminated from further consideration as you move forward in your deliberations on the subject DEIR. Should you want to discuss our position further, we are available to meet.

Sincerely,

Carlene Matchniff,
Vice President, Entitlements & Public Affairs

cc: Kevin Riley

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PLANNING DIVISION

November 20, 2015

Ms. Debby Fernandez
City of Santa Clara
1500 Warburton Avenue
Santa Clara, California 95050

Re: City Place Santa Clara Project—Comments on Draft Environmental Impact Report SCH#2014072078, CEQ2014-01180 and PLN2014-10440

Dear Ms. Fernandez,

Thank you for the opportunity to submit these comments on the Draft Environmental Impact Report (DEIR) for the City Place Project. These comments address impacts to the Burrowing Owl.

The Draft EIR for the City Place Santa Clara Project is deficient in its description of impacts on the burrowing owl (Athene cunicularia), a special-status wildlife species. The Project location, as described in Chapter 2 of the DEIR, covers 24 acres that have been set aside as mitigation lands for the burrowing owl. This fact is not acknowledged in the DEIR. Specifically, the Existing Conditions section entitled "Burrowing Owl Conservation in the Project Area" in Section 3.8 is deficient because it incorrectly describes the mitigation commitment made by the City of Santa Clara for the Bayshore North Redevelopment Plan (BNRP). The draft EIR (pg 3.8-6) states that

> *"No portion of the Project site has been set aside for burrowing owl mitigation..."*

This statement on pg. 3.8-6 is inconsistent with the public record. In fact, on May 2, 2000, the City Council committed 24 acres of land for burrowing owl mitigation. These mitigation lands are now being planned as part of the Project.

The draft EIR also states:

> *In 2000, City Council considered taking additianal steps related to burrowing owl conservation but never took any final actions. On May 2, 2000, the City Council gave the City Manager the direction to look into potentially developing and maintaining "44.5 acres of burrowing owl habitat in some combination on the following three sites: the closed Lafayette landfill adjacent to the Santa Clara P.A.L. Track, two of the four slopes of the relocated golf holes an the Project site, and at the San José/Santa Clara Water Pollution Control Plant."*

This statement misrepresents the May 2, 2000 City Council resolution. The direction by the City Council to the City Manager was very clear and direct, i.e. "to seek the development and maintenance of 44.5 acres of burrowing owl habitat....." The Draft EIR paraphrase of the Council resolution transforms this very clear direction into a much weaker statement "look into potentially developing and maintaining 44.5 acres of burrowing owl habitat". In fact the City Manager and other staff, along with three Council members and multiple additional stakeholders had spent the previous 6 months in a series of nine meeting of the Council-appointed Burrowing Owl Habitat Committee rigorously evaluating the suitability of 10 locations that could be used as mitigation for the loss of burrowing owl habitat.

This Committee also carefully considered the management actions that would be required to develop and maintain this habitat as well as estimating the cost for developing and maintaining these mitigation

lands. The May 2, 2000 resolution of the Council was its final action on burrowing owl mitigation for the Bayshore North Redevelopment Plan (BNRP). This final resolution identified the 44.5 acres of additional mitigation lands, adopted a set of Best Management Practices (BMP) for the development and maintenance of the mitigation lands, and identified funding sources for the development and maintenance of the mitigation lands.

The remainder of this section on burrowing owl mitigation will go into more depth on the actions that led up to the 2 May, 2000 Council resolution identifying 44.5 acres of mitigation, which includes 24 acres that are part of the City Place Santa Clara Project.

In 1999, the EIR for the Bayshore North Redevelopment Plan (BNRP) was being considered. One of the biological impacts was the loss of 103 acres of burrowing owl habitat and the loss of numerous pairs of breeding burrowing owls. This was a significant impact because even 15 years ago, it was clear that burrowing owl population was plummeting. Based on a formula of 6.5 acres per burrowing owl pair, the City was required by the California Department of Fish and Game to provide 58.5 acres of mitigation lands. The City provided for that mitigation by contributing to a mitigation bank near Byron, CA. However, because the impact was so great, many Santa Clara citizens and members of the City Council insisted on a mitigation ratio of 1:1, i.e. 103 acres of mitigation. In response to the public and Council interest in 1:1 mitigation, the City Council took 2 actions in August/September 1999.

The first council action was to set up a Burrowing Owl Habitat Committee to look into options for additional mitigation beyond that required by California Fish and Game. This motion was passed unanimously on August 24, 1999 (Exhibit A):

> *MOTION was then made by Matthews, seconded and unanimously approved (Gillmor and Mahan absent), that the Council approve the formation of a Burrowing Owl Habitat Committee chaired by Council Member McLemore to develop a recommendation on the following: 1) identify potential pocket habitats within the City; 2) develop an outreach plan to other regional cities to coordinate efforts wherever possible; 3) develap Best Management Practices (BMP) for maintenance of City properties to prevent habitat impacts where possible; 4) include community stakehalders and provide notification to identified and interested parties to be included in the process; 5) disseminate information in normal ways and also on the web site and through other City publications to be developed in conjunction with staff; and to return to the Council by February 2000 with a recommendation.*

Further on September 14, 1999, the Council affirmed its commitment to provide 1:1 mitigation for the loss of burrowing owl habitat (Exhibit B):

> *MOTION was then made by McLemare, seconded and unanimously carried, that the Council approve the policy that the City will provide mitigation for the loss of 103 acres of apen space and associated wildlife values. The mitigation will be at a goal of 1 ta 1 ratia, and can occur in either within or outside of the city baundaries and will consider environmental and financial impacts to the city. The 58.5 acres protected in accordance with the existing agreement with the California Department of Fish and Game shall count towards the mitigation acreage.*

Councilmembers John McLemore, Patricia Mahan and Aldyth Parle were appointed to the Burrowing Owl Habitat Committee. City staff were heavily involved in the Committee deliberations with City Manager Jennifer Sparacino, Assistant City Manager Ron Garratt and Senior Staff Aide Pam Morrison in attendance. The Committee meetings were well attended by Council representatives, City staff,

stakeholders representing an array of interested organizations and many members of the public. This Committee worked diligently for six months to accomplish their goals. As reported in the Santa Clara Weekly of 16-20 May 2000:

> *The Committee met nine times since its establishment, for about 2 ½ hours each meeting. The Committee had good representation by a number of city groups, the Loma Prieta Chapter of the Sierra Club, the Northside Residents Association, a Mission College representative, People for Open Space, the Santa Clara Chamber of Commerce, the Santa Clara Police Activities League, the Santa Clara Valley Audubon Society, Santa Clara University, the State Department of Fish and Game, and Council Representatives.*

Prior to the first meeting of the Burrowing Owl Habitat Committee, City staff and Councilmembers were already quite familiar with at least 10 potential mitigation areas. Prior to the signing of the Mitigation Agreement between the City and the California Department of Fish and Game, the City (with DFG) had studied 10 locations that represented potential mitigation habitat. David Plumpton, a burrowing owl specialist with H.T. Harvey provided detailed technical reports on the suitability of various locations for burrowing owl habitat. These locations included the Lafayette landfill, Open Space Park (to become Ulistac Natural Area), Airport Radar Station at De La Cruz and Central, Water Pollution Control Plant property, land owned by the City electric utility near Benicia, land near Byron and other locations. For the legally required 58.5 acres of mitigation, the City selected the mitigation bank near Byron, but City staff and council were already quite familiar with the potential of the Lafayette landfill and the Water Pollution Control Plant for burrowing owl habitat. The various locations and habitat evaluations can be seen in Exhibit C, a memo from the City Attorney to Assistant City Manager Ron Garratt.

At the first meeting on November 1, 1999, the Committee Chair outlined the goals of the Committee in the context of previous Council resolutions (Exhibit D):

> *The Council goal is to mitigate 103 acres, including 58.5 already approved under the agreement with the California Department of Fish and Game. The Committee's goal will be to identify the remaining 44.5 acres.*

The November 15,1999 Committee meeting considered additional properties (in addition to those identified in Exhibit C) within the City limits that could be considered for burrowing owl mitigation, including the closed landfill near the Irvine property, the Hetch-Hetchy right-of-way and Our Lady of Peace Church (Exhibit E). Review of these properties continued over the life of the Committee. As a result of the work done prior to the signing of the Mitigation Agreement with DFG and the work done by the Burrowing Owl Habitat Committee, City staff, the Council and the Committee were well-informed on the potential for each of these areas as mitigation lands for burrowing owls.

Other Committee meetings looked at management requirements for the various sites. Each site was evaluated with respect to whether the existing vegetation was appropriate or whether the site would need to be revegetated. In parallel, David Plumpton developed a set of Best Management Practices for management of lands for burrowing conservation (Exhibits F-M).

The February 28, 2000 Committee meeting reviewed cost estimates prepared by staff for managing the Lafayette landfill for burrowing owls. This cost was based on the Best Management Practices developed during the course of the Committee meetings. (Exhibits K, M)

Over the course of 9 meetings, the Committee considered ten potential sites, including locations on City-owned land, privately owned land within the City, land adjacent to the City and land owned by

other local entities. Burrowing owl biologist, David Plumpton with H.T. Harvey, provided technical support in evaluating the suitability of various sites and management strategies that might be appropriate in different locations. The Committee spent significant time evaluating both potential habitat sites and management strategies (Exhibits F-M).

At the Committee's final meeting on March 27, 2000, the Committee agreed on a set of recommendations. These recommendations are summarized in the Final Report from the Council Appointed Burrowing Owl Habitat Committee, dated 28 April 28, 2000 (Exhibit M).

The Committee decided on three mitigation locations:

| | | | |
|---|---|---|---|
| 1. | Closed landfill adjacent to PAL BMX track | 17.0 acres | in Santa Clara |
| 2. | Closed landfill slopes for the new golf holes | 7.0 acres | in Santa Clara |
| 3. | Portion of the SJ/SC Treatment Plant Property | 20.5 acres | adjacent to Santa Clara |

These three locations total 44.5 mitigation acres. Together with the 58.5 mitigation acres in the DFG agreement, this gave a total of 103 acres of mitigation, which met the September 14, 1999 Council goal to achieve 1:1 mitigation or 103 mitigation acres. The City Place Santa Clara Project covers the first two sites: the closed landfill adjacent to BMX track and the closed landfill slopes for the new golf holes, a total of 24.0 acres.

Note that in this Final Report (written by staff) that staff concurs with the Committee on several recommendations, including the location of the 44.5 acres of burrowing owl mitigation habitat, Best Management Practices (BMP) for maintenance of City properties for wildlife, and other issues. Staff also assessed the fiscal and economic impact of developing habitat on the additional 44.5 acres (pg 5/8, Exhibit M) and recommended that the Council direct the City Manager "to use appropriated Redevelopment Agency funds.....for the development of burrowing habitat on the voluntary 44.5 acres" (pg. 6/8, Exhibit M).

On May 2, 2000, the City Council reviewed the recommendations of the Burrowing Owl Habitat Committee and in the following motion, unanimously accepted all recommendations of the Committee (Exhibit N):

> MOTION was made by McLemore, seconded and unanimously carried, that the Council approve the following recommendations: Staff Recommendations: 1) Direct the City Manager to seek the development and maintenance of 44.5 acres of burrowing owl habitat in some combination on the following three sites: the closed Lafayette landfill adjacent to the PAL/BMX Track, two of the four slopes of the relocated golf course holes and at the San Jose/Santa Clara Water Pollution Control Plant; 2) Direct the City Manager to work with the City of San Jose in the identification and development of burrowing owl habitat land at the San Jose/Santa Clara Water Pollution Control Plant; 3) Direct the City Manager to adopt and implement Best Management Practices for the long-term maintenance of City-owned designated habitat; 4) Direct the City Manager to communicate the status of the City's efforts in the area of burrowing habitat management through use of the City's web site, the City newspaper, the City's Cable Channel 15, and Mission City SCENES; 5) Direct the City Manager to work with the Police Athletics League to create an amendment to the existing BMX Track lease to redefine the land area included in the lease with the land area remaining at +/- 12 acres; 6) Direct the City Manager to use appropriated Redevelopment Agency funds (939-9011-8030-9048), not to exceed $90,000, for the development of burrowing owl habitat on the voluntary 44.5 acres and added Committee

recommendations: 7) Direct the City Manager to perform an annual survey of burrowing owls in the general area of the golf course and adjacent City-owned properties; 8) Direct the City Manager to request that the City/Mission College Liaison Committee place an annual item on their meeting agenda to have the College provide the Liaison Committee with an update of facilities development on the campus and the effect of development on the College's burrowing owl population; and 9) Direct the City Manager to negotiate a Safe Harbor Agreement with the State of California, Department of Fish and Game that would allow owls to return to the slope areas along Tasman Drive/Centennial Boulevard and not have the City held to the construction clearance requirements from nesting owls currently enforced by the Department of Fish and Game.

The DEIR states that "In 2000, City Council considered taking additional steps related to burrowing owl conservation but never took any final actions." Based on the above review of the historical record, this statement is incorrect. On May 2, 2000, the City Council took a host of final actions. With regards to burrowing owl mitigation lands, the Council made two commitments, a legally-required commitment with the California Department of Fish and Game for 58.5 acres of burrowing owl mitigation, and a voluntary commitment to 44.5 acres of burrowing owl mitigation, consistent with their September 14, 1999 resolution.

The DEIR states that the May 2, 2000 Council direction "gave the City Manager the direction to look into potentially developing and maintaining 44.5 acres of burrowing owl habitat". The record is clear that the direction was not "to look into potentially developing" 44.5 acres of burrowing owl habitat. On the contrary the direction was to actively develop and maintain the habitat. "Looking into" habitat potential had occurred during the lengthy period while the City was negotiating with DFG over the legally required mitigation and in the 9 meetings of the Burrowing Owl Habitat Committee. The Council clearly stated that the 44.5 acres were to be developed and maintained as burrowing owl habitat. The Council also clearly identified in its resolution the source of funds for both initial development and maintenance of the burrowing owl habitat.

In order to approve the City Place Santa Clara EIR, the 24.0 acres of mitigation lands on the Project Site (the closed Lafayette landfill adjacent to the PAL/BMX Track, two of the four slopes of the relocated golf course holes) must be mitigated for, either through other mitigation lands or other mechanism. Since the Santa Clara Valley Habitat Agency is pursuing a regional plan for conservation of the burrowing owl, working with that Agency to identify equivalent mitigation seems like a reasonable approach.

Previous development has reduced the once-thriving population of burrowing owls in Santa Clara to a single pair which was identified during the 2015 burrowing owl survey performed by the Santa Clara Valley Habitat Agency. Development of lands on the Project site, both the 24.0 acres of mitigation land, the golf course and other open land in the area, eliminates the nearest foraging habitat for the owls and almost certainly will lead to the complete extirpation of the burrowing owl from Santa Clara. This must be considered a significant impact.

In addition, the Project plans to develop these mitigation lands and other burrowing owl habitat at a time when a regional effort is being made by the Santa Clara Valley Habitat Agency to stabilize the existing owl population. Thus, the Project's impact is to undercut regional efforts to halt the precipitous decline of this species. This is also a significant impact.

If you have any questions, please contact Jan Hintermeister at (408) 314-5327.

Sincerely,

Jan Hintermeister

## List of Exhibits

| | |
|---|---|
| Exhibit A | City Council Minutes (partial), 24 Aug 1999 |
| Exhibit B | City Council Minutes (partial), 14 Sep, 1999 |
| Exhibit C | Interoffice Memorandum (partial), 9 Aug 1999 |
| Exhibit D | Burrowing Owl Habitat Committee Agenda and Minutes, 1 Nov 1999 |
| Exhibit E | Burrowing Owl Habitat Committee Agenda and Minutes, 15 Nov 1999 |
| Exhibit F | Burrowing Owl Habitat Committee Agenda and Minutes, 29 Nov 1999 |
| Exhibit G | Burrowing Owl Habitat Committee Agenda and Minutes with attachment, 13 Dec 1999 |
| Exhibit H | Burrowing Owl Habitat Committee Agenda and Minutes with attachment, 10 Jan 2000 |
| Exhibit I | Burrowing Owl Habitat Committee Agenda and Minutes with attachment, 24 Jan 2000 |
| Exhibit J | Burrowing Owl Habitat Committee Agenda and Minutes, 14 Feb 2000 |
| Exhibit K | Burrowing Owl Habitat Committee Agenda and Minutes with attachment, 28 Feb 2000 |
| Exhibit L | Burrowing Owl Habitat Committee Agenda and Minutes, 27 Mar 2000 |
| Exhibit M | Burrowing Owl Habitat Committee Final Report with attachments, 28 Apr 2000 |
| Exhibit N | City Council Minutes (partial), 2 May 2000 |

EXHIBIT A

**MOTION** was made by Matthews, seconded and unanimously carried (Gillmor and Mahan absent), that the Council **conceptually approve** the structure of the **Burrowing Owl Mitigation Agreement** with the **State of California Department of Fish and Game** and **direct** the City Manager to return to the Council for final approval pending certification of the North Bayshore Environmental Impact Report. **MOTION** was then made by Matthews, seconded and unanimously carried (Gillmor and Mahan absent), that the Council **approve** the forming of a **Burrowing Owl Habitat Committee** chaired by Council Member McLemore to develop a recommendation on the following: 1) identify potential pocket habitats within the City; 2) develop an outreach plan to other regional cities to coordinate efforts wherever possible; 3) develop Best Management Practices (BMP) for maintenance of City properties to prevent habitat impacts where possible; 4) include community stakeholders and provide notification to identified and interested parties to be included in the process; 5) disseminate information in normal ways and also on the web site and through other City publications to be developed in conjunction with staff; and to return to the Council by February 2000 with a recommendation.

**MOTION** was made by Parle, seconded and unanimously carried (Gillmor and Mahan absent), that the Council **excuse** Council Member Mahan from attendance at the remainder of this evening's meeting.

The Council recessed at 10:40 p.m. and reconvened at 10:45 p.m.

6.E The Council proceeded to consider the **Implementation Analysis of the City Council Goals for 1999-2000**. The City Manager reviewed the recommendations contained in her memo (8/20/99). A Council discussion followed. **MOTION** was made by Diridon, seconded and unanimously carried (Gillmor and Mahan absent), that the Council **approve** the Implementation Analysis and **appoint** Council Members Matthews and Parle and Mayor Nadler to the newly formed **Neighborhood Rehabilitation Committee** and **direct** the City Manager to begin implementation steps with a progress report on the December 7, 1999, Council meeting. **MOTION** was made by Diridon, seconded and unanimously carried (Gillmor and Mahan absent), that the Council **refer** to the City Manager for the Implementation Analysis Council Member Diridon's comments regarding suggestions for increased public access to the internet, use of the internet to streamline City services and other areas in the City that need revitalization.

EXHIBIT B

clarified issues regarding the impacts on the owl habitat in the area. There being no further public input, **MOTION** was made by Gillmor, seconded and unanimously carried, that the public hearing is closed. A Council discussion followed. **MOTION** was then made by Gillmor, seconded and unanimously carried, that the Council **pass and adopt Resolution No. 6622** entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA CERTIFYING THE PROGRAM LEVEL ENVIRONMENTAL IMPACT REPORT FOR THE BAYSHORE NORTH REDEVELOPMENT PROJECT, WITH PROJECT LEVEL REVIEW OF THE NORTHERN RECEIVING STATION, AND ADOPTING FINDINGS TO APPROVE THE PROJECT IN ACCORDANCE WITH THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AND RECOMMENDED PROJECT CONDITIONS FOR ENVIRONMENTAL MITIGATION." **MOTION** was then made by Gillmor, seconded and unanimously carried, that the Council **pass and adopt Resolution No. 6623** entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE UNAVOIDABLE ADVERSE ENVIRONMENTAL EFFECTS OF THE BAYSHORE NORTH REDEVELOPMENT PROJECTS IN ACCORDANCE WITH THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT." **MOTION** was then made by Gillmor, seconded and unanimously carried, that the Council **pass and adopt Resolution No. 6624** entitled "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SANTA CLARA, CALIFORNIA, ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS FOR THE UNAVOIDABLE ADVERSE ENVIRONMENTAL EFFECTS OF THE NORTHERN RECEIVING STATION IN ACCORDANCE WITH THE REQUIREMENTS OF THE CALIFORNIA ENVIRONMENTAL QUALITY ACT." A Council discussion followed. **MOTION** was then made by McLemore, seconded and unanimously carried, that the Council **approve** the policy that the City will provide mitigation for the loss of 103 acres of open space and associated wildlife values. Emphasis should be placed on grassland habitats. The mitigation will be at a goal of 1 to 1 ratio, and can occur either within or outside of the city boundaries and will consider environmental and financial impacts to the City. The 58.5 acres protected in accordance with the existing agreement with the California Department of Fish and Game shall count towards the mitigation acreage.

**MOTION** was made by Diridon, seconded and unanimously carried (Gillmor absent), that the Council **excuse** Council Member Gillmor from attendance at the remainder of this evening's meeting.

- EXHIBIT C

# INTEROFFICE MEMORANDUM

**City of Santa Clara, Office of the City Attorney**

**DATE:** AUGUST 9, 1999

**TO:** RONALD E. GARRATT, ASSISTANT CITY MANAGER

**FROM:** GARY M. BAUM, ASSISTANT CITY ATTORNEY

**RE:** SAN BERNARDINO v. METROPOLITAN WATER DISTRICT AND THE AGREEMENT WITH THE DEPARTMENT OF FISH AND GAME

## QUESTION PRESENTED

Does the recent case of San Bernardino Valley Audubon Society v. Metropolitan Water District (1999) 71 Cal. App.4th 382, 83 Cal. Rptr. 2d 836 ("San Bernardino case") affect the City's anticipated Mitigation Agreement with the California Department of Fish and Game?

## BRIEF ANSWER

No, the San Bernardino case probably does not affect the planned Mitigation Agreement with the California Department of Fish and Game ("Fish and Game") for the following reasons:

1. The San Bernardino case concerns the "taking" (killing or destroying) of an endangered species. Construction of the projects in the Bayshore North Environmental Impact Report ("E.I.R.") will not result in the taking of a burrowing owl. The burrowing owl is not an endangered species or a threatened species. It is a species of special concern, a Fish and Game designation.

2. The San Bernardino case is based upon failure to prepare an E.I.R. The City has prepared an E.I.R. and California Environmental Quality Act ("CEQA") compliance has been achieved.

3. The City will be using a Statement of Overriding Considerations as one of the factors supporting passage of the project despite its effects upon the environment. In San Bernardino, no attempt was made to balance the environmental impacts with the social, economic, legal, technological or other benefits of the project. The Statement of Overriding Consideration for the Bayshore North E.I.R. will list those benefits to balance the environmental impact.

4. The San Bernardino case focused upon the failure to do an E.I.R. when creating a mitigation bank for endangered species. The San Bernardino case concerned the establishment of an enormous mitigation bank that would be utilized to offset impacts upon many endangered species for developments in Southern California. The City is not setting up a mitigation bank and this development is much smaller.

## BACKGROUND

The City is considering entering into a Mitigation Agreement with Fish and Game as part of the overall mitigation approach analyzed in the Bayshore North E.I.R. The Bayshore North E.I.R. reviews developments on approximately 110 acres. These developments will have a significant environmental impact upon burrowing owls, traffic and air quality. Despite numerous mitigation measures, it is infeasible to mitigate these impacts below a level of significance. For example, in the case of burrowing owls, 58.5 contiguous acres of owl habitat do not exist north of Bayshore. While some areas are still undeveloped, they are unsuitable for owls due to the presence of trees or use as parks with human presence. The San Bernardino case was issued during the negotiation process. Stephen Adams, an attorney with Fish and Game, is of the opinion that the case has no effect upon the City's Mitigation Agreement. The City Attorney's office was asked to analyze the issue.

## ANALYSIS

The reasons the San Bernardino case is distinguishable are outlined in **Brief Answer** above. The City is adopting a Statement of Overriding Considerations as part of the Bayshore North E.I.R. The Statement will review the benefits of the projects to the community in terms of social, economic, and recreational improvements. Adoption of the Statement requires the City Council to balance the environmental impacts with the benefits provided to the City and its citizens. It recognizes the impact, but allows for development if substantial justification can be made. Adoption of the Mitigation Agreement is part of the overall CEQA mitigation package. Thus, the creation of a mitigation bank without CEQA review is not part of the City's situation, unlike San Bernardino.

## CONCLUSION

It is likely the San Bernardino case does not apply to the City's Mitigation Agreement with the California Department of Fish and Game. The facts and circumstances in the San Bernardino case are quite different from those with Santa Clara.

Gary M. Baum

GARY M. BAUM
Assistant City Attorney

Read and Concur:

Michael R. Downey

MICHAEL R. DOWNEY
City Attorney

cc: Eli Greenstein, Law Clerk
I:\VOL2\DATA\WP\GARY\1999\GARRATT8.9

# PRELIMINARY SITE ANALYSIS
## POTENTIAL BURROWING OWL MITIGATION LANDS

Prepared by: Assistant City Manager
As of: July 30, 1999

| SITE | LOCATION | ACRES (approx) | ATTRIBUTES AND CHALLENGES OF PROPERTY AS PERTAINING TO BURROWING OWL HABITAT | FISH & GAME PERSPECTIVE AS TO VIABLE OWL HABITAT | FUNDING REQUIRED FOR | | |
|---|---|---|---|---|---|---|---|
| | | | | | LAND ACQUISITION | HABITAT CREATION | SUSTAINABLE HABITAT ENDOWMENT |
| 1. Lafayette Landfill | Lafayette St. @ Hwy 237 Santa Clara | 13-20 | o Closed landfill - owned by City.<br>o Youth bike/BMX activity immediately adjacent. Concern re: habitat sustainability.<br>o Topography may require completely artificial habitat creation.<br>o Site not currently considered burrowing owl habitat. | o Site not currently occupied by owls.<br>o Constant perturbation by bikes may make it unattractive to owls. | No | Yes | Yes |
| 2. Open Space Park | Lick Mill Blvd @ Tasman Dr. Santa Clara | 5-7 | o Southern portion of the 40 acre park is best local for habitat creation.<br>o Existing trees would have to be removed effecting some number of raptors.<br>o Some leveling of the site would have to occur.<br>o Site preparation described above not consistent with proposed park plan.<br>o Site not currently considered burrowing owl habitat. | o Predation by raptors may be a problem.<br>o Don't want to lose existing tree raptor nesting habitat.<br>o Potential conflict with recreation.<br>o Site not currently occupied by burrowing owls. | No | Yes | Ye |
| 3. Airport Radar Station | DeLaCruz @ Central Expwy Santa Clara | 20 | o Property owned by San Jose Airport.<br>o Half of site leased to FAA for radar array. Can have no restricitions on access or use.<br>o Portion of remainder of property contains runway approach light arrays. Can have no restriction on access or use.<br>o SJ Biologist - larger raptors attracted to antenna would keep owls away.<br>o Site not currently considered burrowing owl habitat. | o Restricted use and access may be a conflict.<br>o Unknown if owls occupy the site.<br>o Predation by raptors may be a concern. | Yes | Yes | Yes |

EXHIBIT C

# PRELIMINARY SITE ANALYSIS
## POTENTIAL BURROWING OWL MITIGATION LANDS

Prepared by: Assistant City Manager
As of: July 30, 1999

| SITE | LOCATION | ACRES (approx) | ATTRIBUTES AND CHALLENGES OF PROPERTY AS PERTAINING TO BURROWING OWL HABITAT | FISH & GAME PERSPECTIVE AS TO VIABLE OWL HABITAT | FUNDING REQUIRED FOR | | |
|---|---|---|---|---|---|---|---|
| | | | | | LAND ACQUISITION | HABITAT CREATION | SUSTAINABLE HABITAT ENDOWMENT |
| 4. Sewage Treatment Plant | Alviso | 54 | o City owns 21% of Plant, San Jose 79%<br>o SC biologist determined that 54 acres had the possibility to be converted to owl habitat.<br>o San Jose created owl habitat near this area a few years ago.<br>o Treatment Plant operating staff see numerous operational issues with establishing owl habitat.<br>o Use as habitat must receive approval of San Jose City Council.<br>o Identified area not currently considered burrowing owl habitat. | o Ongoing habitat management issues.<br>o No owls currently occupy the site. | Unclear on this issue. | Yes | Yes |
| 5. Sunnyvale Landfill | Baylands Area Sunnyvale | 50+ | o SC biologist reviewed Sunnyvale Baylands Park and determined the site is poor owl habitat.<br>o Landfill determined to be a good candidate to explore mitigation habitat.<br>o Enhancement might make marginal habitat into useful mitigation lands.<br>o Sunnyvale staff concerned about long-term liability.<br>o Site not currently considered burrowing owl habitat. | o DF&G has not reviewed this site.<br>o Not clear whether owls currently live on site.<br>o Unsure of long-term habitat management issues. | Yes | Yes | Yes |
| 6. Shoreline Park | Shoreline Blvd. (Baylands) Mountain View | 400 | o Owl habitat potential on approx. 300 acres of the park.<br>o Mt. View completing an Owl Habitat Management Plan for City Council review this Fall.<br>o Staff expressed concern re: accepting owl mitigation responsibility from another jurisdiction without knowing consequences of future possible liabilities. | o Habitat management has not been consistent.<br>o Owl population has dropped precipitously in recent years.<br>o Threats from landfill maintenance. | Yes | Yes | Ye |

# PRELIMINARY SITE ANALYSIS
## POTENTIAL BURROWING OWL MITIGATION LANDS

Prepared by: Assistant City Manager
As of: July 30, 1999

| SITE | LOCATION | ACRES (approx) | ATTRIBUTES AND CHALLENGES OF PROPERTY AS PERTAINING TO BURROWING OWL HABITAT | FISH & GAME PERSPECTIVE AS TO VIABLE OWL HABITAT | FUNDING REQUIRED FOR | | |
|---|---|---|---|---|---|---|---|
| | | | | | LAND ACQUISITION | HABITAT CREATION | SUSTAINABLE HABITAT ENDOWMENT |
| 7. East Bay Regional Park | Coyote Hills<br>Alameda County | 966 | o Coyote Hill was known to contain owls.<br>o Grazing practices eliminated squirrel populations.<br>o Estimated that an intensive program over several years might re-establish owl habitat.<br>o Site not currently considered burrowing owl habitat. | o No owls occupy this site.<br>o Habitat management issues.<br>o Potential problem with recreation. | Yes | Yes | Yes |
| | | | | | The Park District has requested a lump sum endowment that will fund habitat creation and maintenance in perpetuity from interest earnings. The amount of the endowment could be significant. | | |
| 8. Byron Property | Alameda County | 140 | o Large parcel with 10 pairs of owls currently residing.<br>o Fish & Game has an adjacent 150 acre parcel used as multiple species habitat.<br>o Potential from educational institution participation in mitigation bank to create an interpretive center on the site.<br>o Fish & Game has determined the site as acceptable for owl mitigation. | o Refer to DF&G letter attached to Exhibit G - Byron Site. | Yes | Yes | Y |
| | | | | | Only site to date with a known acquisition cost. | | |
| 9. Altamont Pass | Electric Windfarm Site<br>Altamont | 698 | o Owned by City.<br>o Outside of distance requirement established by Fish & Game.<br>o Vegetational characteristics nearly ideal for owls.<br>o Ground squirrel abatement maintained for grazing-would have to be modified.<br>o Wind turbines are a danger to raptors.<br>o Site not currently considered burrowing owl habitat. | o Problems with ground squirrel control.<br>o Problems with wind turbines on site.<br>o No owls currently occupy the site.<br>o Monitoring grazing practices would be mandatory. | No | Yes | Yes |

EXHIBIT C

# PRELIMINARY SITE ANALYSIS
## POTENTIAL BURROWING OWL MITIGATION LANDS

Prepared by: Assistant City Manager
As of: July 30, 1999

| SITE | LOCATION | ACRES (approx) | ATTRIBUTES AND CHALLENGES OF PROPERTY AS PERTAINING TO BURROWING OWL HABITAT | FISH & GAME PERSPECTIVE AS TO VIABLE OWL HABITAT | FUNDING REQUIRED FOR | | |
|---|---|---|---|---|---|---|---|
| | | | | | LAND ACQUISITION | HABITAT CREATION | SUSTAINABLE HABITAT ENDOWMENT |
| 10. Benecia | 680 Corridor near I-80 Benecia | 2,000 | o Owned by City Electric Utility.<br>o Outside of distance requirement established by Fish & Game.<br>o Large expanses of suitable vegetation.<br>o Complete absence of ground squirrels due to grazing control.<br>o Site at edge of historic owl habitat.<br>o Site not currently considered burrowing owl habitat. | o Unknown if owls ever habitated here.<br>o What are the reasons owls are not on the site?<br>o Unlikely to ever be suitable. | Yes<br>City would acquire from Utility. | Yes | Yes |

H.T. HARVEY & ASSOCIATES
ECOLOGICAL CONSULTANTS

– EXHIBIT C

22 January 1998

Mr. Gustavo Gomez
The City of Santa Clara
City Hall
1500 Warburton Avenue
Santa Clara, CA 95050
phone: (408) 261-5211
FAX: 408.985.7936

RE: Burrowing Owl project mitigation for the Bayshore North EIR area.

Dear Mr. Gomez:

I would like to follow up on several items regarding Burrowing Owl mitigation for the Bayshore North project area. First, regarding the Great America overflow parking lot, I seriously doubt whether a plan can be submitted to the California Department of Fish and Game (CDFG) with sufficient time for their review prior to our 1 February deadline. It would be asking a great deal of CDFG to review such a plan within the time remaining. Additionally, if an ultimate mitigation solution is yet to be formulated, it would be worthwhile to consider the possibility of pooling mitigations for all potential projects into one effort. This approach has numerous advantages.

Biologically, preserve areas that comprise a single, large, contiguous patch are preferred to many small, scattered, disjoint habitat patches. In some instances, this principal is true even when these scattered patches sum to a greater area. This is because larger preserves can contain a greater number of wildlife species, and a larger population of each species than the sum total attainable on the smaller habitat patches. Larger habitat preserves can actually serve as "source" populations to supply immigrants to smaller, remnant habitats.

Large habitat preserves provide advantages specific to Burrowing Owls as well. We know that Burrowing Owls are colonially-nesting raptors, and that *groups* of breeding owls tend to persist over time better than do solitary breeding pairs.

When taken in combination, the benefit of a single, large preserve and the ability to support *multiple* pairs of breeding Burrowing Owls should be recognized by CDFG. The very real possibility exists that your mitigation requirements for presently envisioned projects may exceed available mitigation land space. For this reason, it would be advisable to consider pooling mitigations into one concerted effort. The potential value of such an undertaking, even one that provides less than a 1:1 ratio, may well be deemed acceptable due to the population-level contribution that such a commitment represents. Additionally, one consolidated mitigation plan will make the most efficient use of the CDFG biologist's time. As you know, personnel of CDFG are tasked with large areas of responsibility and receive many requests such as this one. Any time that project proponents can streamline requests for CDFG involvement, the opportunity should be taken.

I suggest that several lands currently exist that may prove useful. The Lafayette Street landfill, as we have discussed, is one such potential mitigation site. Taken alone, however, it is insufficient to offset impacts from all the proposed projects. However, Fairway Glen is situated nearby, and retains some connectivity to the landfill site via the Guadelupe River channel. This corridor habitat could improve the quality of both the landfill and Fairway Glen, by providing the aforementioned wildlife migration corridor.

☒ Alviso Office
906 Elizabeth Street • P.O. Box 1160
Alviso, CA 95002 • 408-263-1814 • Fax: 408-263-3823

☐ Fresno Office
423 West Failbrook, Suite 206
Fresno, CA 93711 • 209-449-1423 • Fax: 209-449-8248

Please phone if you would like clarification, or to discuss options in greater detail. I look forward to discussing these opportunities with you.

Sincerely,

David L. Plumpton
Wildlife Biologist - Raptor Specialist

proj. no. 1300-02

-EXHIBIT C

11 August 1998

DRAFT

Mr. Ronald Garratt
The City of Santa Clara
City Hall
1500 Warburton Avenue
Santa Clara, CA 95050
phone: (408) 984-3102
FAX: 408.241.6771

RE: Report on surveys of potential Burrowing Owl mitigation sites.

Dear Mr. Garratt:

Per your request, I have surveyed three of four sites potentially available for Burrowing Owl habitat mitigation: the Lafayette Street landfill, Fairway Glen Park, and the city owned property at Altamont (Benicia remains unsurveyed; John Schwartz indicated that roads are not yet passable, and that present road condition precludes access to the site). To facilitate evaluation, I have considered opportunities and constraints that could be modified to enhance the site for Burrowing Owls. Advantages and disadvantages were also considered, and comprised attributes that cannot be remediated or modified, and must be considered fixed. While not all considerations listed below could be applied to all sites, I have considered potentially the following variables in evaluating each site:

1) size
2) shape
3) contiguity
4) slope
5) elevation
6) topographic diversity
7) present habitat suitability (range condition, presence of California ground squirrels)
8) distance from original habitat
9) effects from adjacent land use
10) history of site use by Burrowing Owls
11) proximity to known Burrowing Owl habitat or potential habitat
12) compatibility of Burrowing Owl management with ongoing or planned land uses
13) benefits to other desirable species from management for Burrowing Owls
14) negative impacts to other species of interest from management for Burrowing Owls

<u>Lafayette Street landfill</u>
The site potentially available for Burrowing owl mitigation is from 13 to 20 acres, dependent upon alternate uses and their spatial requirements. To my knowledge, there is no history of owl nesting on the property. In its present condition, little would be required to restore a condition conducive to Burrowing Owls.

Although development surrounds the landfill on all sides, the plateau on top of the landfill is reasonably well buffered from existing human developments and disturbances. It is elevated well above the level of Lafayette Street. Sideslopes are wide, and further isolate the landfill's top from adjacent land uses. The site also is bounded on all sides by less intensive land uses than

are common in many other areas inhabited by Burrowing Owls. These include a golf course to the south, a flood control channel to the east, and a retention basin to the north. Of most concern is the boundary with Lafayette Street to the west. However, there is a wide margin between the top of the landfill and Lafayette Street, which should adequately insulate the landfill from adverse effects of traffic.

The site is not without constraints and disadvantages, however. Linear areas (*i.e.*, those with high perimeter:area ratio) do not provide as beneficial a refuge for wildlife as do square-shaped refuges. Although owls could be expected to forage on linear areas not contiguous with the proposed mitigation area (*e.g.*, sideslopes adjacent to the BMX track), these spaces are best viewed as contributing to site quality for owls, but not as an additive component of the overall habitat area.

Use of the BMX track, and its proximity to proposed mitigation areas presents another concern. Like any novel human activity, the use of the BMX track poses an unknown threat to site occupancy or reproduction by Burrowing Owls. Addition of R/C aircraft activity similarly introduces human activity and disturbance that may preclude occupancy or reproduction by Burrowing Owls.

Landfill management may require that burrows be entirely artificial. This constraint may require completely artificial habitat creation and maintenance, as opposed to the preferred approach; creating a self-sustaining habitat replete with California ground squirrels (*Spermophilus beecheyi*) to provide burrows and vegetation management.

Mitigation sites must be preserved in perpetuity, and must be monitored for adequacy for up to 5 years. Therefore, sites must become self-sustaining (*i.e.*, have self-sustaining populations of all members of the community, including California ground squirrels). If encouraging or introducing California ground squirrels into the habitat is deemed incompatible with objectives of landfill management, a plan will have to be implemented for artificial habitat maintenance annually, and in perpetuity.

The potential ramifications of chronic exposure of Burrowing Owls to landfill surface soils and ambient gases are unknown. This is potentially a serious complication, and one that warrants further investigation if this site is to be used for mitigation habitat. A condition to be avoided is the creation of an ecological "trap" (*i.e.*, a habitat that attracts organisms, but which prevents reproduction, resulting in greater immigration and mortality than births and emigration, and therefore a population "sink"). Potential solutions exist, however, such as constructing slightly elevated artificial burrow areas, using imported soil, and over impermeable material to prevent further burrowing into the landfill cap and direct exposure to ambient gases.

In summary, the site may be of viable size, and is within a distance to existing nesting owl pairs to provide a realistic chance for success. When this site is considered alone, as may be the case with full build-out of nearby habitats, it may support too few breeding pairs annually to contribute realistically to a viable local population. If, however, landfill management is deemed compatible with restoration to a ground squirrel perpetuated shortgrass habitat, the site has a good chance to attract and support some nesting owl pairs if given adequate protection from undue human disturbance.

Fairway Glen Park

Presently, Fairway Glen is in poor condition for Burrowing Owls, and the space and exact location potentially available for use in Burrowing Owl mitigation remains unresolved. The site is located adjacent to the Guadalupe River. Although Burrowing Owls require neither riparian habitats nor travel corridors when using multiple habitat patches, they will forage along banks of channelized rivers, irrigation ditches, and flood control levees. Additionally, these channels are usually among the last locations in developed areas to retain California ground squirrels. Accordingly, they are also among the last locations in developing and urbanized areas to be inhabited by Burrowing Owls. This reach of the Guadalupe River does support a small population of ground squirrels, and thus could provide a source population to recolonize Fairway Glen Park, and to create and perpetuate habitat for Burrowing Owls.

Other than the Lafayette Street Landfill, Fairway Glen Park is located closer to extant breeding owl pairs than other sites, and would therefore represent among the best opportunities to provide replacement habitat in close proximity to the mitigable impact. Colonization by dispersing and migrating owls already in this area could reasonably be expected to be better than that for more distant sites.

The site has a modest stand of large deciduous trees (primarily *Eucalyptus* spp.). These trees would have to be removed prior to creating habitat for Burrowing Owls. A secondary effect of tree removal would be the likely displacement of other nesting, foraging, and dispersing raptors, potentially including White-tailed Kites (*Elanus caeruleus*), Red-shouldered Hawks (*Buteo lineatus*), Red-tailed Hawks (*B. jamaicensis*), and American Kestrels (*Falco sparverius*). This complication is exacerbated by the impending loss of many large trees and attendant increases in human activity with the redevelopment of the Agnews West Campus nearby.

The site is fully developed on all sides, mostly by high-density residential uses. It is therefore discontinuous with other potential habitats.

Several stockpiles of dirt remain on the site from previous operations. These areas would have to be leveled. Optimally, the site would be made as level as possible.

As with the Landfill site, the unknown nature and extent of future human uses of Fairway Glen pose an inestimable threat to Burrowing Owl use. Some form of buffer area between the mitigation site and planned human land uses would be required, and may drastically reduce the area available to mitigate Burrowing Owl habitat loss.

Altamont

The 698-acre site has low vegetation species diversity, and low structural and height diversity. The site is grazed by cattle throughout, and grazing has maintained nearly ideal vegetational structure. Higher elevations are less cropped, and have a greater average vegetation height, density, and percent cover, with a modest thatch layer. However, in only a few areas were these attributes prohibitive to Burrowing Owls, and even then only to a minor degree. The site has some large areas dominated by yellow star thistle (*Centaurea solstitialis*) which detracts from the site's suitability for most wildlife. However, the site has no shrub cover, and only modest tree (mostly *Eucalyptus* spp.) cover. The vegetational characteristics are nearly ideal in most of the site.

Altamont is presently managed for wind-powered electric generation. Grazing is a secondary use of the site, and as mentioned, has created vegetation conditions which may be suited to owl occupancy. However, an extensive ground squirrel abatement program has been maintained (Javier Rios, personal communication), ostensibly for the benefit of the grazing operation. No California ground squirrels, and no burrows created by squirrels nor any other fossorial mammal were found anywhere in the site. Therefore, present management has precluded using the site for Burrowing Owl mitigation habitat.

Additionally, wind-powered electric generation has proven to be a significant source of mortality for many raptors (*e.g.*, Golden Eagles [*Aquila chrysaetos*] and Red-tailed Hawks). Because raptors will rarely be found in habitats lacking suitable prey, the introduction of ground squirrels or other mammalian prey into this site may have the unintended effect of increasing eagle and *buteo* use of the Altamont site, thereby inducing mortalities from collisions with spinning turbines.

In summary, options remain highly limited, and no one best choice exists. Site selection is more a matter of defaulting to those sites with the fewest disadvantages than of selecting among the best of all viable options. Additionally, implications of site use beyond those that can be addressed at this point (*e.g.*, landfill exposure issues at Lafayette Street, multiple use considerations at Fairway Glen) require additional information. However, it appears that Lafayette Street and Fairway Glen provide the only real options. If you would like to arrange a visit to Benicia, or to discuss the information above in greater detail, please phone.

Sincerely,

David L. Plumpton
Ecologist - Raptor Specialist

proj. no. 1300-02

H.T. HARVEY & ASSOCIATES
ECOLOGICAL CONSULTANTS

– EXHIBIT C

10 September 1998

Mr. Ronald Garratt
The City of Santa Clara
City Hall
1500 Warburton Avenue
Santa Clara, CA 95050
phone: (408) 984-3102
FAX: 408.241.6771

RE: Lafayette Street landfill Burrowing Owl mitigation.

Dear Mr. Garratt:

Enclosed is a preliminary plan for enhancing Burrowing Owl habitat on the Lafayette Street landfill to serve as mitigation for the North of Bayshore projects. Following is a general strategy for enhancing the physical and biotic setting, but is only one of several possible strategies. As we have discussed, landfill operational constraints may influence certain approaches, or obviate them altogether. For example, the biologically optimal result of this effort is a self-sustaining colony of California ground squirrels. However, landfill maintenance concerns may require imposing significant limitations on this objective. I am prepared to adapt this plan based upon feedback from your staff.

**Existing Conditions**

The Lafayette Street landfill is located east of Lafayette Street, and south of Highway 237 in Santa Clara (Fig. 1). Within the landfill, a site of approximately 22 acres is available for mitigation (Fig. 2). Physical conditions at the site may be conducive to creating Burrowing Owl habitat. Although development surrounds the landfill on all sides, the plateau on top of the landfill is reasonably well buffered from existing human developments and disturbances. The upper surface is elevated at least 12m (40ft) above the level of Lafayette Street. Sideslopes are wide, and further isolate the landfill's top from adjacent land uses. The site also is bounded on all sides by less human-intensive land uses than are common in many other areas inhabited by Burrowing Owls. These include a golf course to the south, a flood control channel to the east, and a retention basin to the north. Of most concern is the boundary with Lafayette Street to the west. However, there is a wide margin between the top of the landfill and Lafayette Street, which should adequately insulate the landfill from adverse effects of traffic.

Vegetation at the site is similarly suitable. The site has some areas of bare ground, a few unimproved roads, and elsewhere is vegetated in grasses and weedy forbs. Biota at the site were not evaluated, but would seem to be characteristic of ruderal sites in this area. A small population of California ground squirrels (*Spermophilus beecheyi*) occupies the site. No Burrowing Owls presently nest on the site, but some recent sightings have been documented (Jan Hintermeister, pers. commun.), and the site is probably used for foraging by owls nesting on and dispersing from nearby habitats in the North of Bayshore area.

The landfill holds some potential for Burrowing Owls, because it is of larger size than many of the properties for which it is intended to compensate. Additionally, it is a short distance from important nesting habitats, so would likely be detected by dispersing and migrating owls. Its location is also important given that CDFG requires habitat preservation in the vicinity of the impact. Finally, there are minimal access requirements for landfill maintenance, so periodic human intrusion should have a negligible effect on any owls occupying the site.

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423 West Fallbrook, Suite 206
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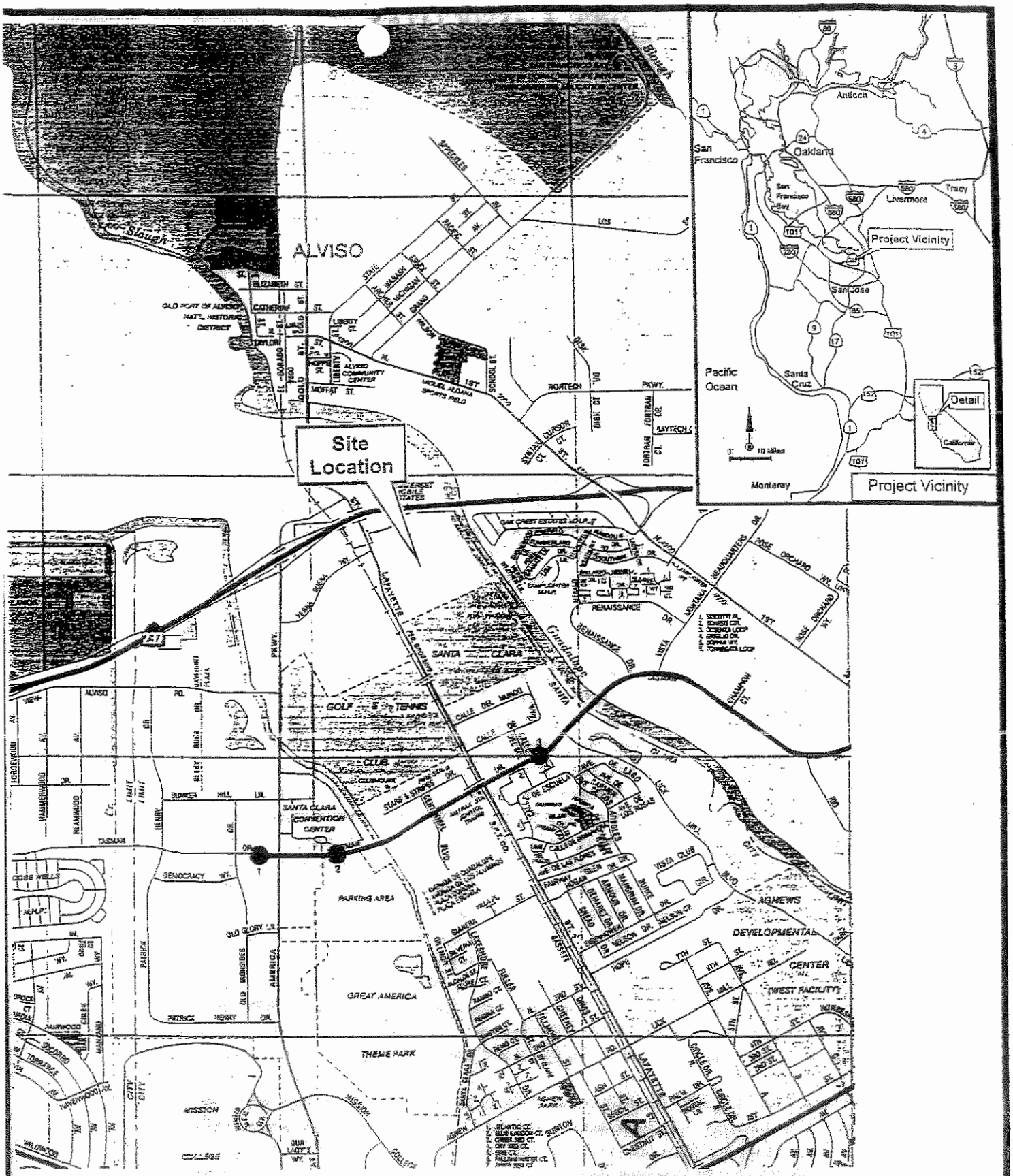



0 2,000' 4,000'

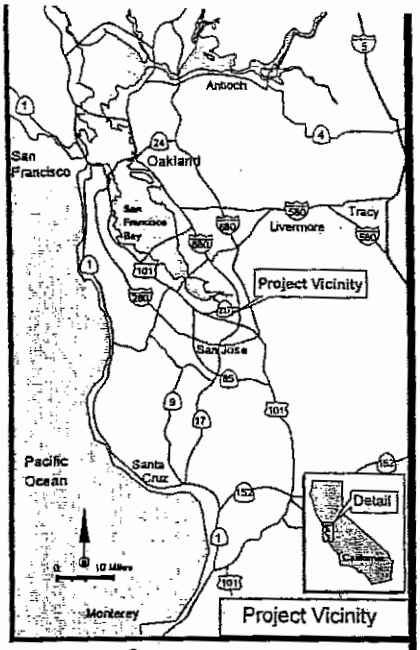
approximate scale in feet

H. T. HARVEY & ASSOCIATES
ECOLOGICAL CONSULTANTS

Lafayette Street Landfill

| File No. 1300-02 | Date 9/4/98 | Figure 1 |
|---|---|---|

-EXHIBIT C




0 500

approximate scale in feet

N

Retention Basin

Guadalupe River

Lafayette Street

BMX Track

Parking Lot

Surface pipeline

Landfill perimeter

Unimproved road

5' contour interval

Mitigation area fence (area = 22 acres)

H. T. HARVEY & ASSOCIATES
ECOLOGICAL CONSULTANTS

Lafayette Street Landfill

| File No. 1300-02 | Date 9/4/98 | Figure 2 |
|---|---|---|

**Required enhancements: physical environment**

Although the physical environment is conducive to mitigating Burrowing Owl habitat, several improvements are required. Use of the BMX track, and its proximity to proposed mitigation areas may induce disturbance. Like any novel human activity, the use of the BMX track poses an unknown threat to site occupancy or reproduction by Burrowing Owls. Several steps can be taken to help protect the mitigation site from adverse effects from the BMX track. A perimeter fence, either enclosing BMX activities or enclosing the mitigation site itself, would reduce human intrusion into the mitigation site. Trash, asphalt, and gravel piles, relict equipment, and other debris should be removed. Dirt piles can be spread and leveled over gravel surfaces that cannot be reclaimed. Obsolete roads and construction staging areas should be reclaimed (*i.e.*, regraded, leveled and seeded). Existing rock piles may be left in place to provide refuge to ground squirrels. Similarly, cement rubble should be collected and distributed in small piles to also provide refuge habitat for ground squirrels.

**Required enhancements: biotic environment**

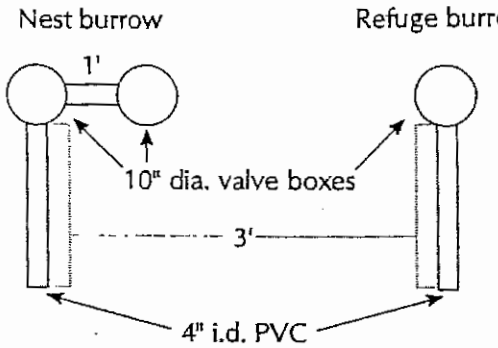
Of equal importance are managing vegetation, and encouraging commensal ground squirrels. As is true for most raptors, vegetation species composition is less critical to Burrowing Owls than is the habitat's ability to support adequate prey populations while retaining the correct vegetational structure to allow foraging by owls. Therefore, managing the characteristics of the existing vegetation is more critical that encouraging a specific vegetation community.

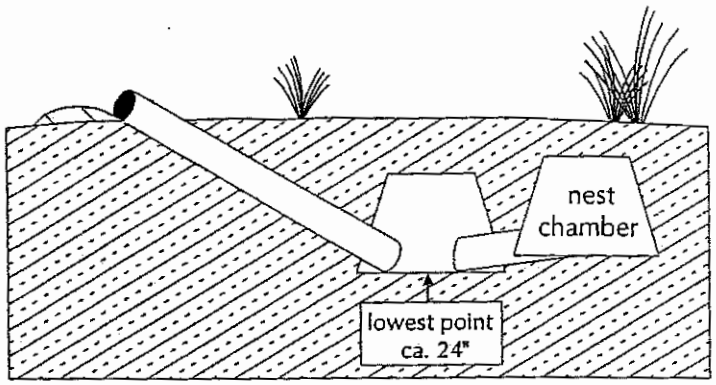
Likewise, owl habitat is created and maintained by California ground squirrels. Ground squirrels provide burrows, and also control vegetation height. Although it is possible to artificially provide burrows and vegetation conditions required on a mitigation site, artificial habitat creation and maintenance has several significant disadvantages. Artificial vegetation maintenance is expensive and requires constant diligence. Maintenance of vegetation height may be by any of several means, including mowing, burning, or grazing. From a purely habitat-based perspective, grazing is probably the best available approach. However, options on the Lafayette Street landfill may be limited to strictly mowing (Rick Mauck, pers. commun.). Mowing, however, is often impractical or impossible at critical times of the year. For example, ensuring short vegetation during spring, to coincide with arrival of immigrant owls, is often difficult in years with heavy spring rains. Similarly, artificial burrows require renovation annually, particularly in areas lacking ground squirrels. Because mitigation sites must be preserved in perpetuity, relying strictly on artificial habitat creation and maintenance is unlikely to provide a viable long-term solution.

It is therefore critical that habitats ultimately revert to a self-sustaining California ground squirrel colony. However, artificial burrows must be used to provide immediate nesting and roosting habitat if the site is to be occupied by owls displaced locally. Use of artificial burrows on landfills, like encouraging ground squirrel burrowing, may be cause for concern. Artificial burrows can be elevated above the existing landfill surface by importing fill (Fig. 3), and can be installed above a plastic-coated welded-wire mesh to prevent digging by ground squirrels. However, the City of Santa Clara is ultimately responsible for compliance with landfill management concerns as well as maintenance of the mitigation site. Therefore, possible contingencies related to squirrel burrowing, and proposed remedial actions must be clearly articulated as part of the overall habitat management plan for the landfill site. Specifically, the conditions created by ground squirrels that will be considered a compromise to the landfill, criteria for this determination, and the proposed action to rectify the problem will be required in any Burrowing Owl habitat Mitigation Agreement.

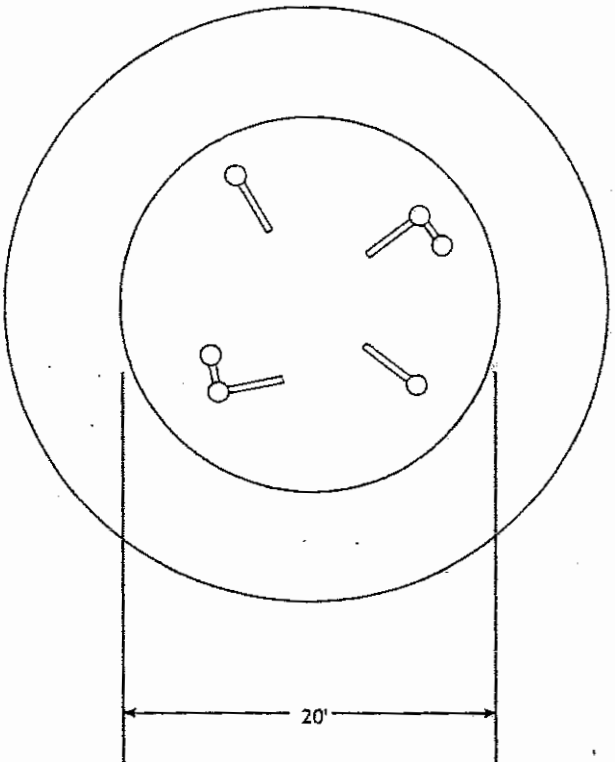
As with fencing the BMX or mitigation areas, leaving a 5m wide strip of standing ruderal vegetation at the interface of the BMX and mitigation areas would further reduce edge effects from the BMX track (Fig. 4). This will also provide a habitat "break" which are often used by burrowing owls. Artificial burrow groups will also be placed as far from the BMX facility as possible, to further isolate owls from human disturbance.

- EXHIBIT C

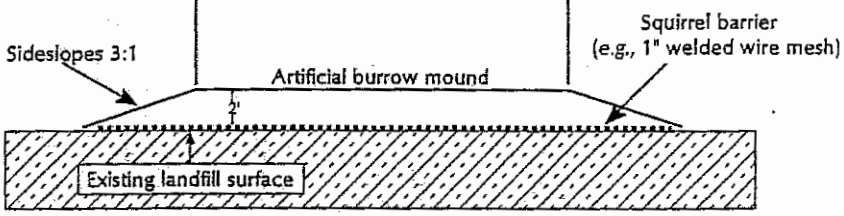



Top View



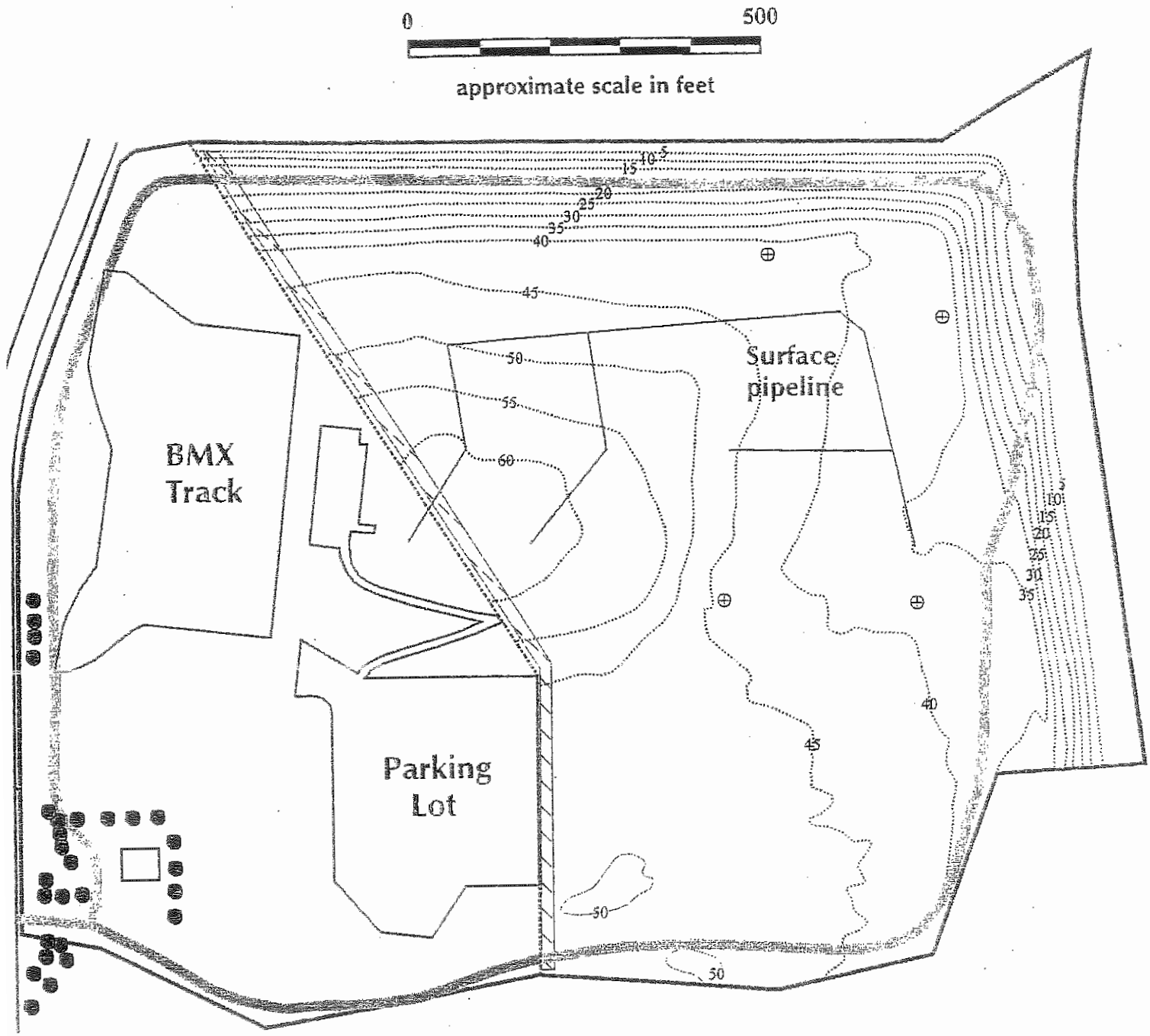

Profile




H. T. HARVEY & ASSOCIATES
ECOLOGICAL CONSULTANTS

**Artificial Burrowing Owl habitats for use on landfills**

| File No. 1300-02 | Date 9/4/98 | Figure 3 |
|---|---|---|




Ruderal vegetation strip

⊕ Proposed location of artificial burrow mound

Landfill perimeter

Unimproved road

5' contour interval

Mitigation area fence (area = 22 acres)

H. T. HARVEY & ASSOCIATES
ECOLOGICAL CONSULTANTS

**Lafayette Street Landfill:**
**Burrowing Owl habitat enhancements**

| File No. 1300-02 | Date 9/4/98 | Figure 4 |
|---|---|---|

EXHIBIT C

Prey populations, like nesting habitats, are critical to ensuring the success of the mitigation site. Therefore, encouraging adequate prey populations is an important component in overall site management for Burrowing Owls. Although preserving adequate prey may require nothing more than avoiding unsound management or use of chemical biocides, artificial means may also be used to help bolster small mammal populations (*e.g.*, placing small [0.25m$^2$ ]plywood pieces randomly throughout the site to provide breeding sites and refuge habitat for *Peromyscus* and other small rodents, favored prey of Burrowing Owls).

I am working up a budget estimate for the proposed mitigation, and will solicit Caitlin's input regarding the CDFG budget schedule. However, dependent upon the extent to which City of Santa Clara personnel and equipment may be used, my present estimate may be adjusted significantly. For example, I have based mowing costs upon a quote from a contractor with whom I have worked in the past, but the City may have the ability to provide this task more economically. Please advise me if you have the facilities to provide specific tasks more economically, and I will adjust the enclosed budget accordingly.

Please phone if you would like to discuss this further, or if you would like to modify the plan in any way. Thanks very much.

Sincerely,

David L. Plumpton
Senior Ecologist - Raptor Specialist

proj. no. 1300-02

H.T. HARVEY & ASSOCIATES
ECOLOGICAL CONSULTANTS

30 June 1998

Mr. Ronald Garratt
The City of Santa Clara
City Hall
1500 Warburton Avenue
Santa Clara, CA 95050
phone: (408) 984-3102
FAX: 408.241.6771

RECEIVED
JUL - 2 1998
Office of the City Manager
City of Santa Clara

RE: Burrowing Owl mitigation opportunities on City of Sunnyvale landfills.

Dear Mr. Garratt:

On Tuesday, 30 June 1998, I met with Michael Chan, Administrative Services Manager, and Tom Mohr, Environmental Engineering Coordinator for the City of Sunnyvale. We visited to discuss opportunities to mitigate City of Santa Clara project-related impacts to Burrowing Owls.

The landfill site appears to be an almost ideal candidate for exploring mitigation opportunities: it has modest elevation, gentle sideslopes, well maintained vegetation height, and has wide, flat expanses. Also, there are few areas with potentially conflicting ongoing activities. In addition, the site is presently low-quality Burrowing Owl habitat. The fact that enhancements are needed to encourage and sustain site use by owls in an otherwise marginal habitat makes for a useful mitigation effort.

Mr. Chan and Mr. Mohr indicated that the City of Sunnyvale is interested in investigating possibilities further. However, several personnel critical to these discussions were unavailable during our meeting. Therefore, I will convey initial findings, general Burrowing Owl habitat associations, and area estimates to Mr. Chan and Mr. Mohr. They and others with the City of Sunnyvale are in the process of evaluating other potential site uses, which have varying degrees of compatibility with Burrowing Owl mitigation. Therefore, an undetermined time interval will be required for the City of Sunnyvale to evaluate alternate proposals for available space. However, I am optimistic about our opportunities on this site, as mitigation for owls is highly compatible with many ongoing maintenance operations at present (*e.g.*, mowing requirements), and is consistent with the desire of the landfill operators to maintain multiple-use capabilities on this land.

If you have any questions or require additional information, please phone. I will calculate a spatial estimate for your use shortly.

Sincerely,

David L. Plumpton, Ph.D.
Ecologist - Raptor Specialist

CC: Michael Chan
Tom Mohr

proj. no. 1300-02

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ECOLOGICAL CONSULTANTS

EXHIBIT C

23 June 1998

Mr. Ronald Garratt
The City of Santa Clara
City Hall
1500 Warburton Avenue
Santa Clara, CA 95050
phone: (408) 984-3102
FAX: 408.241.6771

RECEIVED
JUN 26 1998
Office of the City Manager
City of Santa Clara

RE: Burrowing Owl mitigation opportunities at Baylands Park, Sunnyvale.

Dear Mr. Garratt:

Per our discussion, I did a brief reconnaissance at Baylands Park in Sunnyvale. The purpose of the survey was to identify the potential to create or enhance nesting opportunities for Burrowing Owls. Three mounds of artificial burrows had been installed previously. These areas were not installed as mitigation for project related impacts, but merely to provide some opportunities for owls. These burrows, however, as well as most presently undeveloped areas, are located in a jurisdictional marsh. As such, vegetation control to properly manage for Burrowing Owls is highly regulated, and seriously constrains the site's suitability for owls. At present, the site is poor owl habitat; it has tall, dense vegetation, a heavy thatch layer, few areas (outside the marsh) of bare ground, and an overall scarcity of ground squirrels and their burrows.

In summary, although adequate space remains that is undeveloped, implicit management constraints largely make the addition of Burrowing Owl habitat, or the perpetuation of existing habitat infeasible. I will, however, pursue similar options within the landfill area as we discussed.

Sincerely,

David L. Plumpton, Ph.D.
Ecologist - Raptor Specialist

proj. no. 1300-02

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H.T. HARVEY & ASSOCIATES
ECOLOGICAL CONSULTANTS

8 July 1998

Mr. Ronald Garratt
The City of Santa Clara
City Hall
1500 Warburton Avenue
Santa Clara, CA 95050
phone: (408) 984-3102
FAX: 408.241.6771

RECEIVED
JUL 1 0 1998
Office of the City Manager
City of Santa Clara

RE: Burrowing Owl mitigation at the San Jose/Santa Clara Water Pollution Control Plant.

Dear Ron:

Enclosed is a reliable and accurate estimate of the non-wetland (i.e., non-jurisdictional) areas on the buffer lands. I hope that you find this useful.

DAVE

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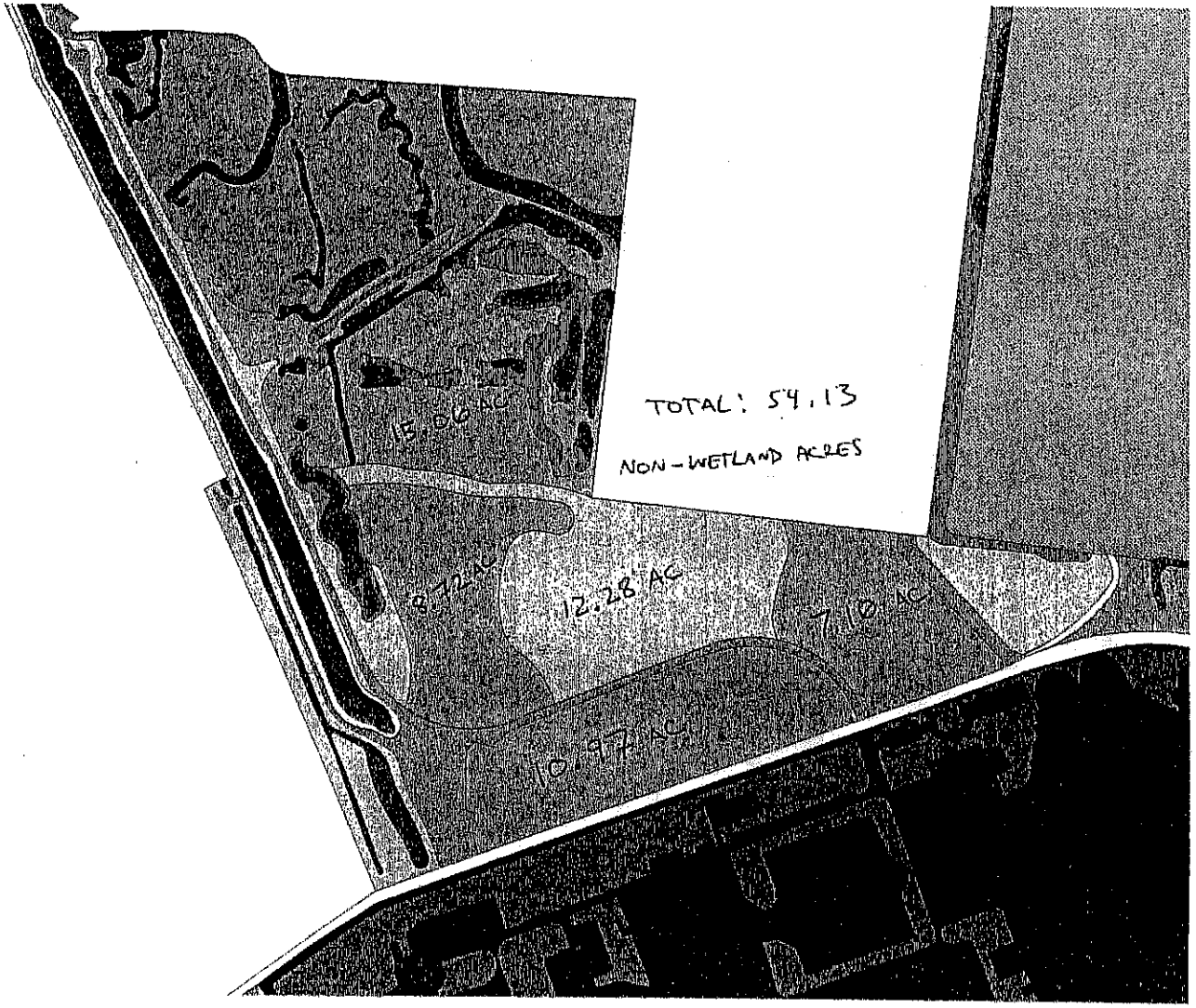
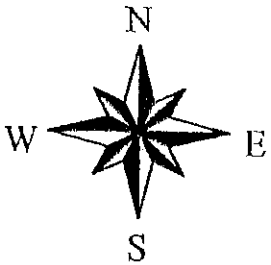
EXHIBIT C

# View1




Wpcp2.shp
- Cottonwood Riparian Forest
- Remnant Cottonwood Riparian Forest
- Structures/Paved/Disturbed Areas
- Control Plant Structures
- Sludge Ponds (Inactive)
- Sludge Ponds (Active)
- Construction Area
- Landscaped
- Disked Field (Fallow)
- Disked Field w/ Wetland Characteristics
- Row Crops
- Ruderal
- Open Water
- Perennial Wetland
- Seasonal Wetland
- Non-Tidal Salt Marsh
- Muted Tidal Salt Marsh
- Saline Grassland/Non-Native Annual Grassland Mix
- Irrigated Pasture
- Non-Native Annual Grassland
- Willow Thicket
- ROAD
- Riparian Forest Revegetation




Unknown Units: View1

H.T. HARVEY & ASSOCI TES
ECOLOGICAL CONSULTANTS

10 June 1998

Mr. Ronald Garratt
The City of Santa Clara
City Hall
1500 Warburton Avenue
Santa Clara, CA 95050
phone: (408) 984-3102
FAX: 408.241.6771

RECEIVED
JUN 12 1998
Office of the City Manager
City of Santa Clara

RE: Burrowing Owl mitigation for the Bayshore North EIR area.

Dear Mr. Garratt:

On Tuesday 9 June 1998, I met with Brad Olson and Joe Didonato of East Bay Regional Parks District (EBRPD). We discussed opportunities to mitigate impacts to Burrowing Owls caused by the North of Bayshore projects, among others. Briefly, Brad asked that I prepare a plan that will not only provide a sound mitigation site with a reasonable expectation for success, but also a study of the efficacy of various management strategies to maintain the site in a condition suitable for Burrowing Owls. Specifically, mowing, grazing, prescribed burning, and other methods of preserving site suitability for Burrowing Owls were mentioned as candidates for study.

This represents a valuable opportunity for EBRPD and for those of us interested in conserving and creating nesting opportunities for Burrowing Owls in this area. Also, I am confident that I can design a study that addresses key questions while concurrently providing for the requisite habitat mitigation. However, some issues were raised that I feel must be addressed before an actual study plan may begin.

Brad asked that an endowment be established to fund the project. Specifically, he indicated that a lump-sum would be required, that would be invested by EBRPD. The revenue generated by this investment would be used to fund the project, so that the principal remains unused. This revenue is expected to cover startup costs, annual maintenance and monitoring, and other costs, as well as compensating EBRPD personnel costs for their involvement. In short, Brad expected that EBRPD would have no internal expenses as a result of the proposed mitigation. This extends to such tasks as meeting attendance, field visits, and use of EBRPD's own fire team for controlled burns.

I surveyed EBRPD's Coyote Hills Regional Park (CHRP), and found that almost no suitable Burrowing Owl habitat exists. However, the effort required to create and maintain habitat would be minimal. Specifically, eliminating dense vegetation, creating some areas of bare ground, and establishing California ground squirrels are three primary requirements that must be met. So that I can accurately budget this work, I have asked Brad to identify any constraints that EBRPD will impose (*e.g.*, areas within which we may propose this activity, spatial limitations). When I have Brad's constraints, I will prepare a scope and budget. From there, it will be possible for you to determine whether expected costs and start-up fees seem reasonable.

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EXHIBIT C

I would like your input on whether you feel that this provides a useful mitigation outlet. Specifically, I would like your comments on Brad's proposed funding mechanism. With your approval, and with Brad's spatial constraints, I will plan and budget the mitigation and study, which will allow us to determine what the lump-sum startup cost may be. I can also solicit input from another Santa Clara project that may be interested in sharing costs. Please phone if you would like to discuss these items further.

Sincerely,

Dave Plumpton
Ecologist - Raptor Specialist

proj. no. 1300-02

# REGIONAL PARKS

EAST BAY REGIONAL PARK DISTRICT

RECEIVED
FEB 4 1998
PLANNING DEPT.

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Beverly Lane
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Carol Severin
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Jocelyn Combs
Ted Radke
John Sutter
Pat O'Brien
General Manager

February 3, 1998

Mr. Jeff Goodfellow
Planning Director
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

Subject: Burrowing Owl Mitigation
REP File 9803

Dear Mr. Goodfellow:

Per our telephone conversation this morning, I am providing you with the following information:

- Copy of January 14, 1998 letter to Mr. Scott Terrill, H.T. Harvey & Associates
- Copy of January 1998 Resource Enhancement Procedures (REP) Brochure
- Copy of Coyote Hills Regional Shoreline Brochure

As I suggested on the telephone, you may wish to contact Scott Terrill of H.T. Harvey or Judy Bendix of Sycamore Associates to determine if there may be opportunities for the City of Santa Clara to participate in a burrowing owl management plan proposal for Coyote Hills.

Please call me if you have any further questions on the enclosed materials.

Sincerely,

Brad Olson
Enhancement Manager

Enclosures (3)

cc. Steve Bobzien, EBRPD

2950 Peralta Oaks Court P.O. Box 5381 Oakland, CA 94605-0381 Tel: (510) 635-0135 TDD: (510) 633-0460 Fax: (510) 569-4319

# REGIONAL PARKS

EXHIBIT C

EAST BAY REGIONAL PARK DISTRICT

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Pat O'Brien
General Manager

January 14, 1998

Mr. Scott Terrill
H.T. Harvey & Associates
P.O. Box 1180
Alviso, CA 95002

Ms. Judy Bendix
Sycamore Associates
910 Mountain View Drive
Lafayette, CA 94549

Subject: Proposed Burrowing Owl Mitigation on District Lands
REP File 9801

Dear Scott and Judy:

Thank you for your recent inquiries regarding proposals to mitigate impacts to burrowing owls using East Bay Regional Park District ("District") lands. As both of you are aware, the District is interested in entertaining such proposals when there is a clear benefit to the District and its natural resources. I have spoken with both Joe DiDonato and Steve Bobzien regarding the various inquires that have been made by your respective firms. Based upon my conversation with Joe and Steve, I offer the following feedback on the feasibility of the various proposals.

Oro Loma Marsh

As you are aware, the District recently allowed for the translocation of a pair of owls to Oro Loma Marsh at Hayward Regional Shoreline. Consistent with an approved habitat enhancement plan for this marsh, this pair was installed in an artificial nest burrow. Since that time, we have been monitoring the success of this introduction and have not yet determined if it has been successful. We would like to perform at least one more years worth of monitoring before determining if the translocation worked and to determine if introduction of a second pair would be appropriate. Until such time, we would decline any further proposals for Hayward Regional Shoreline.

Martin Luther King, Jr. Regional Shoreline

The Port of Oakland is nearing completion of construction on a new tidal marsh system at Martin Luther King, Jr. Regional Shoreline in Oakland. This project also provides for the establishment of burrowing owl habitat. The District will be assuming responsibility for the long-term management of this marsh. Given that there are other owls in the area, we would like to first determine if natural recruitment may occur at this marsh before allowing any translocations from other areas. It may take one to two years to determine if natural recruitment has occurred before we might consider other proposals for Martin Luther King, Jr. Regional Shoreline.

2950 Peralta Oaks Court P.O. Box 5381 Oakland, CA 94605-0381 Tel. (510) 635-0135 TDD (510) 633-0460 Fax (510) 569-4319

Coyote Hills Regional Shoreline

Historically, Coyote Hills Regional Shoreline was known to contain a population of burrowing owls and other special-status wildlife, including badger. With the elimination of grazing and suppression of the natural fire regime, it is thought that burrowing owls no longer persist because the colonies of ground squirrels that once provided donor burrows are no longer present in sufficient numbers. The District has attempted to introduce the natural fire regime, however getting approval for "burn days" from the Bay Area Air Quality Management District has been difficult. Other management options could include various types of livestock grazing, focused herbicide applications for problematic species and more regular burns. This would need to be an intensive program over potentially several years before habitats may be suitable for the natural recruitment of owls or the translocation of owls from another location.

The District currently has insufficient staff and funds to develop and implement such a management program. I understand that your two firms may potentially have several clients who need mitigation for impacts to burrowing owls. Perhaps a joint or consolidated proposal for developing and implementing a management plan funded by your clients would be one possible opportunity to improve this resource and achieve your mitigation goals. Evidence of consultation with DFG should be contained in such a proposal. Approval of such a proposal would most likely require authorization by our Board of Directors.

Conservation Banking

The District is currently in the process of developing two conservation banks, and may be a party to two other banks. All four of these potential banks appear to contain suitable habitat for burrowing owls, however, surveys have not yet been done to determine potential usage of these sites. The proposed banks are located in the vicinity of Antioch, North Livermore (2 locations) and Pleasanton. All of these proposals are confidential at this point, however we anticipate submitting a proposal for the Antioch conservation bank to DFG and FWS in the next few months. One of the North Livermore bank proposals would probably follow in the fall of 1998.

District Policy

As I have previously stated, the actual requirements of your mitigation needs should be negotiated directly with the CEQA Lead Agency and with the appropriate resource agencies. We do not want to be put in the position of advocacy for development; instead we may be able to help with the implementation of an approved mitigation agreement between your clients and the resource agencies, namely DFG. As stated before, the District would not want to assume any responsibility for the success or failure of potential mitigation projects.

EXHIBIT C



I have provided a copy of a draft brochure on a new District program entitled "Resource Enhancement Procedures (REP)". We will be finalizing this brochure shortly to reflect comments provided by our Board of Directors. The final brochure should provide adequate information on the process, timing and costs associated with reviewing your proposal using the new REP.

Please call Joe DiDonato at (510) 635-0138 extension 2346 or Steve Bobzien at extension 2347 with any specific wildlife biology questions. Any questions regarding the REP or conservation banking should be referred to me at extension 2622.

Sincerely,

Brad Olson
Enhancement Manager

Enclosure (Draft REP Brochure)

cc. Joe DiDonato
Steve Bobzien
Carl Wilcox, DFG
Caitlin Bean, DFG
Joanne Karlton, DFG

bcc. Susan Canale
Lloyd Wagstaff
Ken Burger

EXHIBIT D -

# THE CITY OF SANTA CLARA

CALIFORNIA

CITY MANAGER'S OFFICE
1500 WARBURTON AVE.
SANTA CLARA, CA 95050
(408) 615-2210
FAX (408) 241-6771

## BURROWING OWL HABITAT COMMITTEE

### AGENDA

**Monday, November 1, 1999 at 6:30 p.m.**
**Santa Clara City Hall – Council Conference Room**
**1500 Warburton Avenue, Santa Clara, CA 95050**

| | | |
|---|---|---|
| I. | Call to Order | Chair/Council Member John McLemore |
| II. | City Council Action Establishing Burrowing Owl Habitat Committee: Organizational Issues and Policy Directive | Chair and City Manager |
| III. | Presentation by Stakeholder Groups: Discussion Special Interest or Concern Relating to Burrowing Owl Habitat | |
| IV. | Public Presentations | |
| V. | Schedule Next Meeting and Follow-up Assignments | |
| VI. | Adjournment at 8:00 p.m. | |

- EXHIBIT D

# BURROWING OWL HABITAT COMMITTEE

## MINUTES

**November 1, 1999**

The following were in attendance at the meeting held this date:

Council Member John McLemore, Chair
Council Member Aldyth Parle
Council Member Patricia Mahan
Pat Coulston, Department of Fish and Game
David Plumpton, H.T. Harvey & Associates
Jan Hintermeister, People for Open Space
Craig Breon, Santa Clara Valley Audubon Society
Aurelia Winsemius, Sierra Club
Art Nance, Santa Clara Chamber of Commerce
Linda O'Malley, Santa Clara citizen
Jennifer Sparacino, City Manager
Ron Garratt, Assistant City Manager
Pam Morrison, Senior Staff Aide

I. **Call to Order:** The meeting was called to order by Chair Council Member John McLemore, at 6:30 p.m. in the City Manager's Staff Conference Room. Introductions were made.

II. **Organizational Issues and Policy Directive:** The Chair reviewed the City Councils goals for 1999-2000 and explained how the work of the committee fit in with those goals. The handouts were briefly reviewed. There was discussion on what land the committee will be considering, and the Chair explained that he would like to see the committee consider four "levels" of land. Level 1 would be City-owned land, Level 2 would be privately owned land within the City, Level 3 would be land adjacent to the City, and Level 4 would be land owned by any other local entity. The Council goal is to mitigate 103 acres, including 58.5 already approved under the agreement with the California Department of Fish and Game. The committee's goal will be to identify the remaining 44.5 acres. The committee also discussed the unknowns/difficulties associated with owls on private development.

III. **Presentations by Stakeholder Groups:** 1) The Chamber of Commerce asked that the committee evaluate this issue from all perspectives, not just the environmental side. It was also asked that owners of private non-City owned land be notified when their land is being discussed, such as Mission College, Our Lady of Peace Church, and the San Jose Airport Radar Station. 2) The Audubon Society would like to see the City take advantage of all potential habitat within the City, both on private and City-owned land, including the land north of Bayshore. The Chair requested these suggestions to be brought back to the

EXHIBIT D

committee in written form so that the committee could consider them as part of the discussion on best management practices. The City Manager reminded the committee members that Council has already provided direction on how to proceed with the land north of Bayshore, which was included as part of the approved environmental impact report (EIR). The City-owned lands covered by the EIR are moving ahead with project development. 3) The Sierra Club expressed dissatisfaction with the agreement between the City and the California Department of Fish and Game, and said the City has a "moral obligation" to provide the entire 103 acres for habitat. 4) People for Open Space also expressed dissatisfaction with the agreement, and expressed concern about the future of burrowing owls in Santa Clara. 5) H.T. Harvey and Associates does not consider itself to be a stakeholder, but rather technical assistance, and will help the committee sort through the different philosophies and options available. 6) The Department of Fish and Game reminded the committee of the importance of biology, and that the committee's actions need to be real and on track in order to succeed.

IV. **Public Presentations:** A concerned member of the public wants to see the City take action to keep from losing a species, and to keep owls in Santa Clara because of the interest they add to the City.

V. **Schedule for Next Meetings and Follow up Assignments:** The proposed meeting schedule was handed out to committee members. It was agreed that the next meeting, scheduled for November 15, would begin at 6:00 p.m. Subsequent meetings, to be held on November 29, December 13, January 10, and January 24, would begin at 6:30 p.m. City staff will have aerial maps ready for review at the next meeting, and Committee Member Craig Breon will bring owl historical/census information and his recommendations for best management practices.

VI. **Adjournment:** The meeting was adjourned at approximately 8:10 pm.

PREPARED BY:

Pam Morrison

Pam Morrison
Senior Staff Aide

APPROVED BY:

Jennifer Sparacino

Jennifer Sparacino
City Manager

EXHIBIT E

# THE CITY OF SANTA CLARA

## CALIFORNIA

CITY MANAGER'S OFFICE
1500 WARBURTON AVE.
SANTA CLARA, CA 95050
(408) 615-2210
FAX (408) 241-6771

# BURROWING OWL HABITAT COMMITTEE

## AGENDA

**Monday, November 15, 1999 at 6:00 p.m.**
**Santa Clara City Hall – Staff Conference Room**
**1500 Warburton Avenue, Santa Clara, CA 95050**

| | | |
|---|---|---|
| I. | Call to Order | Chair/Council Member John McLemore |
| II. | Review of City Aerial Maps to Identify Potential Pocket Habitats | Assistant City Manager |
| III. | Burrowing Owl Historical/Census Information and Suggestions for Best Management Practices | Committee Member Craig Breon |
| IV. | Public Presentations | |
| V. | Schedule Next Meeting and Follow-up Assignments | |
| VI. | Adjournment at 7:30 p.m. | |

- EXHIBIT E

# BURROWING OWL HABITAT COMMITTEE

## MINUTES

**November 15, 1999**

The following were in attendance at the meeting held this date:

Council Member John McLemore, Chair
Council Member Aldyth Parle
Council Member Patricia Mahan
David Plumpton, H.T. Harvey & Associates
Jan Hintermeister, People for Open Space
Craig Breon, Santa Clara Valley Audubon Society
Aurelia Winsemius, Sierra Club
Lorne Smyth, Santa Clara Chamber of Commerce
Lyle Johnson, Northside Residents' Association
Don Scherer, Santa Clara University
Jennifer Sparacino, City Manager
Ron Garratt, Assistant City Manager
Pam Morrison, Senior Staff Aide

I. **Call to Order:** The meeting was called to order by Chair Council Member John McLemore, at 6:00 p.m. in the City Manager's Staff Conference Room. Introductions were made. Chair McLemore informed the committee that he would need to leave at 6:45 p.m. for another meeting, and Council Member Parle would chair the remainder of the meeting.

II. **Review of City Aerial Maps to Identify Potential Pocket Habitats:** Assistant City Manager Ron Garratt reviewed the following aerial maps.

A. *Closed Landfill near the Irvine Properties.* At least two of the four slopes of the 35-acre landfill could potentially be used as owl habitat. This would need to be constructed habitat because of the cap on the landfill, and would result in approximately 15 acres of additional habitat.

B. *Closed Landfill/BMX Track.* Approximately 17-20 acres are still untouched on this site, which could be converted to constructed habitat. This area is open to the Guadalupe and the golf course, both of which are used by owls for foraging. Provisions would need to be made to keep the BMX riders away from the habitat area. It is unknown whether revegetation of the slopes would be necessary (and if so, with what type of vegetation), but a mowing program would need to be implemented. The area would need to be monitored to ensure that problems do not develop from ground squirrels burrowing through the landfill cap. A question

EXHIBIT E

was raised about the chemical management practices of the golf course, and whether changes could be made that would enhance the area for owl foraging. Staff will report back on this matter at the next meeting. Committee Member Craig Breon offered to provide information on the integrated pest management program at the Granite Bay golf course in Folsom, California. Another question was raised about whether the natural areas along the roadway could be converted to habitat, and it was noted that these linear areas do not make good nesting habitat but could be used by owls for foraging.

C. *Hetch-Hetchy Right-of-Way.* There is the potential for owl habitat along two sections of the Hetch-Hetchy right-of-way, one area being 2.7 acres and the other 3.5 acres. The City currently has a capital improvement project for the 2.7 acres starting at Lick Mill Park; permission from Hetch-Hetchy would be needed to do anything with the other area. A question was raised as to whether any of the land earmarked for the Northern Receiving Station could be used for owls, and it was noted by the City Manager that it is not likely. The area needs to be fenced in due to safety issues and gravel will cover the surface area.

D. *Open Space Park.* A small section of land (4 or 5 acres) could possibly be used for owl habitat. There are concerns about the tall trees on the site, which most likely harbor predators. Although there are plans for a fire break on this land between the park and the nearby apartments (which would make it more attractive for owls), the remaining trees would probably still be too close for owls to do well at this location.

E. *Mission College/Our Lady of Peace Church.* This is privately owned land. There is a 2-acre gravel area used for overflow parking at the church that has been the site of nesting owls in the past. It was asked if the City could try and arrange for some type of parking agreement between the church and neighboring businesses in order to continue to have this land available for habitat; however, the City does not have any leverage to do so. Due to the potential long-term restrictions that could be placed on the owners of this site, and due to the lack of other usable foraging/nesting area nearby, it is probably not worthwhile to pursue this location.

F. *FAA Radar Station.* City staff has contacted San Jose Planning staff about the potential for owl habitat on this 20-acre site, and there is no interest whatsoever on the part of San Jose at this time. It is most likely that if San Jose decides to pursue placing owls on this site, they will do so as part of their own mitigation plan, not Santa Clara's.

G. *San Jose/Santa Clara Treatment Plant.* Review of this map was deferred to the November 29, 1999 meeting.

Copies of the maps handed out at the meeting have been placed in Council offices.

III. **Burrowing Owl Historical/Census Information and Suggestions for Best**

_ EXHIBIT E

**Management Practices:** This item was deferred to the November 29, 1999 meeting.

IV. **Public Presentations:** Don Scherer, representing Santa Clara University, said the University's Environmental Studies Program was interested in possibly assisting the City by providing faculty expertise and student labor. Items such as revegetation and providing habitat could become University projects, which could then lead to grant opportunities. Representatives from the Environmental Studies Program have already met with the California Department of Fish and Game about potential University research at the Byron site.

V. **Schedule Next Meeting and Follow up Assignments:** The next meeting is scheduled for November 29, 1999 at 6:30 pm in the Staff Conference Room. City staff will have the aerial map of the San Jose/Santa Clara Treatment Plant available for review at the next meeting. Committee Member Craig Breon will bring owl historical/census information and his recommendations for best management practices. Staff will report on the City's chemical usage/management at the City golf course; prior to the next meeting, Mr. Breon will provide information to staff on the Granite Bay Golf Course integrated pest management program.

VI. **Adjournment:** The meeting was adjourned at approximately 7:30 pm.

PREPARED BY:

Pam Morrison

Pam Morrison
Senior Staff Aide

APPROVED BY:

Jennifer Sparacino

Jennifer Sparacino
City Manager

EXHIBIT F

# THE CITY OF SANTA CLARA

## CALIFORNIA

CITY MANAGER'S OFFICE
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(408) 615-2210
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# BURROWING OWL HABITAT COMMITTEE

## AGENDA

**Monday, November 29, 1999 at 6:30 p.m.**
**Santa Clara City Hall – Staff Conference Room**
**1500 Warburton Avenue, Santa Clara, CA 95050**

| | | |
|---|---|---|
| I. | Call to Order | Chair/Council Member John McLemore |
| II. | Review of Aerial Map of the San Jose/Santa Clara Treatment Plant | Assistant City Manager |
| III. | Burrowing Owl Historical/Census Information and Suggestions for Best Management Practices | Committee Member Craig Breon |
| | A. Chemical Management Practices at the Santa Clara Golf Course | City Manager |
| IV. | Public Presentations | |
| V. | Follow-up Assignments for Scheduled Next Meeting on December 13, 1999 | |
| VI. | Adjournment at 8:00 p.m. | |

# BURROWING OWL HABITAT COMMITTEE

## MINUTES

- EXHIBIT F

**November 29, 1999**

The following were in attendance at the meeting held on this date:

Council Member John McLemore, Chair
Council Member Aldyth Parle
Council Member Patricia Mahan
David Plumpton, H.T. Harvey & Associates
Jan Hintermeister, People for Open Space
Craig Breon, Santa Clara Valley Audubon Society
Aurelia Winsemius, Sierra Club
Lyle Johnson, Northside Residents' Association
Linda O'Maley, Citizen
Quresh Latif, Citizen
Jennifer Sparacino, City Manager
Ron Garratt, Assistant City Manager
Pam Morrison, Senior Staff Aide

I. **Call to Order:** The meeting was called to order by Chair Council Member John McLemore, at 6:30 p.m. in the City Manager's Staff Conference Room. Introductions were made. Council Member McLemore informed the committee of a recent article in the Metro that included information on the burrowing owl. A request was made that a representative from Mission College be invited to participate on the committee. Committee members then discussed the minutes of the previous meetings. It was clarified that the minutes reflect the discussions held, and that no decisions have been made about potential habitat thus far. The committee will look at all possible alternatives in order to determine the most viable habitat options to recommend to Council. It was requested that a map/diagram of the Northern Receiving Station be brought to the next meeting in order for the committee to see what specifically is planned for the site. It was also requested that a review of the minutes be added to future agendas.

II. **Review of Aerial Map of the San Jose/Santa Clara Treatment Plant:** Approximately 45 acres are potentially available for owl habitat. One discussion was held with San Jose approximately 1-1/2 years ago, but the City has not recently approached San Jose on this matter.

III. **Burrowing Owl Historical/Census Information and Suggestions for Best Management Practices:** Committee Member Craig Breon reviewed maps showing the changes in location and number burrowing owls in this area over the past several years. There are currently about 140 breeding pairs. The long-term plan is to have a "necklace" of sites linked together to encourage interbreeding among the owls.

BMP suggestions: 1) Discing vs. mowing. The City's current weed abatement policy is to mow rather than disc any lands where owls may be present. It was recommended that the City consider extending that policy to private property owners as well. There would be a cost impact on property owners because mowing must be done more frequently than discing. 2) Ground squirrel control. It

was recommended that the C' consider not using poison to control ground squirrels, but instead destroy problem burrows and encourage them elsewhere. 3) Chemical ıge. The City should consider minimizing the use of chemicals that can harm owls and owl prey in foraging and nesting areas.

It was recommended that staff work with H.T. Harvey and Associates to develop a "guidebook" on how to manage lands in an owl-friendly manner

III. A. **Chemical Management Practices at the Santa Clara Golf Course**: The City contracts with American Golf Corporation for golf course maintenance, and they are sensitive to environmental and owl related issues. The golf course is monitored by the State Department of Food and Agriculture, chemical usage is reported monthly, and the golf course superintendent is required to be licensed. Fertilizer is applied to the greens, but not on the roughs. Fertilizer use is low because the golf course uses recycled water, which contains some nutrients. There is some chemical weed control on the fairways. No insecticides or rodenticides are used on the golf course. There are currently 6 pairs of owls nesting on the golf course.

IV. **Public Presentations:** 1) It was requested that the City consider moving the Soccer Park to the Agnew property. 2) A suggestion was made that City consider an experimental owl project on 100 acres of the land in Benicia purchased by the City's Electric Utility, Silicon Valley Power, using grant funds and assistance from Santa Clara University. 3) It was clarified that the committee was not looking to hold up owl relocation plans at current construction projects approved for development through the recent EIR and agreement with Department of Fish & Game, but would look at the feasibility of attracting owls back to the sites once the construction is complete. 4) It was requested that staff pursue having a representative from Fish and Game attend the committee meetings.

V. **Follow up Assignments for Scheduled Next Meeting:** The next meeting is scheduled for December 13, 1999 at 6:30 pm in the Staff Conference Room. Staff will 1) invite a representative from Mission College to participate in the committee; 2) bring a map/diagram of the Northern Receiving Station; 3) discuss with H.T. Harvey & Associates how to develop a "guidebook" on managing lands in an owl-friendly manner; 4) add Review of Minutes to future agendas; 5) discuss the possibility of an experimental owl project on land purchased by Silicon Valley Power in Benicia; 6) bring information to the next meeting about the City's weed abatement policy; 7) contact the Department of Fish and Game about attending the remaining committee meetings.

VI. **Adjournment:** The meeting was adjourned at approximately 8:25 pm.

PREPARED BY:

Pam Morrison

Pam Morrison
Senior Staff Aide

APPROVED BY:

Jennifer Sparacino

Jennifer Sparacino
City Manager

- EXHIBIT G

# THE CITY OF SANTA CLARA

## CALIFORNIA

CITY MANAGER'S OFFICE
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SANTA CLARA, CA 95050
(408) 615-2210
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## BURROWING OWL HABITAT COMMITTEE

### AGENDA

**Monday, December 13, 1999 at 6:30 p.m.**
**Santa Clara City Hall – Staff Conference Room**
**1500 Warburton Avenue, Santa Clara, CA 95050**

| | | |
|---|---|---|
| I. | Call to Order | Chair/Council Member John McLemore |
| II. | Review of Minutes from the November 29, 1999 Meeting | Chair |
| III. | Reports from City Manager: | City Manager & Staff |
| | A. Invitation to Mission College to Appoint Representative to Committee | |
| | B. Review of Map/Diagram of Electric Northern Receiving Station | |
| IV. | City's Weed Abatement Burrowing Owl Habitat Policy | City Manager |
| V. | Topic items for Future Discussions: | |
| | A. Presentation of "Guide Book" on How to Manage Lands in an Owl Friendly Manner | |
| | B. Possible Experimental Project on Benicia Land | |
| VI. | Follow-up Assignments for Scheduled Next Meeting on January 10, 2000 | |
| VII. | Public Presentations | |
| VIII. | Adjournment at 8:00 p.m. | |

# BURROW_NG OWL HABITAT COMMITTEE

- EXHIBIT 6

## MINUTES

**December 13, 1999**

The following were in attendance at the meeting held on this date:

Council Member Aldyth Parle
Council Member Patricia Mahan
David Plumpton, H.T. Harvey & Associates
Jan Hintermeister, People for Open Space
Craig Breon, Santa Clara Valley Audubon Society
Aurelia Winsemius, Sierra Club
Lyle Johnson, Northside Residents' Association
Linda O'Maley, Citizen
Ian Abell, Mission College
Charlie Arolla, representing P.A.L.
Jennifer Sparacino, City Manager
Ron Garratt, Assistant City Manager
Pam Morrison, Senior Staff Aide

I. **Call to Order:** The meeting was called to order by Council Member Aldyth Parle, in Council Member John McLemore's absence, at 6:30 p.m. in the City Manager's Staff Conference Room.

II. **Review of Minutes from the November 29, 1999 Meeting:** There were no comments on the minutes.

III. **Reports from the City Manager:**

A. **Mission College Representative:** Ian Abell was introduced as Mission College's representative to the committee, and he spoke briefly about Mission College's burrowing owl habitat mitigation efforts.

It was then agreed that the committee would discuss the Council's reaffirmation of the Burrowing Owl Agreement and staff's December 9, 1999 report on passive relocation efforts. Copies of the report were handed out to committee members. A question was raised about whether it was known where the relocated owls would go; although it is most likely they will go to the closest available habitat (such as the golf course and the landfill), it is not known for sure. Passive relocation will be accomplished by placing one-way doors on all the available burrows in the area to be cleared; the doors allow the birds to leave the burrow but not go back in. Dave Plumpton will be doing constant reconnaissance during the relocation period to ensure that the birds do not remain on any of the project sites where construction is to occur. It was recommended that the birds be banded so they can be tracked after relocation; staff will contact CDFG to find out their opinion on the matter. It was agreed that banding would be done as time allows (if authorized by CDFG), since relocation efforts need to be completed by February 1st. A question was raised about providing artificial burrows; it was noted that they need annual maintenance, but they can provide a short-term solution. The committee raised some additional questions that will need to be addressed by

CDFG; staff will draft a letter to Janine Dewald of CDFG so that sh. . can come prepared to respond at the January 10, 2000 meeting. The questions include 1) what is the rationale behind the 250 ft. construction limit; 2) will CDFG consider a waiver of this limit if owls are attracted back to a site at a later date; and 3) what are the long term ramifications for future development of these sites. It was mentioned that some of the committee members thought that relocation would take place as projects come up, rather than all at once. It was clarified that all the sites except for one have projects, and a proposal for the last site is anticipated in January 2000. In order to commence construction this year, all the sites must be cleared by February 1st.

B. **Review of Map/Diagram of the Electric Northern Receiving Station:** A diagram showing the layout of the Northern Receiving Station was shown to the committee members. In addition, photos of the Scott Receiving Station were shown to give committee members an idea of how the interior of the facility would most likely be laid out, with a gravel surface.

IV. **City's Weed Abatement Burrowing Owl Habitat Policy:** The committee was provided with an informational memo on the City's policy for mowing on City-owned land, and a copy of the Fire Department's flier to private property owners on weed abatement (copies provided in Council Offices). It was requested that the City consider passing an ordinance to ban discing. Staff will research the pros and cons of the issue and bring a report back to the next meeting.

V. **Topic items for Future Discussions:**

A. **Presentation of "Guide Book" on how to manage lands in an owl-friendly manner:** Dave Plumpton handed out a copy of the draft suggested management practices for the committee's review. A copy has been placed in Council Offices.

B **Possible experimental project on Benicia land:** No new information was brought forward on this item. A question was raised as to why there is rodent control on the Benicia land; staff will investigate and report back at the next meeting.

VI. **Follow up Assignments for Scheduled Next Meeting:** The next meeting is scheduled for January 10, 2000 at 6:30 pm in the Staff Conference Room. Staff will 1) send a letter to CDFG outlining the committee's questions; 2) contact CDFG regarding their thoughts on banding of the owls to be relocated; 3) prepare a report on the pros and cons of passing an ordinance to ban discing; 4) find out the reasons for rodent control on the Benicia land.

VII. **Public Presentations:** It was requested the City provide an annual count of owls. The committee agreed to place this item on the agenda for discussion at the next meeting. Mission College was requested to give an overview of their long-term plans as it relates to burrowing owls. This will also be included on the agenda for the next meeting.

VIII. **Adjournment:** The meeting was adjourned at approximately 8:00 pm.

PREPARED BY:

Pam Morrison

Pam Morrison
Senior Staff Aide

APPROVED BY:

Jennifer Sparacino

Jennifer Sparacino
City Manager

EXHIBIT G -

**INTEROFFICE MEMORANDUM**
**City of Santa Clara**

**DATE:** December 10, 1999

**TO:** Jennifer Sparacino, City Manager

**FROM:** Pam Morrison, Senior Staff Aide

**SUBJECT:** Weed Abatement Policy for City-Owned Property

In response to a request from the Burrowing Owl Habitat Committee, the following is an excerpt from the City's contract for weed abatement services. This excerpt gives specific instructions to the contractor on protection for burrowing owls.

"DESCRIPTION OF WORK:

"The work to be done is maintenance type work and consists, in general, of mowing various city owned lots twice a year. The first mowing is to occur between the months of May and July, the second mowing will occur between the months of September and November. Sites must be mowed to within three to four inches of the ground for the first mowing, five to six inches for the second mowing using a fail type mower. Weeds around trees and other obstacles must also be lowered using hand equipment if necessary.

"PROTECTED SPECIES:

"Several of these parcels are home to burrowing owl populations. Burrowing owls are a species protected by Section 3503.5 of the Fish and Game Code. Because of this status discing is not allowed on these properties. Flail mowing has been determined to be beneficial to this species. However, care must be taken to protect the nests. Therefore, restrictions are placed on activities around burrowing owl habitat from the months of February through August, as this is the nesting season. Owl burrows will be marked, by the City, with wood lathe prior to mowing. The contractor must make all efforts to avoid mowing directly over the top of a marked burrow. The contractor must preserve all markings throughout the duration of this work."

Pam Morrison

Pam Morrison
Senior Staff Aide

EXHIBIT H

# CITY OF SANTA CLARA BURROWING OWL HABITAT COMMITTEE

## AGENDA

**Monday, January 10, 2000 at 6:30 p.m.**
**Santa Clara City Hall – Staff Conference Room**
**1500 Warburton Avenue, Santa Clara, CA 95050**

| | | |
|---|---|---|
| I. | Call to Order | Chair/Council Member John McLemore |
| II. | Review of Minutes from the December 13, 1999 Meeting | Chair |
| III. | Reports from City Manager: | City Manager & Staff |
| | A. Follow-up from contact with CDFG outlining the Committee's Questions & Thoughts on Banding of the Owls to be relocated | |
| | B. Pros and Cons of Passing an Ordinance to Ban Discing | |
| | C. Rodent Control on Benicia Land | |
| IV. | Presentation by Mission College Representative RE: Overview of Long-term Plans Relating to Burrowing Owls | Mission College Representative |
| V. | Annual Count of Owls | |
| VI. | Topic items for Discussion: | |
| | A. Presentation of "Guide Book" on How to Manage Lands in an Owl Friendly Manner | |
| | B. Possible Experimental Project on Benicia Land | |
| VII. | Follow-up Assignments for Scheduled Next Meeting on January 24, 2000 | |
| VIII. | Public Presentations | |
| IX. | Adjournment at 8:00 p.m. | |

**BURROWI ; OWL HABITAT COMMITTEE**
**MINUTES**

– EXHIBIT H

January 10, 2000

The following were in attendance at the meeting held on this date:

Council Member John McLemore , Chair
Council Member Aldyth Parle
Council Member Patricia Mahan
David Plumpton, H.T. Harvey & Associates
Jeannine DeWald, Department of Fish and Game
Jan Hintermeister, People for Open Space
Craig Breon, Santa Clara Valley Audubon Society
Aurelia Winsemius, Sierra Club
Lyle Johnson, Northside Residents' Association
Rich Jensen, Northside Residents' Association
Lorne Smyth, Chamber of Commerce
Linda O'Maley, Citizen
Ian Abell, Mission College
Georgann Meadows, People for Open Space in Santa Clara
Jennifer Sparacino, City Manager
Ron Garratt, Assistant City Manager
Carol McCarthy, Deputy City Manager

I. **Call to Order:** The meeting was called to order by Chair Council Member John McLemore at 6:30 p.m. in the City Manager's Staff Conference Room. A letter from the Santa Clara Chamber of Commerce & Convention-Visitors Bureau dated January 4, 2000, addressed to the Mayor and Council and copied to the Committee, was distributed. The letter expresses concern about land use needs and asks the Council not to create a burrowing owl preserve within the City.

II. **Review of Minutes from the 12/13/99 Meeting:** There were no comments on the minutes.

III. **Reports from the City Manager:**

A. **Follow-up From Contact With CDFG Outlining the Committee's Questions & Thoughts on Banding of Owls to be Relocated:** A letter from the City to Brian Hunter, CDFG, was distributed. The letter asks how the construction limits were derived. CDFG representative Jeannine DeWald stated that the origin of the limits comes from recommendations made by the Burrowing Owl Consortium, which were adopted by the CDFG in 1995. The letter also states that the committee wants to investigate the possibility of encouraging owls to return to portions of project sites after construction, and asks if the City could be legally relieved of the construction requirement in the event of future repairs/enhancements. Jeannine indicated that a "safe harbor agreement" might be possible, if the City gave assurances that protection of the owl(s) would be considered and that the least destructive approach would be taken, without placing undue burdens on the City. Jeannine stated that an agreement covering this issue would be the best course of action. The Assistant City Manager will arrange a conference call with Jeannine and Carl Wilcox to discuss this matter. If a written agreement is not in place prior to the committee finishing its efforts, Craig Breon suggested that the committee could approve the agreement in concept for recommendation to Council. The letter to Brian Hunter also asks

if federal law would supercede any agreement between the City and CDFG for management of burrowing owl habitat; Jeannine indicated that federal law would take precedence.

B. **Pros and Cons of Passing an Ordinance to Ban Disking**: This item was deferred until the next meeting.

C. **Rodent Control on Benicia Land and Other City Remote Properties**: The City Manager asked the Assistant City Manager to distribute a memo which was prepared on the subject of squirrel control on City remote properties. The ACM reviewed the report that indicates that the rancher using the Loyalton property does not control squirrels; however, this property is not suitable for burrowing owl habitat. The rancher using the Altamont property and the wind turbine company leasing the site engage in a squirrel control program using chlorophine 2x per year; the squirrel control limits the number of birds of prey killed or injured in the windmills. The rancher grazing on the Benicia property does not control squirrels. Discussion ensued on the possibility of using a portion of Benicia for a habitat experiment for relocated owls. The City Manager clarified that the Benicia property was purchased by the City's Electric Utility for utility purposes; if used for another purpose, some other entity or the City's General Fund would have to pay and/or compensate the utility enterprise for the property. Craig Breon will contact Napa/Solano County Audubon Society to see if they might be interested in making a proposal for a habitat experiment with assurances that the experiment could be discontinued depending on City property needs. In addition, he will check with Napa/Solano to see if they have performed a Christmas bird count on this property in the past. He will report back at the next meeting.

IV. **Presentation by Mission College re: Overview of Long-Term Plans Relating to Burrowing Owls:** Ian Abell from Mission College distributed and reviewed two handouts illustrating property uses and planned uses at Mission College. He provided a status of building projects on site and their funding. The Learning Resource Center is currently under construction; the Science and Technology building is in design. Ian stated that Mission College has an agreement with CDFG (similar to the City) to relocate owls out of the area, to Byron, on 6 and ½ acres. They entered into the agreement in October, 1999, covering mitigation for the Learning Resource Center and the Science and Technology building. The agreement was based on the historical bird count and is based on Mission College build-out. The college also has approx. 1 and ½ acres set aside for owls between Mission College and the Mercado Shopping Center. There are currently no development plans for that site. Two pairs of owls plus two singles are believed to be currently on site, but those numbers change often.

V. **Annual Count of Owls:** Early in the meeting, Dave Plumpton distributed a report dated January 10, 2000 on the status of North of Bayshore burrowing owls (9 owls at present). The EIR a year and a half ago had twice that number. The most meaningful count is based on the number of nesting pairs, and should be assessed between mid-April and mid-July for utmost reliability. Dave also provided a verbal report and clarified that he is performing passive relocation by first sealing the old, unused burrows and will address those with owls in the last two weeks of the process. Owl relocation should occur in about two weeks. He informed the group that the CDFG does not have strong feelings for or against banding the owls to be evicted; there would be some benefit from information possibly obtained in banding the owls, but the less owls are disturbed, the better. The ACM reported that the City has directed Dave to band the owls. Dave discussed the fact that there is an owl located between the golf course holes to be closed and the relocation area; it is

likely the distance is within 50' of the proposed construction area, but perhaps in an area that would not be impacted by upcoming construction. Dave and the ACM will obtain measurements and then discuss with Jeannine to see if this owl can be excluded from the relocation requirement. Craig Breon asked that on the day the owls would be excluded from the burrows if he could provide volunteers to do visual tracking of where the owls go; Dave will work with Craig to coordinate this. Council Member McLemore stated he would like the committee to recommend that Council fund future annual owl counts; Council Members Mahan and Parle agreed.

EXHIBIT 1

VI. **Topic Items for Discussions**: At the December meeting, Dave Plumpton had distributed a "Guide Book" on how to manage lands in an owl friendly manner. There was no additional discussion.

VII. **Follow Up Assignments for Next Meeting**: The next meeting is scheduled for January 24, 2000, at 6:30pm in the Staff Conference Room. 1) The Assistant City Manager will set up a conference call with Jeannine DeWald and Carl Wilcox to discuss a potential agreement to address future repairs/enhancements of sites to be developed if owls are allowed to relocate back to berms or other portions of the properties (proposed "safe harbor agreement"). 2) Craig Breon will contact Napa/Solano County Audubon Society to see if they would be interested in submitting a proposal for a habitat experiment on the Benicia property and if they have performed a bird count on this property. 3) Craig will work with Dave Plumpton on monitoring owl relocation on City properties within the next two weeks. 4) The ACM will work with Dave to obtain measurements on the location of the owl between the golf course holes that are closing and the proposed construction area and discuss with Jeannine to see if it can be protected and excluded from relocation. 5) Jan Hintermeister would like the City to explore the issue of vegetation management vs. re-vegetation of areas being considered for relocation (top of landfill, for example), and to get information on the hydroseeding of Ulistac Natural Area. 6) Council Member McLemore asked that the City develop a list with more specific acreage and description location (top vs. slope) on each parcel, so that cost estimates for vegetation management can be obtained, and recommendations may be made to the City Council. 7) Council Member McLemore also asked that a list of all lands (privately owned and public) in the City be created and listed by levels (level 1 as primary habitat; level 2 as secondary, etc.) for committee information, with a notation to be made that the committee has only reviewed level 2 lands.

VIII. **Public Presentations:** Aurelia Winsemius mentioned an article on the City and burrowing owls that recently appeared in the *Metro* newspaper. Craig Breon mentioned that he was interviewed for the article and had told the reporter all that the City of Santa Clara has done for burrowing owls ("more than any other jurisdiction in the valley"), and it was unfortunate that the reporter did not mention this in his article. Council Member McLemore also emphasized the positive actions of Council to the reporter.

Lorne Smyth expressed concern about future problems related to burrowing owls should the population increase. Dave Plumpton mentioned that the burrowing owl population is self-regulating: the population is regulated by the available habitable lands.

IX. **Adjournment:** The meeting was adjourned at approximately 8:00 pm.

PREPARED BY:

Carol McCarthy

Carol McCarthy
Deputy City Manager

APPROVED BY:

Jennifer Sparacino

Jennifer Sparacino
City Manager

**INTEROFFICE MEMORANDUM**
**City of Santa Clara**

– EXHIBIT H

**DATE:** January 10, 2000

**TO:** City Manager

**FROM:** Assistant City Manager

**SUBJECT:** Squirrel Control on City Remote Properties

**Benicia (2000 acres):** The rancher grazing on Benicia does not control squirrels in any fashion. They are not a problem to the cattle.

**Altamont (700 acres):** Both the rancher grazing Altamont and the wind turbine company leasing the site engage in a squirrel control program. They use chlorophine twice a year. Squirrel activity in the area is high causing birds of prey to hunt in the area of the windmills. The squirrel control serves to limit the number of birds killed or injured by the windmills.

**Loyalton (10,000 acres):** The rancher grazing on Loyalton does not control squirrels in any fashion. They are not a problem to cattle.

Ron Garratt

Ronald E. Garratt
Assistant City Manager

REG:efd

[(NOT OWL HABITAT)
ABOVE FEATHER RIVER
OFF 395 40-50m N OF QUINCY]

# THE CITY OF SANTA CLARA

## CALIFORNIA

CITY MANAGER'S OFFICE
1500 WARBURTON AVE.
SANTA CLARA, CA 95050
(408) 615-2210
FAX (408) 241-6771

January 6, 2000

Mr. Brian Hunter
State Department of Fish & Game
P.O. Box 47
Yountville, CA 94599

Dear Mr. Hunter:

In September 1999 the Santa Clara City Council approved the Burrowing Owl Mitigation Agreement with the Department of Fish and Game (DF&G). This agreement allows the City to passively relocate owls from 110 acres of development area in the City's North Bayshore Area. The City's contract biologist, Dr. David Plumpton, H.T. Harvey and Associates, has commenced passive relocation. We anticipate completing the relocation by mid-January. Additionally, it is the City's intention to band the relocated owls for future tracking capability. Dr. Plumpton has informed Mr. Wilson, in your office, of the City's intention to band the owls prior to release.

As part of their September actions, the Council created a Burrowing Owl Subcommittee to return to Council in February 2000 with recommendations in support of maintaining burrowing owl sustainability in Santa Clara, in the South Bay Area, and possibly in the Greater Bay Area region. The subcommittee is comprised of City Councilmembers, participants from local and regional environmental groups, the Santa Clara Chamber of Commerce, the North Santa Clara Resident's Association, City staff, the City's contract biologist and a representative from DF&G.

The subcommittee has been meeting bi-monthly since November. A number of questions have arisen over the course of discussion that we believe are best clarified by DF&G:

1. It is the City's understanding that between the months of February and September no construction activity can take place within 250 feet of a nesting owl. Between October and January this distance is reduced to 165 feet. How were the 250 foot and 165 foot limits derived? Are they mandated by law and if so can you provide a legal citation?

- EXHIBIT H



2. The Burrowing Owl Subcommittee wants to investigate the possibility of encouraging owls to return to portions of the project sites after construction is completed. As an example, once the soccer fields are constructed, the slopes running from Tasman Drive down to the perimeter of the fields will remain as possible owl nesting habitat. If owls return to this slope area to nest, can the City be legally relieved of the requirement not to perform construction within 250/165 feet of a nest?

   The City would not want to pay DF&G to relocate owls under the current Mitigation Agreement, take steps to purposefully encourage owls to return to a portion of a development, and then 3,5,7 years downstream, find that a repair or enhancement project can not take place on the site due to the proximity of burrowing owls. Is there a legal mechanism to prevent the City from a double jeopardy position of paying once to relocate owls and then possibly paying again, years later, if we take steps to encourage owls back to the project site(s)?

3. It is the City's understanding if the burrowing owl is declared an endangered specie at some future time, then federal law would supercede any agreements between the City and DF&G for the management of burrowing owl habitat. I would appreciate a clarification or confirmation of this issue.

In closing, the Council's Burrowing Owl Subcommittee is seeking viable opportunities for "in-fill" burrowing owl habitat throughout the City and in the South Bay. We appreciate the Department of Fish and Game's cooperation in this effort. If you have any questions, please call me at (408) 615-2212.

Sincerely,

Ronald E. Garratt
Assistant City Manager

REG:efd

cc: Jeanine DeWald, State Department of Fish and Game
Council Burrowing Owl Subcommittee

# CITY OF SANTA CLARA BURROWING OWL HABITAT COMMITTEE

- EXHIBIT I

## AGENDA

**Monday, January 24, 2000 at 6:30 p.m.**
**Santa Clara City Hall – Staff Conference Room**
**1500 Warburton Avenue, Santa Clara, CA 95050**

| | | |
|---|---|---|
| I. | Call to Order | Chair/Council Member John McLemore |
| II. | Review of Minutes from the January 10, 2000 Meeting | Chair |
| III. | Reports from City Manager: | City Manager & Staff |
| | A. List of Potential Pocket Habitat Locations (acreage, description, and level) | |
| | B. Letter from Police Activities League ("PAL") Regarding Expanded Use of Landfill Site | |
| | C. Pros and Cons of Passing an Ordinance to Require Mowing for Weed Abatement | |
| | D. Follow-up from contact with CDFG Regarding Discussion of a Potential "Safe Harbor Agreement" | |
| | E. Monitoring Owl Passive Relocation on City Properties | |
| | F. Vegetation vs. Revegetation of Owl Habitat | |
| IV. | Follow-up from Contact with Napa/Solano County Audubon Society | Craig Breon |
| | A. Possible Habitat Experiment on Benicia Property | |
| | B. Performance of Bird Count on Benicia Property | |
| V. | Follow-up Assignments for Next Meeting | |
| VI. | Public Presentations | |
| VII. | Adjournment at 8:00 p.m. | |

-EXHIBIT I

# BURROWING OWL HABITAT COMMITTEE
## MINUTES

January 24, 2000

The following were in attendance at the meeting held on this date:

Council Member John McLemore , Chair
Council Member Aldyth Parle
Council Member Patricia Mahan
Jan Hintermeister, People for Open Space
Craig Breon, Santa Clara Valley Audubon Society
Aurelia Winsemius, Sierra Club
Rich Jensen, Northside Residents' Association
Lorne Smyth, Chamber of Commerce
Linda O'Maley, Citizen
Georgann Meadows, People for Open Space in Santa Clara
Bill Cooper, Santa Clara Police Activities League (PAL)
Roseann LaCoursiere, Santa Clara Police Activities League (PAL)
Jennifer Sparacino, City Manager
Ron Garratt, Assistant City Manager
Pam Morrison, Senior Staff Aide

I. **Call to Order:** The meeting was called to order by Chair Council Member John McLemore at 6:30 p.m. in the City Manager's Staff Conference Room.

II. **Review of Minutes from the 01/10/00 Meeting:** There were no comments on the minutes.

III. **Reports from the City Manager:**

**A&B. List of Potential Pocket Habitat Locations and Letter from Police Activities League ("PAL"):** A packet was handed out to the committee that included a listing of parcels by level and associated aerial photos (copy placed in Council Offices). It was noted that the levels used were those established in the November 1, 1999 meeting, rather than those mentioned in the January 10, 2000 meeting. Also included in the packet was a copy of a letter from the Police Activities League (PAL) requesting the use of the top of the landfill adjacent to the BMX track for BMX event parking.

Closed Landfill/BMX track: There are potentially 16.9 acres available for habitat on this site. A suggestion was made that rather than using the top of the landfill for additional BMX parking, the area under Highway 237 may be a possibility or existing nearby parking lots that are unused on the weekends. A concern was raised about the safety of parking on the landfill due to the proximity of the landfill gas piping. Another concern was keeping the BMX track users away from any areas designated as owl habitat. It was moved and seconded that staff look into two possible designs for this area that would include both owl habitat and parking. The first design would have four acres designated for parking, and the second would have eight acres designated for parking. Both would include chain link

fencing around the owl habitat to minimize unauthorized entry. Regarding PAL's request regarding relocation of their radio control airplane flying club, it was mentioned that the current Council policy is that no additional land will be leased to PAL for this usage. The PAL representative requested a copy of the letter conveying this policy.

[Note: only the closed landfill/BMX track site was discussed. Discussion of the other sites deferred to the next meeting.]

C. **Pros and Cons of Passing an Ordinance to Require Mowing for Weed Abatement**: This item was deferred to the next meeting.

D. **Follow up from contact with CDFG Regarding Potential "Safe Harbor Agreement"**: This item was deferred to the next meeting.

E. **Monitoring Owl Passive Relocation on City Properties**: This item was deferred to the next meeting.

F. **Vegetation vs. Revegetation of Owl Habitat**: This item was deferred to the next meeting.

II. **Follow-up from Contact with Napa/Solano County Audubon Society:** This item was deferred to the next meeting.

III. **Follow Up Assignments for Next Meeting**: The next two meetings were scheduled: February 14, 2000 and February 28 at 6:30 pm in the Staff Conference Room. One additional meeting will be scheduled for early March (date still to be determined). The February 14 and February 28 meetings will run 1/2 hour longer (until 8:30 pm). 1) Staff will bring information back to the committee on two options for the closed landfill/BMX track that will allow both owls and additional parking on the site, and will include fencing to prevent unauthorized entry to owl habitat.

IV. **Public Presentations:** There were no public presentations.

V. **Adjournment:** The meeting was adjourned at approximately 8:00 pm.

PREPARED BY:

Pam Morrison

Pam Morrison
Senior Staff Aide

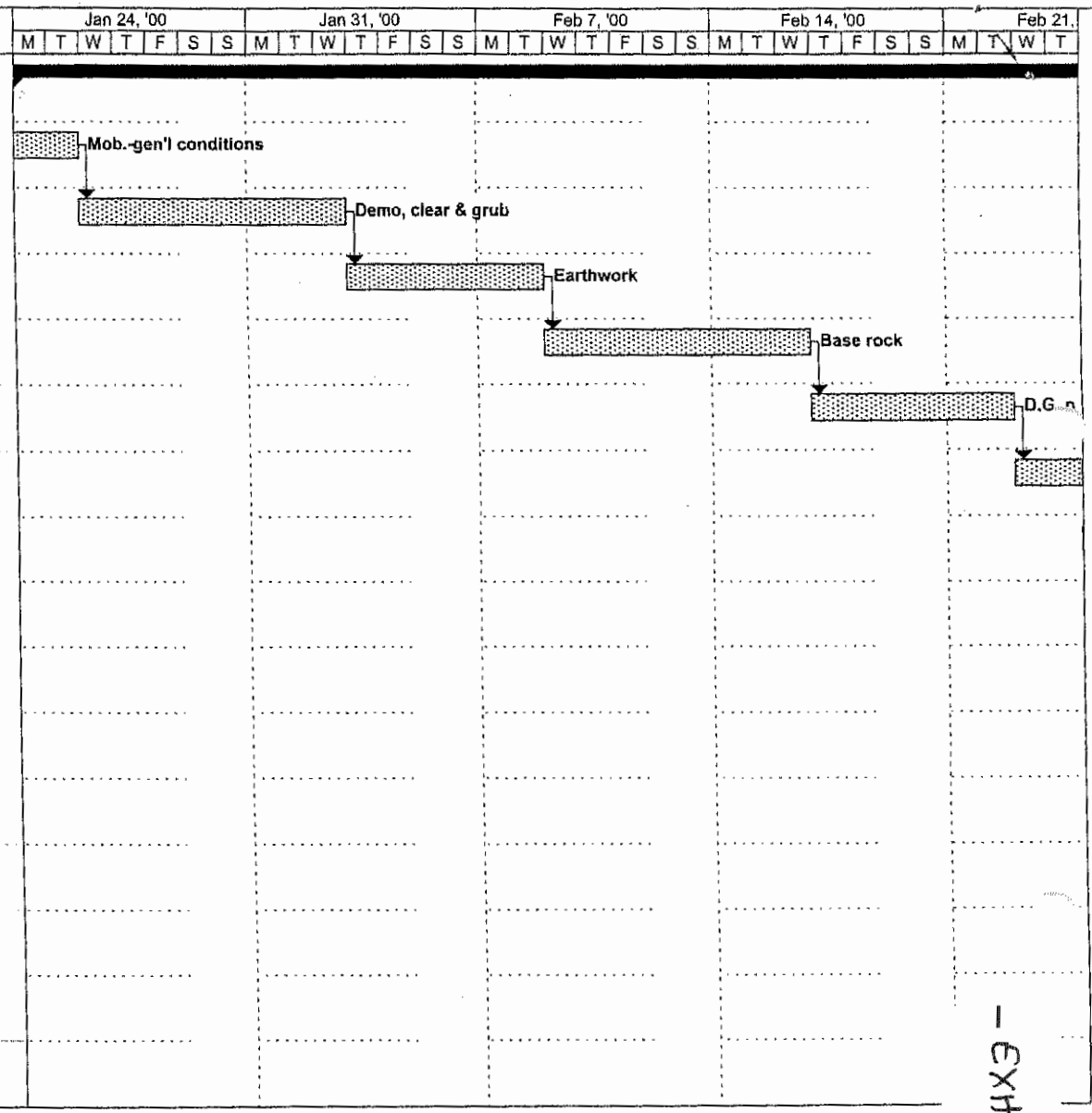
APPROVED BY:

Jennifer Sparacino

Jennifer Sparacino
City Manager

# Schedule for Ulistac Natural Area Phase I

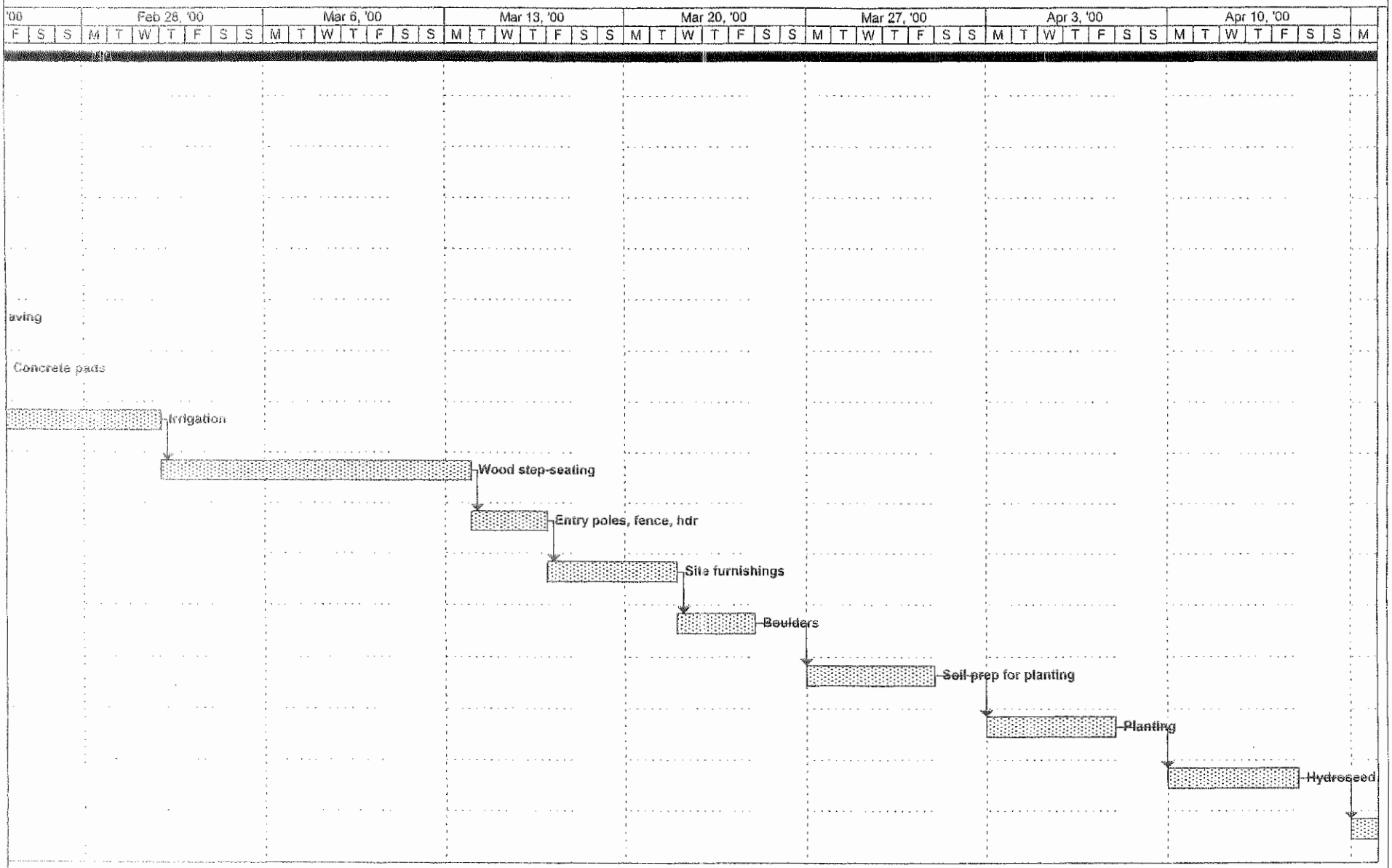
| ID | Task Name | Duration | Start | Finish |
|---|---|---|---|---|
| 1 | **Notice to proceed** | **120 days** | **Mon 1/24/00** | **Fri 7/7/00** |
| 2 | Mob.-gen'l conditions | 2 days | Mon 1/24/00 | Tue 1/25/00 |
| 3 | Demo, clear & grub | 6 days | Wed 1/26/00 | Wed 2/2/00 |
| 4 | Earthwork | 4 days | Thu 2/3/00 | Tue 2/8/00 |
| 5 | Base rock | 6 days | Wed 2/9/00 | Wed 2/16/00 |
| 6 | D.G. paving | 4 days | Thu 2/17/00 | Tue 2/22/00 |
| 7 | Concrete pads | 2 days | Wed 2/23/00 | Thu 2/24/00 |
| 8 | Irrigation | 4 days | Fri 2/25/00 | Wed 3/1/00 |
| 9 | Wood step-seating | 8 days | Thu 3/2/00 | Mon 3/13/00 |
| 10 | Entry poles, fence, hdr | 3 days | Tue 3/14/00 | Thu 3/16/00 |
| 11 | Site furnishings | 3 days | Fri 3/17/00 | Tue 3/21/00 |
| 12 | Boulders | 3 days | Wed 3/22/00 | Fri 3/24/00 |
| 13 | Soil prep for planting | 5 days | Mon 3/27/00 | Fri 3/31/00 |
| 14 | Planting | 5 days | Mon 4/3/00 | Fri 4/7/00 |
| 15 | Hydroseeding | 5 days | Mon 4/10/00 | Fri 4/14/00 |
| 16 | 60 day maintenance | 60 days | Mon 4/17/00 | Fri 7/7/00 |




- EXHIBIT I

Robert A. Bothman, Inc. — Tue 1/18/00

# Schedule for Ulistac Natural Area Phase I




Robert A. Bothman, Inc. --- Tue 1/18/00

– EXHIBIT I

# SECTION 0800 - REVEGETATION SEEDING

## 1.0 GENERAL

### 1.1 SCOPE

Furnish all labor, equipment and materials necessary for site preparation, seeding, hydromulch operations, maintenance and other erosion control operations as shown and specified. To protect against winter rains and potential erosion, seed and mulch by October 1 all disturbed areas as shown on Drawings. Alternative schedules must be approved by the Landscape Architect prior to the commencement of grading operations. The Contractor is responsible for protecting the site and adjacent areas from any erosion caused by construction activities.

### 1.2 WORK SPECIFIED UNDER OTHER SECTIONS

Consult all other sections to determine the extent and character of the work specified elsewhere but related to that included in this section. Work specified herein shall be properly coordinated with that specified.

### 1.3 INTENT

It is the intent of the drawings and specifications to provide seeding and/or hydromulching of designated areas with plants in vigorous growth ready for Owner's use. Any items not specifically shown in the drawings or called for in the specifications, but normally required to conform with such intent, are to be considered part of the work.

### 1.4 REFERENCE

Erosion control seeding shall conform to Section 20 - Erosion Control and Highway Planting of the Standard Specifications, State of California Department of Transportation, latest edition.

### 1.5 PROTECTION

Contractor shall provide necessary safeguards and shall exercise caution against injury or defacement of any existing site improvement and plantings. Contractor shall be responsible for any damage resulting from his operations and shall repair or replace such damage at his own expense. No trucks or vehicles of any kind shall be allowed to pass over sidewalks, curbs, etc. unless adequate protection is provided.

## 1.6 GRADING AND PREPARATION OF AREA

The Contractor shall be responsible for maintaining finish grades in all work areas and for executing any fine grading as may be necessary or incidental to seeding or hydromulching or repair of work areas. The following operations shall be carried out prior to seeding or hydromulching:

A. Make sure all construction requiring access over work areas is completed before any final planting preparation is started.

B. Clear area of weeds and debris over 2 inches in size.

C. Prior to planting, invasive exotic species must to remove. The contractor shall consult the Landscape Architect/ Restoration Ecologist with identification of all weeds to be removed. Woody weeds such as, but not limited to, tree tobacco (*Nicotiana glauca*), French broom (*Genista monspessulana*) shall be cut near the base and painted immediately at least twice with 100 percent concentration of Roundup. Herbaceous species (primarily non-native annual grasses and cocklebur) shall be eradicated with a combination of disking (or other suitable method of tilling) in two directions at least twice. Following disking, each site should be thoroughly irrigated to stimulate germination of weed. Weeds shall then be treated with Roundup herbicide to kill the germinating weeds before flowering and seed set has begun. Problem areas such as area dominated by broadleaf pepper grass (*Lepidium latifolium*) should be sprayed with Round-up and left alone for 2 weeks to allow the herbicide kills the rhizomes prior to first time mowing. Care must be taken to avoid exposing desirable plants to herbicide in the oak savanna restoration area. Timing is critical in site preparation, see timetable on L-8 planting plan for preparation schedule.

D. The area to be seeded shall have a firm seedbed that has previously been roughened by scarifying, disking, harrowing, chiseling or track-walking, or otherwise worked to a depth of 2 to 4 inches unless a roughened condition already exists. No implement shall be used that will create an excessive amount of downward movement of soil or clods on sloping areas. The seedbeds may be prepared at the time of completion of earth-moving work.

E. Before seeding, necessary drainage controls such as dikes at tops of slopes and swales on slope benches shall be installed to prevent runoff from eroding slopes before grass is established. Temporary drainage controls shall remain in place until permanent drainage facilities are installed or until slopes are stabilized and temporary controls are no longer necessary for continued slope stability.

EXHIBIT I

## 2.0 PRODUCTS

### 2.1 MULCH

Mulch shall be wood cellulose fiber and shall be of such character that it will uniformly disperse into slurry when mixed with water. The slurry, when hydraulically applied to the ground shall form an absorptive net of mulch uniformly impregnated with seed and other ingredients. No materials which inhibit growth or germination shall be present in the mixture.

### 2.2 WATER

Water shall be of adequate quality to properly promote plant growth.

### 2.3 FERTILIZER

16-20-0 slow release fertilizer

### 2.4 SEED

A. Levee Bank Erosion Control Seed Mix

| Species | lb./acre | Min. % Purity/ Germination |
|---|---|---|
| **Grasses** | | |
| *Bromus carinatus* | 12 | 95/80 |
| *Elymus X triticum* | 60 | 90/98 |
| *Leymus triticoides* | 4 | 90/60 |
| *Vulpia microstachys* | 4 | 90/70 |
| **Wild Flowers** | | |
| *Eschscholzia california* | 2 | 95/75 |
| *Lupinus bicolor* | 2.5 | 95/75 |
| *Trifolium gracilentem* | 4 | 95/70 |
| **Total** | **88.5** | |

B. Native Grassland Seed Mix

| Species | lb/acre | Min. % Purity/ Germination |
|---|---|---|
| **Grasses** | | |
| *Bromus carinatus* | 6 | 95/80 |
| *Elymus glaucus* | 10 | 95/80 |
| *Melica californica* | 4 | 80/70 |
| *Nassella pulchra* | 6 | 90/80 |
| *Poa secunda* | 4 | 80/80 |
| *Vulpia microstachys* | 6 | 90/80 |
| **Wild Flowers** | | |
| *Achillea millefolium* | 0.5 | 95/70 |
| *Castilleja exerta* | 1.5 | 50/50 |
| *Clarkia purpurea* | 1 | 90/60 |

| | | |
|---|---|---|
| *Eschscholzia california* | 2 | 95/75 |
| *Gilia tricolor* | 1.5 | 90/60 |
| *Lasthenia californica* | 1.5 | 60/60 |
| *Lupinus bicolor* | 2.5 | 95/75 |
| *Lupinus succulentus* | 4 | 95/95 |
| *Sisyrinchium bellum* | 1.5 | 95/60 |
| *Trifolium gracilentem* | 4 | 95/70 |
| **Total** | **56** | |

C. Oak Savanna Seed Mix

| Species | lb/acre | Min. % Purity/ Germination |
|---|---|---|
| **Grasses** | | |
| *Bromus carinatus* | 12 | 95/80 |
| *Leymus triticoides* | 4 | 90/60 |
| *Festuca idahoensis* | 4 | 90/60 |
| *Vulpia microstachys* | 4 | 90/70 |
| **Wild Flowers** | | |
| *Achillea millefolium* | 0.5 | 95/70 |
| *Castilleja exerta* | 1.5 | 50/50 |
| *Collinsia heterophylla* | 2 | |
| *Eschscholzia california* | 2 | 95/75 |
| *Lupinus bicolor* | 2.5 | 95/75 |
| *Oenothera elata hookeri* | 1 | 90/60 |
| *Trifolium gracilentem* | 4 | 95/70 |
| **Total** | **37.5** | |

D. Butterfly Garden Seed Mix

| Species | lb/acre | Min. % Purity/ Germination |
|---|---|---|
| *Achillea millefolium* | 0.75 | 95/70 |
| *Artemisia douglasiana* | 3.0 | 5/40 |
| *Bromus carinatus* | 8.0 | 95/80 |
| *Eriogonum nudum* | 4.0 | 50/10 |
| *Eschscholzia california* | 2.0 | 95/75 |
| *Festuca rubra var. Molate* | 8.0 | 90/85 |
| *Lotus scoparius* | 3.0 | 90/60 |
| *Lupinus albifrons* | 3.0 | 97/60 |
| *Lupinus nanus* | 0.5 | 98/70 |
| *Lupinus densiflorus var Ed Gedding* | 1.5 | 98/70 |
| *Lupinus succulentus* | 1.5 | 98/70 |
| *Minulus cardinalis* | 1.5 | 4/20 |
| *Nassella pulchra* | 6.0 | 90/80 |
| *Nemophila maculata* | 1.0 | 95/75 |
| *Plantago insularis* | 5.0 | 95/70 |
| *Scrophularia californica* | 2.0 | 90/50 |
| *Sisyrinchium bellum* | 1.0 | 90/60 |

EXHIBIT I

| | | |
|---|---|---|
| *Vulpia microstachys* | 6.0 | 90/70 |
| *Wyethia mollis* | 3.0 | 60/60 |
| **Total** | **62.75** | |

E. Gathering Area Seed Mix

| Species | lb/acre | Min. % Purity/ Germination |
|---|---|---|
| **Grasses** | | |
| *Bromus carinatus* | 12 | 95/80 |
| *Leymus triticoides* | 4 | 90/60 |
| *Festuca idahoensis* | 4 | 90/60 |
| *Vulpia microstachys* | 4 | 90/70 |
| **Wild Flowers** | | |
| *Achillea millefolium* | 0.5 | 95/70 |
| *Castilleja exerta* | 1.5 | 50/50 |
| *Collinsia heterophylla* | 2 | |
| *Eschscholzia california* | 2 | 95/75 |
| *Lasthenia californica* | 1.5 | 60/60 |
| *Lupinus bicolor* | 2.5 | 95/75 |
| *Lupinus succulentus* | 1.5 | 98/70 |
| Oenothera elata hookeri | 1 | 90/60 |
| *Trifolium gracilentem* | 4 | 95/70 |
| **Total** | **41** | |

## 2.5 JUTE NETTING

Jute netting shall be plain weave, unbleached undyed single jute; 1.2 pounds per linear yard by 4-feet; 78 warp ends per width by 41 weft ends per yard. Ludlow, Ewing or approved equal. Stake all materials into place. Apply as shown on the drawings.

## 2.6 EQUIPMENT

Equipment for the application shall have a built-in agitation system with an operating capacity sufficient to agitate, suspend and homogeneously mix a slurry of fiber, fertilizer, seed and water. The discharge line shall provide even distribution of the slurry on the slopes to be seeded.

# 3.0 EXECUTION

## 3.1 SEEDING METHODS

All areas to receive erosion control seeding as shown on the plan shall be uniformly seeded in one of two methods at the choice of the contractor: 1) Hydroseeding; or 2) Seed drilling. Seed drilling shall be used in all areas except those steeper than 3:1 run to rise or in areas which have difficult accessibility for seed drilling, as directed

by the Landscape Architect.

## 3.2 HYDROSEED OPERATIONS

A. Mixing:

Mixing shall take place at the site of the work. The hydromulching preparation shall be per manufacturer's directions. Spraying shall commence immediately after the tank is full. The operator shall spray the area with a uniform, visible coat by using color of the wood pulp as a guide.

B. Application:

1) Prior to application the Contractor shall receive approval of the hydromulch area preparation from the Architect.

2) The operator of the hydromulching equipment shall apply the hydromulch in a sweeping motion to form a uniform mat.

3) Care shall be taken to keep the slurry within the designated work area.

4) Slurry mixture which has not been applied within two hours of mixing shall not be used and shall be removed from the site.

5) After application, the Contractor shall not operate any equipment over the area.

6) Application Rates:

Seed – see item 2.4
Mulch Fiber - 1,800 –2,000 pounds/acre
Fertilizer - 200 pounds/acre
4 gallons/ acre SARVON soil penetrant
brightly colored dye

## 3.3 SEEDING BY SEED DRILL

A. The seed mix shall be planted with an approved seed drill. The seeds shall be planted at an average depth of 3/8 inch. No seeds shall be planted deeper than 1 inch or shallower than 1/4 inch. The entire area shall be uniformly seeded in two directions.

B. Application Rates:

EXHIBIT I

Seed - see item 2.4

3.4 CLEAN-UP

Keep all areas of work clean, neat and orderly at all times. Keep all paved areas clean during planting and maintenance operations. Clean up and remove all deleterious materials and debris from the entire work area prior to Final Acceptance to satisfaction of the Landscape Architect. Remove hydromulch overthrown onto pavement, construction or planting areas not designated to receive hydromulch.

3.5 MAINTENANCE, GUARANTEE AND ACCEPTANCE

Maintenance shall immediately follow, and shall continue for 60 calendar days after all hydro-seeding is completed and accepted by Landscape Architect. Maintenance of hydromulching shall consist of treatment of all diseases and insect pests, repair of erosion and all incidental work necessary to establish surface coverage and development of root systems adequately, in the opinion of the Landscape Architect, to stabilize slopes and other surfaces in the work area. Initial maintenance shall be continuous until uniform coverage is established over 95% of treated soil areas with no individual bare area in excess of 10 square feet. After germination, any bare areas shall be reseeded at the direction of the Landscape Architect. Final determination of acceptance of hydromulching shall rest solely with the Landscape Architect.

END OF SECTION 0800

# *City of Santa Clara*
# INTEROFFICE MEMORANDUM

EXHIBIT F

**Date:** **January 21, 2000**

**To:** **City Manager**

**From:** **Assistant City Manager**

**Subject:** **Pros and Cons of a Mowing-Only Ordinance**

Listed below are some of the issues to consider in a proposed "Mow-Only" (No Discing) Ordinance:

| Pros | Cons |
|---|---|
| • Maintain bare land in a condition attractive to owls | • Additional requirements imposed on private property owners. Many private land owners with vacant land prefer to disc so they don't face mitigation issues in the future |
| • Mowing is cheaper than discing per occurrence | • Mowing is required more often than discing so the cost differential between mowing and discing is negligible. |
| • Mowing requires surveillance of the site prior to mowing to locate and protect owl nests. | • Additional time and cost may be incurred due to surveillance requirement. |
| • Santa Clara would establish a leadership position in the environmental maintenance of certain plant and animal species on the bare land sites affected. | • There is very little bare land left in Santa Clara. Major areas (Mission College and the remaining Agnews land) are under State jurisdiction and therefore would be exempt from the proposed ordinance while under State jurisdiction. |
| • The marginal areas being discussed as possible owl habitat (once projects have been built) are of such a size or topography to require hand mowing or weed whacking. | • Mitigation agreements with DF&G for the majority of City-owned bare land and State fee transferred bare land allow for the passive relocation of owls. Mowing or discing on these properties is a moot point vis-à-vis burrowing owls. |

# KEY ISSUES IN THE CREATION OF INFILL OWL HABITAT

- City needs agreement from Department of Fish and Game that City will not be negatively impacted by agreeing to pocket habitat concept.

- Each project identified in the North Bayshore EIR would require identification and surveying.

- A metes and bounds description of each property would include the 250 foot required Department of Fish and Game (DF&G) "no construction activity" buffer zone.

- Whenever possible, owls nesting in the 250 foot "no construction" buffer zone will be left in place during construction.

- DF&G would agree to the passive relocation of any owl in the 250 foot buffer area felt to be affected by construction activity.

- The City's biological consultant and/or DF&G would determine if an owl required passive relocation.

Prepared by: Ron Garratt
Assistant City Manager
Date: January 24, 00

*I:\ctymngrs\memoranda\2000\Infill Owl Habitat*

# CITY OF SANTA CLARA BURROWING OWL HABITAT COMMITTEE

EXHIBIT J -

## AGENDA

**Monday, February 14, 2000 at 6:30 p.m.**
**Santa Clara City Hall – Staff Conference Room**
**1500 Warburton Avenue, Santa Clara, CA 95050**

| | |
|---|---|
| Call to Order | Chair/Council Member John McLemore |
| Review of Minutes from the January 24, 2000 Meeting | Chair |
| III. Reports from City Manager: | City Manager & Staff |
| A. List of Potential Pocket Habitat Locations (acreage, description, and level) | |
| 1. Possible options for BMX site | |
| B. Pros and Cons of Passing an Ordinance to Require Mowing for Weed Abatement | |
| C. Follow-up from contact with CDFG Regarding Discussion of a Potential "Safe Harbor Agreement" | |
| D. Monitoring Owl Passive Relocation on City Properties | |
| E. Vegetation vs. Revegetation of Owl Habitat | |
| IV. Follow-up from Contact with Napa/Solano County Audubon Society | Craig Breon |
| A. Possible Habitat Experiment on Benicia Property | |
| B. Performance of Bird Count on Benicia Property | |
| V. Follow-up Assignments for Next Meeting | |
| VI. Public Presentations | |
| VII. Adjournment at 8:30 p.m. | |

# BURROWING OWL HABITAT COMMITTEE
## MINUTES

EXHIBIT J

February 14, 2000

The following were in attendance at the meeting held on this date:

Council Member John McLemore , Chair
Council Member Aldyth Parle
Council Member Patricia Mahan
Jan Hintermeister, People for Open Space
Craig Breon, Santa Clara Valley Audubon Society
Aurelia Winsemius, Sierra Club
Rich Jensen, Northside Residents' Association
Linda O'Maley, Citizen
Bill Cooper, Santa Clara Police Activities League (PAL)
Jennifer Sparacino, City Manager
Ron Garratt, Assistant City Manager
Pam Morrison, Senior Staff Aide

I. **Call to Order:** The meeting was called to order by Chair Council Member John McLemore at 6:35 p.m. in the City Manager's Staff Conference Room.

II. **Review of Minutes from the 01/24/00 Meeting:** There were no comments on the minutes.

III. **Reports from the City Manager:**

A. **List of Potential Pocket Habitat Locations and Possible Options for BMX site.** *BMX Site:* Staff reviewed a chart and memo listing two possible options for the BMX site that would allow additional parking for BMX activities, but still allow portions of the site to be used for owl habitat (copy placed in Council Offices). The committee requested information on two additional options for the BMX site: one option that leaves the BMX area as is with 16.9 acres designated as habitat, and a second option that trades the side slopes leased by PAL for 4 additional acres parking. The committee also requested information on what restrictions need to be placed on the site for daytime parking. *New golf course holes:* The acreage on the chart does not include the roughs, although owls will probably come there. This site has added value because it extends off the golf course, and is across from a portion of the BMX site. *Centennial/Tasman:* The goal faces at the soccer park will be up against the slopes, which means there will be some intrusion on the slopes from soccer balls/players. The northeast corner may have a mixed use/retail development going in. *Open Space Park:* There is a significant number of raptors at this site, which does not make it a viable option for habitat. *San Jose/Santa Clara Treatment Plant:* San Jose is considering building a police training facility at this site. Further discussion was deferred until later in the meeting. *Our Lady of Peace Church:* It is unknown if any owls are still present at this site. It was noted that the City is not interested in pursuing a conservation easement, but will list the site as a potential pocket habitat in case other entities are interested. [Note: the map of this site will be revised to correctly note the two-acre parcel under discussion.] It was also requested that Mission College be listed as existing habitat on the chart. *Radar Station:* San Jose has indicated they have plans for this site. It was not

clear from available maps whether this parcel is located within the city limits; staff will follow up. *Hetch Hetchy Right-of-Way:* A conservation easement would be needed in order to set aside this area as owl habitat, since it is not owned by the City. It was noted that while this site would not be good for owl nesting, it would be suitable as foraging habitat if managed in such a way that was attractive to owls. It was requested that list of potential pocket habitats be modified to reflect each site's suitability for nesting and foraging.

B. **Pros and Cons of Passing an Ordinance to Require Mowing for Weed Abatement**: A report was distributed to the committee members listing the pros and cons of a "mowing only" ordinance (copy available in Council Offices).

C. **Follow up from contact with CDFG Regarding Potential "Safe Harbor Agreement"**: Staff reviewed the salient points expected to be included in an agreement with CDFG (copy available in Council Offices). There are still some issues to be resolved, and discussions continue with CDFG.

D. **Monitoring Owl Passive Relocation on City Properties**: This item was deferred to the next meeting.

E. **Vegetation vs. Revegetation of Owl Habitat**: This item was deferred to the next meeting.

IV. **Follow-up from Contact with Napa/Solano County Audubon Society:** This item was deferred to the next meeting.

V. **Follow Up Assignments for Next Meeting**: The next meeting is scheduled for February 28, 2000 from 6:30 p.m. to 8:00 p.m., with an additional meeting scheduled for March 20, 2000 from 6:30 p.m. to 8:30 p.m. 1) Staff will bring information back to the committee on two additional options for the closed landfill/BMX track; 2) The list of potential pocket habitat locations will be revised to include Mission College, and to show each location's suitability for nesting and foraging.

VI. **Public Presentations.** The Chair distributed copies of the San Jose Burrowing Owl Habitat Plan (copy placed in Council Offices). It was pointed out that the plan states that Santa Clara has a right to 19% of the treatment plant lands; staff will follow up with a letter to San Jose reminding them of the City's partnership in the treatment plant. It was requested that discussion of San Jose's plan be placed on the agenda for the next meeting.

VII. **Adjournment:** The meeting was adjourned at approximately 8:45 pm.

PREPARED BY:

Pam Morrison

Pam Morrison
Senior Staff Aide

APPROVED BY:

Jennifer Sparacino

Jennifer Sparacino
City Manager

# CITY OF SANTA CLARA BURROWING OWL HABITAT COMMITTEE

- EXHIBIT K

## AGENDA

**Monday, February 28, 2000 at 6:30 p.m.**
**Santa Clara City Hall – Staff Conference Room**
**1500 Warburton Avenue, Santa Clara, CA 95050**

| | | |
|---|---|---|
| I. | Call to Order | Chair |
| II. | Review of Minutes from the February 14, 2000 Meeting | Chair |
| III. | Reports from City Manager: | City Manager & Staff |
| | A. Additional options for BMX site | |
| | B. Revised List of Potential Pocket Habitat Locations | |
| | C. Monitoring Owl Passive Relocation on City Properties | |
| | D. Vegetation vs. Revegetation of Owl Habitat | |
| IV. | Discussion of San Jose's Burrowing Owl Habitat Plan | Chair |
| V. | Follow-up from Contact with Napa/Solano County Audubon Society | Craig Breon |
| | A. Possible Habitat Experiment on Benicia Property | |
| | B. Performance of Bird Count on Benicia Property | |
| VI. | Follow-up Assignments for Next Meeting | |
| VII. | Public Presentations | |
| VIII. | Adjournment at 8:00 p.m. | |

EXHIBIT K

# BURROWIN OWL HABITAT COMMITTEE
## MINUTES

February 28, 2000

The following were in attendance at the meeting held on this date:

Council Member Aldyth Parle
Jeannine DeWald, Department of Fish and Game
Dave Plumpton, H.T. Harvey and Associates
Jan Hintermeister, People for Open Space
Craig Breon, Santa Clara Valley Audubon Society
Aurelia Winsemius, Sierra Club
Rich Jensen, Northside Residents' Association
Linda O'Maley, Citizen
Bill Cooper, Santa Clara Police Activities League (PAL)
Jennifer Sparacino, City Manager
Ron Garratt, Assistant City Manager
Pam Morrison, Senior Staff Aide

I. **Call to Order:** The meeting was called to order by Council Member Aldyth Parle (in Chair Council Member McLemore's absence) at 6:35 p.m. in the City Manager's Staff Conference Room.

II. **Review of Minutes from the 02/14/00 Meeting:** There were no comments on the minutes.

III. **Reports from the City Manager:**

A. **Additional Options for BMX site.** Staff reviewed a chart and memo listing two additional potential options for the BMX site: one option that leaves the BMX area as is with 16.9 acres designated as habitat, and a second option that trades the side slopes leased by PAL for 4 additional acres parking. (copy placed in Council offices).

B. **Revised List of Potential Pocket Habitat Locations**: A revised report was distributed that included the suitability of each parcel as nesting and foraging habitat (copy placed in Council offices).

C. **Monitoring Owl Passive Relocation on City Properties**: It was noted that there have been two separate instances of vandalism to the one-way burrow doors, and surveillance of the area has been increased as a result. Eight owls have been passively relocated, and golf course personnel have noticed a slight increase in the owl population on the course. Monitoring will continue throughout the summer.

D. **Vegetation vs. Revegetation of Owl Habitat**: A committee member mentioned that there might be opportunities for volunteer assistance with revegetation, which would reduce costs. Some sites may not need revegetation unless dictated by secondary uses; management of existing vegetation may be sufficient. Vegetation decisions will need to be made individually on each parcel established as habitat.

IV. **Discussion of San Jose's bur. ving Owl Habitat Plan.** San Jose's p is currently in the form of an administrative draft, and it may go before their council in May or June 2000. The plan is designed so that it will serve as a conservation plan if the owl becomes listed. The plan will eventually secure 1500 acres for owls, with 350 acres up front. Some of the land may be outside of the city, and some of it may be private land. Developers may be assessed a $5000 fee to manage owl lands. A copy of the handout from San Jose's public meeting will be made available to committee members at the next Burrowing Owl Habitat Committee meeting, and this item will be on the agenda for the next meeting for further discussion.

V. **Follow-up from Contact with Napa/Solano County Audubon Society:** Christmas bird counts show that there are owls at Benicia. It is unknown whether there are any nesting owls, but the land appears to be suitable as owl habitat. Napa/Solano has volunteers willing to improve owl habitat and monitor the site if habitat were established at Benicia. The City Manager recommended against the approach due to General Fund costs.

VI. **Follow Up Assignments for Next Meeting**: The next meeting is scheduled for March 20, 2000* from 6:30 p.m. to 8:30 p.m. Staff will prepare a list of potential recommendations to Council on burrowing owl habitat.

VII. **Public Presentations.** A suggestion was made that active relocation of the Mission College owls be considered as the college reaches final build-out. Clarification will be needed from CDFG regarding their position on active relocation.

VIII. **Adjournment:** The meeting was adjourned at approximately 7:55 pm.

PREPARED BY:

Pam Morrison
Senior Staff Aide

APPROVED BY:

Jennifer Sparacino
City Manager

* Note: this meeting date was subsequently changed to March 27, 2000.

EXHIBIT K

**INTEROFFICE MEMORANDUM**
**City of Santa Clara**

**DATE:** February 28, 2000

**TO:** Jennifer Sparacino, City Manager
Ron Garratt, Assistant City Manager

**FROM:** Pam Morrison, Senior Staff Aide

**SUBJECT:** Cost Estimates for Establishing Burrowing Owl Habitat at the Closed Landfill/BMX Track Site

Attached is a updated breakdown of the estimated costs associated with establishing burrowing owl habitat at the closed landfill/BMX track site. Four options are presented: the first option is four additional acres set aside for BMX parking, the second option is 8 additional acres for BMX parking, the third option is no additional BMX parking. The fourth option reconfigures the 12 acres allowed to PAL in order to maximize both BMX uses and owl habitat.

All options include fencing to keep cars away from the landfill gas piping system, thereby alleviating any safety concerns. The fence will also serve to prevent unauthorized entry into the area set aside for habitat. Additional rules or guidelines for parking on the BMX site are unnecessary, as the lease between PAL and the City clearly specifies all requirements that must be met in order for the site to be used for parking.

Fencing costs for Options 1 and 2 have been modified from the previous estimates, as the existing perimeter fencing was not taken into consideration. Option 1 calls for 1600 linear feet of fencing, and Option 2 requires 1900 linear feet of fencing. Option 3, which calls for no change to the existing PAL-leased land, requires 1150 linear feet. Option 4 will require the greatest amount of additional fencing, 3100 linear feet, in order to reconfigure the PAL-leased land and allow the southwest slopes to be used for habitat.

Pam Morrison

Pam Morrison
Senior Staff Aide

Attachment

# Cost Estimates for Establishing/Maintaining Burrowing Owl Habitat near BMX Track

## City of Santa Clara

| Construction Costs: | Option 1<br>4 acres parking<br>12.9 acres habitat | Option 2<br>8 acres parking<br>8.9 acres habitat | Option 3<br>No change to BMX<br>16.9 acres habitat | Option 4<br>Reconfigure BMX<br>16.9 acres habitat |
|---|---|---|---|---|
| Fencing: | | | | |
| Fencing ($15 per linear foot) | $24,000 | $28,500 | $17,250 | $46,500 |
| Gates ($600 per pair) | $1,200 | $1,200 | $1,200 | $1,200 |
| **Total Fencing:** | **$25,200** | **$29,700** | **$18,450** | **$47,700** |
| Revegetation: | | | | |
| Hydroseeding ($1500 per acre) | $19,350 | $13,350 | $25,350 | $25,350 |
| **Total Revegetation:** | **$19,350** | **$13,350** | **$25,350** | **$25,350** |
| Artificial burrows: | | | | |
| welded-wire mesh | $50 | $50 | $50 | $50 |
| PVC pipe | $15 | $15 | $15 | $15 |
| 12 polycarbonate valve boxes | $207 | $207 | $207 | $207 |
| dirt ($6 per yard) | $240 | $240 | $240 | $240 |
| dirt hauling | $560 | $560 | $560 | $560 |
| tractor work | $400 | $400 | $400 | $400 |
| vegetation management | $200 | $200 | $200 | $200 |
| installation (16 man hours) | $1,280 | $1,280 | $1,280 | $1,280 |
| **Total artificial burrows:** | **$2,952** | **$2,952** | **$2,952** | **$2,952** |
| | | | | |
| **TOTAL CONSTRUCTION COSTS:** | **$47,502** | **$46,002** | **$46,752** | **$76,002** |

| Annual Maintenance Costs: | Option 1 | Option 2 | Option 3 | Option 4 |
|---|---|---|---|---|
| Burrow maintenance: | | | | |
| Burrow overhaul/monitoring (36 man hours) | $3,420 | $3,420 | $3,420 | $3,420 |
| **Total burrow maintenance:** | **$3,420** | **$3,420** | **$3,420** | **$3,420** |
| Vegetation Management: | | | | |
| Mowing 2x per year at $90 per acre | $2,322 | $1,602 | $3,042 | $3,042 |
| **Total vegetation management:** | **$2,322** | **$1,602** | **$3,042** | **$3,042** |
| | | | | |
| **TOTAL ANNUAL MAINTENANCE COSTS:** | **$5,742** | **$5,022** | **$6,462** | **$6,462** |

# Burrowing Owl Habitat Committee
# List of Potential Pocket Habitat Locations

Level 1: City-owned land
Level 2: Privately owned land within the City
Level 3: Land adjacent to the City
Level 4: Land owned by any other local entity

| Parcel[1] | Level | Acreage | Location Description | Vegetation Needed | Vegetation Mgmt Needed | Suitable as Habitat: | |
|---|---|---|---|---|---|---|---|
| | | | | | | Nesting | Foraging |
| Closed landfill/BMX | 1 | 16.9 | Top of landfill | Yes | Yes | Yes | Yes |
| New golf course holes | 1 | 6.71 | East & south slopes | Yes | Yes | Yes | Yes |
| Centennial/Tasman | 1 | 1.95 | Slopes on four corners of Tasman at Centennial | Yes | Yes | Yes | Yes |
| **Total Acreage:** | | 25.56 | | | | | |
| Open Space Park | 1 | 4.8 | South corner | Yes | Yes | No | Yes |
| Benicia Property[2] | 1 | 100 | Not defined | Existing | Yes | Yes | Yes |
| Our Lady of Peace Church | 2 | 2 | SW corner | Yes | Yes | Yes | Yes |
| SJ/SC Treatment Plant | 3 | 49 | Ruderal/non-native grassland | Existing | Yes | Yes | Yes |
| Radar station | 3,4 | 23.7 | Area surrounding radar array | Existing | Yes | Yes | Yes |
| Hetch-Hetchy ROW | 4 | 7.7 | Between San Tomas Creek & Lick Mill Blvd. | Existing | Yes | No | Yes |
| Mission College[3] | 4 | 1.7 | Southeast corner of campus | Existing | Yes | Yes | Yes |

[1] Parcel list does not include City-purchased owl mitigation lands totaling 56.5 acres
[2] Additional costs would be incurred in order to use this property as it was paid for by the City's Electric Utility
[3] Existing owl habitat



EXHIBIT K

EXHIBIT L

# CITY OF SANTA CLARA BURROWING OWL HABITAT COMMITTEE

## AGENDA

**Monday, March 27, 2000 at 6:30 p.m.**
**Santa Clara City Hall – Council Conference Room**
**1500 Warburton Avenue, Santa Clara, CA 95050**

| | | |
|---|---|---|
| I. | Call to Order | Chair |
| II. | Review of Minutes from the February 28, 2000 Meeting | Chair |
| III. | Reports from City Manager: | City Manager & Staff |
| | A. Clarification on CDFG's Position on Active Relocation | |
| | B. "Safe Harbor" Agreement with CDFG | |
| | C. List of Possible Recommendations for Council Consideration | |
| | 1. Identify Potential Pocket Habitat | |
| | 2. Develop BMPs for Management of City property | |
| | 3. Include Stakeholders in Process | |
| | 4. Disseminate Information to the Public | |
| IV. | Discussion of San Jose's Burrowing Owl Habitat Plan | Chair |
| V. | Public Presentations | |
| VI. | Adjournment at 8:30 p.m. | |

***PLEASE NOTE: Meeting date and location have been changed**
**(formerly scheduled for March 20, 2000 in the Staff Conference Room)**

17L

- EXHIBIT L

# BURROWING OWL HABITAT COMMITTEE
## MINUTES

March 27, 2000

The following were in attendance at the meeting held on this date:

Council Member John McLemore, Chair
Council Member Aldyth Parle
Dave Plumpton, H.T. Harvey and Associates
Jan Hintermeister, People for Open Space
Craig Breon, Santa Clara Valley Audubon Society
Rich Jensen, Northside Residents' Association
Ian Abell, Mission College
Linda O'Maley, Citizen
Bill Cooper, Santa Clara Police Activities League (PAL)
Jennifer Sparacino, City Manager
Ron Garratt, Assistant City Manager
Pam Morrison, Senior Staff Aide
**Guests:**
Jamie O'Conner, Wilcox High School
Harry Pak, Wilcox High School
Luke Eubank, Wilcox High School
James Krause, Wilcox High School
Monica Garcia, Wilcox High School

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**MATTERS FOR COUNCIL ACTION:**

- It was moved, seconded, and passed unanimously to recommend that the City Council:
  - Set the date of May 2, 2000 under Special Order of Business for a presentation to the City Council of the Burrowing Owl Habitat Committee's recommendations for Council consideration.

---

I. **Call to Order:** The meeting was called to order by Chair Council Member McLemore at 6:30 p.m. in the City Manager's Staff Conference Room. Introductions were made. It was noted that Council Member Mahan was unable to attend the meeting due to a funeral.

II. **Review of Minutes from the 02/28/00 Meeting:** There were no comments on the minutes.

III. **Reports from the City Manager:**

A. **Clarification on CDFG's Position on Active Relocation:** It was clarified that CDFG would consider active relocation of birds under the appropriate circumstances. It is likely that Mission College would be allowed to try active relocation on an experimental basis, but would also proceed with approved mitigation. The 1.7 acres at Mission College is reserved as habitat for seven years. The college does not have any plans to develop the land, but that could change in the future. **The committee recommended that 1) the**

**Mission College Liaison Committee serve as the forum for updates to the City on Mission College facility development and owl habitat, and 2) Mission College provide copies of its burrowing owl surveys to the City on an annual basis.**

B. **"Safe Harbor" Agreement with CDFG**: The draft agreement is under review by the CDFG attorney in Sacramento. **The committee recommended that the City Manager continue to work with CDFG to develop a "safe harbor" agreement (with the understanding that that the agreement will not hold if the owl becomes a listed specie).**

C. **List of Possible Recommendations for Council Consideration**: Staff reviewed the draft agenda report and staff recommendations (copy provided in Council offices). **1) The committee agreed with all of the staff recommendations presented in the report, and recommended the selection of Option 4 for the closed landfill/BMX site. 2) The committee recommended that the City use its contract biologist to develop recommendations for burrows and vegetation on each site. 3) The committee recommended that an annual count/survey of burrowing owls be conducted.** The committee requested some of the language in the staff report to be clarified, and requested changes to Exhibit A for clarification as well. The proposed date to bring all the committee's recommendations to the City Council is May 2, 2000.

IV. **Discussion of San Jose's burrowing Owl Habitat Plan**. There was no further discussion on this item.

V. **Public Presentations.** There were no public presentations.

VI. **Adjournment:** The meeting was adjourned at approximately 9:10 pm.

PREPARED BY:

Pam Morrison

Pam Morrison
Senior Staff Aide

APPROVED BY:

Jennifer Sparacino

Jennifer Sparacino
City Manager

Meeting Date: _____
Council ☒
Agency ☐
SOSA ☐

City of Santa Clara, Californ

- EXHIBIT M

Date: April 28, 2000

To: City Manager for Council Action

From: Assistant City Manager

Subject: **FINAL REPORT FROM THE COUNCIL APPOINTED BURROWING OWL HABITAT COMMITTEE**

## EXECUTIVE SUMMARY

### Overview

The Council established the Burrowing Owl Habitat Committee on August 24, 1999. Council Members Mahan, McLemore, and Parle were appointed to serve on the Committee with Vice Mayor McLemore acting as Committee Chair. The Council expressed their desire to have a broad base of community representation on this Council Committee.

The Committee was established under the umbrella of the larger Council discussion involving the proposed development of 103 acres of City-owned property in the North Bayshore Redevelopment Area. Council's policy direction to the Committee was to:

- Include community stakeholders and provide notification to identified and interested parties to be included in the process;
- Identify potential pocket habitats within the City. This direction was clarified at their September 14, 1999 meeting where Council directed staff to seek a goal of 103 acres of mitigation habitat within or outside City boundaries, including the proposed 58.5 acres of Byron habitat as part of the 103 acre total;
- Develop an outreach plan to other regional cities to coordinate habitat creation and maintenance efforts wherever possible;
- Develop Best Management Practices (BMPs) for maintenance of City properties to prevent habitat impacts where possible;
- Direct information to be disseminated in normal ways and also on the web site and through other City publications to be developed in conjunction with staff;
- Report out to Council with Committee recommendations by February 2000.

## Committee Response to Council Direction

The bullet points delineated below describe Council direction and the Habitat Committee's response to a number of issues. At the culmination of the Committee's efforts, certain recommendations were made and are listed below. Many of the Committee's recommendations have both Committee and staff concurrence, other recommendations listed in this report are additional ideas suggested by the Committee.

- **Include Community Stakeholders**
  Nine Committee meetings were held between early November 1999 and the end of March 2000. The meetings were open to the public with attendance by interested citizens and representatives of the following groups or organizations: Loma Prieta Chapter of the Sierra Club, Mission College, Northside Residents Association, People for Open Space, Santa Clara Chamber of Commerce, Santa Clara Police Activities League, Santa Clara Valley Audubon Society, Santa Clara University, and the State Department of Fish and Game (DF&G).

- **Identify pocket habitats in Santa Clara**
  On March 14, 2000, Council approved the acquisition of 58.5 acres of mitigation credits from the State Department of General Services. The property is located in Byron, approximately 38 miles northeast of Santa Clara. The 58.5 acres were the only contractual habitat mitigation required for the development of the 103 acres of City-owned property addressed in the North Bayshore Environmental Impact Report (EIR). The Committee's efforts have focused on the remaining 44.5 acres needed to meet Council's goal of 103 acres of habitat area. These 44.5 acres are a voluntary commitment by the City, not a legal requirement.

  The Committee reviewed 10 potential sites as possible owl habitat. The sites are classified in four categories:
  1. City-owned lands;
  2. Privately owned land within the City;
  3. Land adjacent to the City;
  4. Land owned by another local entity.

  **Exhibit A** provides a summary of the property reviewed.

  **Staff recommends seeking habitat opportunities on three sites:**
  1. The closed Lafayette landfill adjacent to PAL BMX track. There are approximately 17 acres of potential habitat available in this area. PAL has requested at least 4 acres additional parking for the BMX activity. It is possible to reconfigure the existing BMX track site to allow for additional parking while maintaining approximately 17 acres for habitat. **Exhibit B** is a letter from PAL

_ EXHIBIT M

addressing this issue. **Exhibit B1** is an aerial view of the existing closed landfill site. Estimated boundaries have been drawn to denote the current footprint of the BMX activity area and the proposed revised footprint. Essentially, the slope areas of the current BMX Track site would be exchanged for an additional parking area along the top of the landfill. Total acreage allocated to the BMX track activity would remain unchanged. Of the four possible habitat configuration options explored by the Committee, the Committee and staff concur that Option 4 (**Exhibit C**) has the best potential to meet both the Committee's and PAL's needs. Cost estimates for creating habitat on the closed landfill are attached (**Exhibit C**).

2. The southerly and easterly slopes of the closed landfill used for siting the two relocated holes of the golf course (**Exhibit C1**). The south slope faces the existing golf course while the east slope faces Lafayette Street. There are approximately 7 acres of potential habitat in this area.

3. A portion of the San Jose/Santa Clara Water Pollution Control Treatment Plant. Santa Clara is an approximate 20% owner of the Plant. Staff believes that the remaining 20.5 acres can be found at the plant. The City's consultant biologist identified an approximate 49-acre portion of the Plant that appeared viable for owl habitat.

   The City of San Jose has previously created owl habitat on the plant property. Staff has communicated with the City Manager's Office in San Jose (**Exhibit D**) and received a response from San Jose (**Exhibit E**), encouraging future discussion on the creation of habitat opportunities on plant property.

**Summary of Proposed Habitat Land Opportunities**

| | | |
|---|---|---|
| 1. | Closed landfill adjacent to PAL-BMX track | 17.0 acres (in Santa Clara) |
| 2. | Closed landfill slopes for the new golf holes | 7.0 acres (in Santa Clara) |
| 3. | Portion of the SJ/SC Treatment Plant Property | 20.5 acres (adjacent to Santa Clara) |
| 4. | Byron Conservation Area | 58.5 acres (38 miles from Santa Clara) |
| | **Total** | **103 acres** |

Staff does not recommend exceeding the 103 acres of habitat area requested by Council. The other habitat options listed on **Exhibit A** include the acquisition either in fee or conservation easement of property owned privately, by other government agencies, or in the case of Benicia, by a City Charter defined electric utility enterprise fund. In all cases, it is anticipated that some amount of General Fund payment would be required for habitat acquisition in these areas.

The Santa Clara Chamber of Commerce has provided a letter to the Council requesting that no more land beyond the 58.5 acres required by the North Bayshore EIR be acquired for burrowing owl habitat (**Exhibit F**).

- **Develop an outreach plan to other regional cities to coordinate efforts wherever possible.**
  Staff has been in contact with a number of South Bay cities the past two years seeking some type of regional approach to the burrowing owl habitat issue. Staff believes the most viable opportunity to create habitat in conjunction with another public agency would be at the San Jose/Santa Clara Treatment Plant. As requested by the San Jose City Manager (**Exhibit E**) staff will be meeting with San Jose to pursue habitat opportunities on Plant property.

- **Develop Best Management Practices (BMPs) for the maintenance of City properties to prevent impacts on habitat where possible.**
  The City's consultant biologist, Dr. David Plumpton, has created guidelines for the maximization of habitat to the benefit of the burrowing owl. Staff and the Committee recommends using the BMPs for any property determined by Council to be converted to owl habitat (**Exhibit G**).

- **Direct information to be disseminated in normal ways and also on the web site and through other City publications in conjunction with staff.**
  Over the past 2 years, staff has used the City's web site and the City newspaper to inform the community of activities involved in the development of the North Bayshore area. The issue of burrowing owl mitigation has been discussed. In the future, the web site, City newspaper, Cable Channel 15, and *Mission City SCENES*, can be used to inform citizens of the issues surrounding burrowing owl habitat both in Santa Clara and the South Bay.

In addition to the initial direction provided by Council, the Committee is proposing a number of related recommendations:

- That the City perform a survey of burrowing owls annually in the general area of the golf course and adjacent City-owned property.

- That the Council place an annual item on the City/Mission College Liaison Committee Agenda that would have the college provide an update of campus facility development and the effect of that development on the campus' burrowing owl population. Additionally, the College would be requested to share its intermittent survey of the owl population on campus with the City.

- That the Council direct staff to work with the Department of Fish and Game to create a Safe Harbor Agreement that would "passively encourage" owls to return to the slope areas on the four corners of Tasman and Centennial. The concept of the Agreement would be that the City could receive dispensation from DF&G for the 150 foot/250 foot "no disturbance" requirement imposed around nesting owls and, therefore, continue construction, remodeling or renovation work on any of the

– EXHIBIT M

projects that might be developed at any of the four corner sites. Under this concept the nests would have to be reasonably protected by hay bales or some other method that would allow construction to occur. Staff's concerns about this type of an arrangement are called out in the **DISCUSSION** section of this report.

## ADVANTAGES/DISADVANTAGES

Council direction has been to find a balance between development opportunities on City-owned property that insure the long-term financial viability of the community and the desire to assist the long-term maintenance of a specie of special concern—the Western Burrowing Owl. The Burrowing Owl Habitat Committee has worked diligently to find that balance. Recommendations contained in this report will facilitate this effort.

The primary disadvantage of creating additional owl habitat beyond DF&G's EIR mitigation requirement is that certain development projects could be negatively impacted by changing State and/or Federal laws or court decisions effecting the area of species protection.

## FISCAL/ECONOMIC IMPACTS

By limiting total habitat acreage to 103 acres, using portions of City-owned property and jointly owned Treatment Plant property, the City can develop habitat opportunities at a reasonable cost. Funding for the development of additional burrowing owl habitat is available in the Redevelopment Agency's Capital Improvement Project budget. Staff estimates that habitat development on the 44.5 acres of property listed in this report will cost approximately $90,000 ($76,000 for the Lafayette Landfill site and an estimated $14,000 for the Pollution Control Plant and golf course site). By law, Agency funding can only be used for project construction, not project maintenance. Maintenance of habitat will become an additional annual operating expense to the General Fund, estimated at approximately $10,000 per year.

## RECOMMENDATIONS

Staff recommends that Council:

1. Direct the City Manager to seek the development and maintenance of 44.5 acres of burrowing owl habitat in some combination on the following three sites—the closed Lafayette landfill adjacent to the PAL/BMX Track, two of the four slopes of the relocated golf holes and at the San Jose/Santa Clara Water Pollution Control Plant;

2. Direct the City Manager to work with the City of San Jose in the identification and development of burrowing owl habitat land at the San Jose/Santa Clara Water Pollution Control Plant;

3. Direct the City Manager to adopt and implement Best Management Practices for the long-term maintenance of City-owned designated habitat;

4. Direct the City Manager to communicate the status of the City's efforts in the area of burrowing owl habitat management through use of the City's web site, the City newspaper, the City's Cable Channel 15, and *Mission City SCENES.*

5. Direct the City Manager to work with the Police Activities League to create an amendment to the existing BMX Track lease to redefine the land area included in the lease with the land area remaining at ±12 acres.

6. Direct the City Manager to use appropriated Redevelopment Agency funds (939-9011-8030-9048), not to exceed $90,000, for the development of burrowing owl habitat on the voluntary 44.5 acres.

The Committee concurred with the staff recommendations above and added the following recommendations:

7. Direct the City Manager to perform an annual survey of burrowing owls in the general area of the golf course and adjacent City-owned properties.

8. Direct the City Manager to request that the City/Mission College Liaison Committee place an annual item on their meeting agenda to have the College provide the Liaison Committee with an update of facilities development on the campus and the effect of development on the College's burrowing owl population.

9. Direct the City Manager to negotiate a Safe Harbor Agreement with the State of California, Department of Fish and Game that would allow owls to return to the slope areas only along Tasman Drive/Centennial Boulevard and not have the City held to the construction clearance requirements from nesting owls currently enforced by the Department of Fish and Game.

Ronald E. Garratt
Assistant City Manager

Approved:

Jennifer Sparacino
City Manager

REG/sc

Attachments

– EXHIBIT M

## DISCUSSION

### Mowing Only Ordinance

The Committee's deliberations included the concept of a "Mowing Only" Ordinance in the City of Santa Clara. This issue was not brought forward as a recommendation of the Committee or staff, because of the issues outlined below.

The Committee discussed the Council adoption of an ordinance that would require mowing of any bare land sites to encourage owl habitat. Discing would be prohibited by the ordinance. In 1999, the City moved to a "mowing only" policy for all City owned lands. For large properties not maintained by the owner, the County of Santa Clara will first survey for owl nests, mow 250 feet around a nest if one is present, and disc the remainder of the site. Smaller sites are typically mowed. A private property owner who controls weeds on his/her property can currently select any available method for weed abatement.

Staff recommends against any change to the current weed control practices. There are very few large, bare land lots left in Santa Clara. Those owned by the City are already mowed. Many of the remaining bare land parcels are owned by the State (Agnews and Mission College) and, therefore, these owners would be exempt from the adoption of a City ordinance requiring mowing only.

### Safe Harbor Agreement

Under the existing Burrowing Owl Mitigation Agreement with the State of California, Department of Fish and Game, the City has the right to passively relocate owls from the 103 acres of City-owned development property, defined in the North Bayshore EIR, in perpetuity or until the Agreement is superceded by case law or higher government authority. Given that the majority of the property contained in the North Bayshore's EIR is intended for long-term ground leasing with terms typically ranging from 55 to 99 years, it has been the City's intent to discourage owl habitation in these areas. The primary method used in discouraging owls to nest in a particular area is to control ground squirrel populations and resultant squirrel holes.

Under the Safe Harbor Agreement the City would seek to "not discourage" owls from returning to selected areas of certain development sites, particularly the slope areas in the four project site area of Tasman Drive and Centennial Boulevard containing the Soccer Park, proposed hotel site and the proposed mixed use site. If owls return to the undeveloped portion of these sites (the slope areas along Tasman-**Exhibit I**) the Agreement would theoretically allow the City to protect the nesting area and continue construction/renovation with a dispensation from the 250 foot clearance rule (February through September), and the 150 foot clearance rule (October through January).

Three of the four sites appear prime for future ground leasing to the private development market. The fourth site is the City managed youth Soccer Park. While a Safe Harbor Agreement would not have to be recorded on the title of any of these properties, the ramifications of the Agreement would definitely have to be disclosed to a potential lessee. Staff believes that this Agreement will "cloud" the typical property rights inherent in a ground lease and negatively effect the economic return from the lease.

Additionally, if the burrowing owl is ever listed as an endangered species, the Agreement would be superceded by Federal law and existing development and site use could be negatively impacted.

Exhibit A

# Burrowing Owl Habitat Committee
## List of Potential Pocket Habitat Locations

Level 1: City-owned land
Level 2: Privately owned land within the City
Level 3: Land adjacent to the City
Level 4: Land owned by any other local entity

| Parcel[1] | Level | Acres | Location Description | Vegetation Needed | Vegtn. Mgmt Needed | Suitable as Habitat: | | Recommended: | |
|---|---|---|---|---|---|---|---|---|---|
| | | | | | | Nest | Forage | Committee | Staf. |
| Closed landfill/BMX | 1 | 17 | Top of landfill | Yes | Yes | Yes | Yes | Yes | Yes |
| New golf course holes | 1 | 7 | East & south slopes | Yes | Yes | Yes | Yes | Yes | Yes |
| SJ/SC Treatment Plant | 3 | 20.5 | Ruderal/non-native grassland | Existing | Yes | Yes | Yes | Yes | Yes |
| **Total Acreage:** | | 44.5 | | | | | | | |
| Mission College[2] | 4 | 1.7 | Southeast corner of campus | Existing | Yes | Yes | Yes | N/A | N/A |
| Open Space Park | 1 | 4.8 | South corner | Yes | Yes | No | Yes | No | No |
| Centennial/Tasman[3] | 1 | 2 | Slopes on four corners of Tasman at Centennial | Yes | Yes | Yes | Yes | No | No |
| Benicia Property[4] | 1 | 100 | Not defined | Existing | Yes | Yes | Yes | No | No |
| Our Lady of Peace Church | 2 | 2 | SW corner | Yes | Yes | Yes | Yes | No | No |
| Radar station | 3,4 | 23.7 | Area surrounding radar array | Existing | Yes | Yes | Yes | No | No |
| Hetch-Hetchy ROW | 4 | 7.7 | Between San Tomas Creek & Lick Mill Blvd. | Existing | Yes | No | Yes | No | No |

[1] Parcel list does not include City-purchased owl mitigation lands totaling 58.5 acres
[2] Covered under existing owl habitat management plan (7 year sunset)
[3] If "Safe Harbor" agreement approved by Council, it could apply to this parcel
[4] Additional costs would be incurred in order to use this property as it was paid for by the City's Electric Utility

\\ADMIN\mgrdata$\CTYMNGRS\LIAISON COMMITTEES\Burrowing Owl Habitat Committee\Parcel list.doc

EXHIBIT M

Exhibit C

EXHIBIT M

# INTEROFFICE MEMORANDUM
City of Santa Clara

**DATE:** February 28, 2000

**TO:** Jennifer Sparacino, City Manager
Ron Garratt, Assistant City Manager

**FROM:** Pam Morrison, Senior Staff Aide

**SUBJECT:** Cost Estimates for Establishing Burrowing Owl Habitat at the Closed Landfill/BMX Track Site

Attached is a updated breakdown of the estimated costs associated with establishing burrowing owl habitat at the closed landfill/BMX track site. Four options are presented: the first option is four additional acres set aside for BMX parking, the second option is 8 additional acres for BMX parking, the third option is no additional BMX parking. The fourth option reconfigures the 12 acres allowed to PAL in order to maximize both BMX uses and owl habitat.

All options include fencing to keep cars away from the landfill gas piping system, thereby alleviating any safety concerns. The fence will also serve to prevent unauthorized entry into the area set aside for habitat. Additional rules or guidelines for parking on the BMX site are unnecessary, as the lease between PAL and the City clearly specifies all requirements that must be met in order for the site to be used for parking.

Fencing costs for Options 1 and 2 have been modified from the previous estimates, as the existing perimeter fencing was not taken into consideration. Option 1 calls for 1600 linear feet of fencing, and Option 2 requires 1900 linear feet of fencing. Option 3, which calls for no change to the existing PAL-leased land, requires 1150 linear feet. Option 4 will require the greatest amount of additional fencing, 3100 linear feet, in order to reconfigure the PAL-leased land and allow the southwest slopes to be used for habitat.

Pam Morrison

Pam Morrison
Senior Staff Aide

Attachment

I:\CTYMNGRS\LIAISON COMMITTEES\Burrowing Owl Habitat Committee\BMX cost analysis narrative update.doc

EXHIBIT C

# Cost Estimates for Establishing/Maintaining Burrowing Owl Habitat near BMX Track

## City of Santa Clara

| Construction Costs: | Option 1<br>4 acres parking<br>12.9 acres habitat | Option 2<br>8 acres parking<br>8.9 acres habitat | Option 3<br>No change to BMX<br>16.9 acres habitat | Option 4<br>Reconfigure BMX<br>16.9 acres habitat |
|---|---|---|---|---|
| Fencing: | | | | |
| Fencing ($15 per linear foot) | $24,000 | $28,500 | $17,250 | $46,500 |
| Gates ($600 per pair) | $1,200 | $1,200 | $1,200 | $1,200 |
| **Total Fencing:** | **$25,200** | **$29,700** | **$18,450** | **$47,700** |
| Revegetation: | | | | |
| Hydroseeding ($1500 per acre) | $19,350 | $13,350 | $25,350 | $25,350 |
| **Total Revegetation:** | **$19,350** | **$13,350** | **$25,350** | **$25,350** |
| Artificial burrows: | | | | |
| welded-wire mesh | $50 | $50 | $50 | $50 |
| PVC pipe | $15 | $15 | $15 | $15 |
| 12 polycarbonate valve boxes | $207 | $207 | $207 | $207 |
| dirt ($6 per yard) | $240 | $240 | $240 | $240 |
| dirt hauling | $560 | $560 | $560 | $560 |
| tractor work | $400 | $400 | $400 | $400 |
| vegetation management | $200 | $200 | $200 | $200 |
| installation (16 man hours) | $1,280 | $1,280 | $1,280 | $1,280 |
| **Total artificial burrows:** | **$2,952** | **$2,952** | **$2,952** | **$2,952** |
| | | | | |
| **TOTAL CONSTRUCTION COSTS:** | **$47,502** | **$46,002** | **$46,752** | **$76,002** |

| Annual Maintenance Costs: | Option 1 | Option 2 | Option 3 | Option 4 |
|---|---|---|---|---|
| Burrow maintenance: | | | | |
| Burrow overhaul/monitoring (36 man hours) | $3,420 | $3,420 | $3,420 | $3,420 |
| **Total burrow maintenance:** | **$3,420** | **$3,420** | **$3,420** | **$3,420** |
| Vegetation Management: | | | | |
| Mowing 2x per year at $90 per acre | $2,322 | $1,602 | $3,042 | $3,042 |
| **Total vegetation management:** | **$2,322** | **$1,602** | **$3,042** | **$3,042** |
| | | | | |
| **TOTAL ANNUAL MAINTENANCE COSTS:** | **$5,742** | **$5,022** | **$6,462** | **$6,462** |

# THE CITY OF SANTA CLARA

## CALIFORNIA

EXHIBIT M

FER SPARACINO
Y MANAGER

CITY HALL
1500 WARBURTON AVE.
SANTA CLARA, CA 95050
(408) 615-2210
FAX (408) 241-6771

ebruary 29, 2000

Mr. Del Borgsdorf, City Manager
City of San Jose
301 North First Street
San Jose, CA 95110-1704

Del

Dear Mr. Borgsdorf:

A member of my City Council has informed me that you will soon be recommending a proposed Burrowing Owl Habitat Conservation Strategy and Implementation Plan to the San Jose City Council. Santa Clara has been actively reviewing burrowing owl habitat opportunities within both the City and the region for the past two years.

As part of our review, the City's burrowing owl habitat consultant has identified what we believe to be viable habitat acreage on the Water Pollution Control Plant (WPCP) lands. In early 1999, Santa Clara s met with members of your staff to explore possible habitat opportunities. San Jose successfully created owl habitat on WPCP lands in 1998 as part of 3 Com's proposed development in North San Jose.

Santa Clara, as a 19% owner of the plant, would like to actively pursue additional owl habitat opportunities on Treatment Plant lands. We would be very willing to facilitate discussion between our cities in pursuit of this goal. We believe these are excellent sites to consider for future owl habitation. A one fifth / four fifths dedication of selected WPCP facility land as burrowing owl habitat, would strongly support regional cooperation on this issue and may encourage other cities to partner in seeking habitat opportunities.

I would be pleased to meet with you or your staff at your convenience in order to pursue the further exploration of habitat opportunities. Please call me at (408) 615-2210 if you have any questions.

Sincerely,

Jennifer Sparacino

Jennifer Sparacino
City Manager

cc: Mayor and City Council

CITY OF
SAN JOSE
CAPITAL OF SILICON VALLEY

Del D. Borgsdorf
CITY MANAGER

March 9, 2000

RECEIVED
MAR 14 2000
Office of the City Manager
City of Santa Clara

Ms. Jennifer Sparacino
City Manager
City of Santa Clara
1500 Warburton Avenue
Santa Clara, California 95050

Dear ~~Ms. Sparacino~~ Jennifer:

Thank you for your letter of February 29, 2000, regarding burrowing owl habitat opportunities on San Jose/Santa Clara Water Pollution Control Plant (WPCP) land.

The City is preparing a Burrowing Owl Habitat Conservation Strategy and Implementation Plan. WPCP land and other land within the City is under consideration in the plan.

The WPCP is preparing an update to the WPCP Land Use Policy. The principles guiding this update include:

1. Support of NPDES permit compliance.
2. Support of WPCP operations.
3. Provide sufficient water capacity.
4. Protect sensitive habitat and species.
5. Provide consistency with other planning efforts; e.g., General Plan, Alviso Master Plan, Watershed Management Initiative, Bay Trail Planning.

Burrowing owl habitat and related habitat issues are complicated and time consuming; however, I believe there is opportunity for our cities to explore burrowing owl mitigation issues. I have asked Carl Mosher, Director of Environmental Services to be the lead from the City of San Jose. He will be assisted by representatives of our Planning, Building and Code Enforcement Department. I ask that you designate appropriate representatives to further this discussion. We look forward to working together with Santa Clara on this issue.

Sincerely,

Del D. Borgsdorf
City Manager

801 N. First St. Rm. 436 San Jose, CA 95110 tel (408) 277-5777 fax (408) 277-3131 web www.ci.san-jose.ca.us

EXHIBIT M

# Suggested Management Practices for Burrowing Owl Habitats and Mitigation Sites

Much of Burrowing Owl management is passive in nature. *Avoiding* certain activities such as invasive alteration to the landscape, or use of herbicides or insecticides, therefore contributes to good Burrowing Owl management. Any activity that degrades the ecological health of the site, that affects the abundance of insects and small mammals upon which Burrowing Owls prey, or that diminishes the quantity of habitat should be avoided. These activities may include disking for weed control, use of insecticides, rodenticides, and pesticides, presence of free running pet and feral dogs and cats, and excessive human disturbance.

*Commensals (Associated Species):*

California ground squirrels *(Spermophilus beecheyi)* create habitat for Burrowing Owls by providing burrows used for nesting habitat, escape from predators, and shelter in the non-nesting season. Also, ground squirrels control vegetation height in the short, cropped condition that Burrowing Owls require. Ground squirrels are thus an essential part of Burrowing Owl habitat; mitigation sites and other habitats managed for Burrowing Owls should also be managed for the preservation of self-sustaining ground squirrel populations. Ground squirrels may be unable to colonize areas with tall dense vegetation. Mowing may be required initially (and periodically) until ground squirrels become established.

*Vegetation Height:*

When vegetation height exceeds 5," and in areas without livestock or native herbivores, vegetation height must be controlled if habitats are to provide benefit to Burrowing Owls. In areas that lack herbivores, mowing may be used to control vegetation height to below 5," Disking as a means to control vegetation height, or to control weeds must not be used, as this destroys burrows, and seriously damages the ecological integrity of the habitat. This is because plant succession is altered in favor of invasive, weedy species, and insect and small mammal communities upon which Burrowing Owls prey are damaged or disrupted. Grazing by livestock is perfectly compatible with management for Burrowing Owls, provided that ground squirrels are not eradicated as part of a grazing program.

*Habitats:*

Because high burrow availability is desirable, burrowing mammals should be encouraged on mitigation sites. Although artificial burrows can be used as a research tool, to attract owls to an area, or in limited instances to provide habitats to support owls on a site, the ultimate aim should be to establish self-sustaining population of ground squirrels instead of relying on artificial burrows.

*Plant Associations:*

Trees should not be planted or encouraged in areas managed for Burrowing Owls, as trees harbor predators of Burrowing Owls, but provide no direct benefit. Sod-forming grasses, as typically found in lawn areas, are also unsuited for use in Burrowing Owl habitats.

*Human Activity:*

Burrowing Owls are extremely human tolerant and are behaviorally very plastic in regard to adapting to a variety of anthropogenic influences. These owls readily adopt burrows on human altered open spaces, such as some airports, golf courses, and military lands. Burrowing Owls may also occupy areas adjacent to unimproved and improved roads, and a modest volume of vehicle traffic does not significantly impact behaviors or reproductive success. In the South San Francisco Bay region, Burrowing Owls nest and overwinter in highly human-impacted environments, and can habituate to (become accustomed to) most types of human activity if habitats remain in a suitable condition.

Habituation to human activity is more likely when these activities are confined to certain, predictable areas (*e.g.*, sidewalks or pathways). Occasional visits within Burrowing Owl habitats, likewise, present short-duration disturbances, and pose no long-term problem. Repeated intrusion into Burrowing Owl habitats, however, can cause desertion from the site, abandonment of nests, or can cause nest inattentiveness that puts nestlings at risk.

*Human Disturbance and Raptor Ecology:*

Because nesting raptors are generally less tolerant of human disturbance than those in the non-nesting season, and because failure to nest is an important factor limiting raptor populations, human activity in proximity to breeding raptors can have detrimental population-level impacts. Human disturbance can cause raptors to flush from nests and cease incubation. Disturbance to raptors brooding newly hatched young can cause nestling mortality from heat stress, and missed feedings can put nestlings at greater risk of mortality from thermal stress. Disturbed raptors that do not abandon their nests in response may, however, fledge significantly fewer young, or none at all. Some nesting raptors become sensitized, rather than habituated, to repeated human disturbance, responding at decreased levels of disturbance over time.

Summary:

- ground squirrels and livestock grazing should be maintained or encouraged.
- mowing should be used to maintain vegetation at or below 5".
- human activity should be minimized, especially during critical periods (*e.g.*, mid April through mid July), and confined to limited, predictable areas.
- free-running and feral dogs and cats should be controlled.
- disking, chemicals (*e.g.*, pesticides, insecticides, rodenticides), and landscape plantings should be avoided.

http://www.dfg.ca.gov
POST OFFICE BOX 47
YOUNTVILLE, CALIFORNIA 94599
(707) 944-5500

EXH 3ETM

February 3, 2000

RECEIVED
FEB 7 - 2000

Mr. Ronald E. Garratt
Assistant City Manager
City of Santa Clara
1500 Warburton Avenue
Santa Clara, California 95050

Dear Mr. Garratt:

Department of Fish and Game personnel have reviewed your letter of January 6, 2000 requesting clarification on several issues related to the City's effort to develop a management strategy for secondary burrowing owl habitat within city limits. The questions you raised can be summarized as follows:

1. How were the current standards for avoidance of owl burrows developed, and what is their legal basis?

2. Would the Department be willing to provide assurances that the presence of owls on these secondary habitat areas will not impact future activities on the sites?

3. Should the burrowing owl become a Federally-listed species, will this affect previous agreements between the City and the Department?

The current standards (a buffer of 165 feet from September 1 through January 31, and 250 feet from February 1 through August 31) were recommended by the Burrowing Owl Consortium, a group consisting of local owl experts and agency staff. These standards were adopted by the Department in a staff report in 1995 providing guidance for making recommendations for measures to avoid or minimize impacts to burrowing owls. These standards reflect the best available scientific information available to minimize disturbance of burrowing owls, particularly during the breeding season. There is no law or regulation specifying these standards. However, Fish and Game Code Section 3503.5 prohibits the destruction of nests or eggs or take of any birds of prey, including burrowing owls.

Although the existing owl habitat in the project area will be developed and its loss mitigated offsite, we recognize the potential value of maintaining the remaining open space and suitable habitat in a condition suitable for use by burrowing owls. We also understand that this is not likely to occur unless

the City has some assurance that future activities will not be subject to mitigation. The Department is willing to work with the City on an agreement which would provide assurance that new areas would not be required if burrowing owls were to become established on areas as a result of the City's management strategy. It would be beneficial for all parties to have a set of guidelines for activities in secondary habitat or other areas within the City which would be enhanced for owls, in order to avoid unnecessary impacts to the owls, bearing in mind that the Migratory Bird Treaty Act and Fish and Game Code prohibit destruction of active nests or nestlings. We would be happy to work with you to reach an agreement that would provide the assurance the City requires while protecting the owls.

If burrowing owls were to be Federally-listed as threatened or endangered, a separate authorization by the U. S. Fish and Wildlife Service would be required. Federal listing of the burrowing owls would require that the U. S. Fish and Wildlife Service be contacted regarding any activities affecting the owl. An agreement between the Department and the City would not provide "take" coverage to the City if the species were Federally -listed.

We appreciate the City's efforts to provide for the continued presence of burrowing owls within city limits, and our staff is available to work with you toward a successful outcome. If you have any questions regarding our comments, please contact Jeannine DeWald, Associate Wildlife Biologist, at (831) 429-9252; or Carl Wilcox, Environmental Program Manager, at (707) 944-5525.

Sincerely

Cindy Catalano

for Brian Hunter
Regional Manager
Central Coast Region

cc: Mr. Wayne White, Field Supervisor
U. S. Fish and Wildlife Service
Sacramento, California

EXHIBIT N -

Commander, addressed the Council on behalf of the VFW. The Council then recessed to the entryway of the City Hall Council Chambers for the unveiling of the plaque. **[File: Planning and Inspection Department Miscellaneous]**

The Council reconvened at 7:29 p.m.

Also as a Special Order of Business, the Council proceeded with the presentation by the Sister Cities Association and the International Exchange Commission on the recent **delegation trip to Coimbra, Portugal**. Jim Mathre, Chair of the International Exchange Commission, introduced Commissioners Beatrice Costa, Rosita DeLuca, Christina Francisco, Stephanie Martin-Young, and Steve Lee. John Figueira and Vonna Gissler, representatives of the Sister Cities Association, showed overhead slides of the delegations' visit to Portugal and introduced the students and chaperones who made up the delegation. They presented gifts of pottery made in Coimbra to the City, the Sister Cities Association and Wilcox High School. **[File: Sister Cities]**

Also as a Special Order of Business, the Council proceeded with the review of the recommendations contained in the **Final Report of the Burrowing Owl Habitat Committee** regarding burrowing owl habitats within the City. The City Manager reviewed the Assistant City Manager's report (4/28/00) and the formation and purpose of the Committee. The Assistant City Manager showed overhead slides of the potential pocket habitats within and outside the City totaling 103 acres. A Council discussion followed. The Chief of Police addressed the Council with concerns regarding the effect of owl habitat at the PAL site. **MOTION** was made by McLemore, seconded and unanimously carried, that the Council **approve** the following recommendations: Staff Recommendations: 1) Direct the City Manager to seek the development and maintenance of 44.5 acres of burrowing owl habitat in some combination on the following three sites: the closed Lafayette landfill adjacent to the PAL/BMX Track, two of the four slopes of the relocated golf holes and at the San Jose/Santa Clara Water Pollution Control Plant; 2) Direct the City Manager to work with the City of San Jose in the identification and development of burrowing owl habitat land at the San Jose/Santa Clara Water Pollution Control Plant; 3) Direct the City Manager to adopt and implement Best Management Practices for the long-term maintenance of City-owned designated habitat; 4) Direct the City Manager to communicate the status of the City's efforts in the area of burrowing owl habitat management through use of the City's web site, the City newspaper, the City's Cable Channel 15, and *Mission City SCENES*; 5) Direct the City Manager to work with the Police Activities League to create an amendment to the existing BMX Track lease to redefine the land area included in the lease with the land area remaining at ±12 acres; 6) Direct the City Manager to use appropriated Redevelopment Agency funds (939-9011-8030-9048), not to exceed $90,000, for the development of burrowing owl habitat on the

voluntary 44.5 acres and added Committee recommendations: 7) Direct the City Manager to perform an annual survey of burrowing owls in the general area of the golf course and adjacent City-owned properties; 8) Direct the City Manager to request that the City/Mission College Liaison Committee place an annual item on their meeting agenda to have the College provide the Liaison Committee with an update of facilities development on the campus and the effect of development on the College's burrowing owl population; and 9) Direct the City Manager to negotiate a Safe Harbor Agreement with the State of California, Department of Fish and Game that would allow owls to return to the slope areas only along Tasman Drive/Centennial Boulevard and not have the City held to the construction clearance requirements from nesting owls currently enforced by the Department of Fish and Game. **[File: Burrowing Owl Habitat Committee Final Report]**

Also as a Special Order of Business, the Council proceeded with the **Budget Study Session for Review of Selected Significant Projects in the City's Proposed 2000-01 Capital Improvement Budget**. The City Manager introduced the item and gave a broad overview of the proposed Capital Improvement Budget totaling $54.20 million. The Director of Public Works/City Engineer reviewed and showed overhead slides of the Council Chambers Remodel Project. The Fire Chief reviewed the Defibrillators at City Facilities Project. The Director of Planning and Inspection reviewed the following projects: Sesquicentennial Celebration and Berryessa Adobe Restoration. The Director of Public Works/City Engineer reviewed the following projects: Jamison-Brown House Restoration and the Parking Lot Extension at the Great America Train Station. The Director of Parks and Recreation reviewed the Youth Soccer Park Project. The Assistant City Manager reviewed the Regional Animal Shelter Project. **[File: Budget Study Session May 2, 2000]**

**MOTION** was made by Gillmor, seconded and unanimously carried, that, per the Director of Water and Sewer Utilities (4/25/00 and 4/26/00), Director of Electric Utility (4/27/00), and Assistant Director of Water Utility (4/25/00), the Council **approve** the use of **City forces** for the installation of facilities at 642 Salberg Avenue (Solar Utility); 2403 Walsh Avenue and 3310 Victor Court (Electric) and 2201 Lafayette Street, 3350-3370 Thomas Road and 500 El Camino Real (Water). **[File: City Forces]**

**MOTION** was made by Gillmor, seconded and unanimously carried, that, per the Director of Streets and Automotive Services (4/25/00), the Council **set** June 20, 2000, for a public hearing regarding the adoption of a Resolution amending the **rates charged for the collection and disposal of garbage in residential, commercial and institutional zoned areas** and **authorize** the City Clerk to publish the notice of the hearing. **[File: Street Department Miscellaneous]**

## Debby Fernandez

**From:** Kirk Vartan <kirk@kvartan.com>
**Sent:** Monday, November 23, 2015 3:12 PM
**To:** Debby Fernandez
**Cc:** Kevin Riley; Ruth Shikada; Julio Fuentes; Rod Diridon; Kirk Vartan
**Subject:** City Place Santa Clara Draft Environmental Impact Report - COMMENTS

November 23, 2015

Debby Fernandez
City of Santa Clara - Planning Division
1500 Warburton Avenue
Santa Clara, CA 95050

email: dfernandez@santaclaraca.gov

Re: City Place Santa Clara Draft Environmental Impact Report
SCH#2014072078, CEQ2014-01180 and PLN2014-10440

Dear Ms. Fernandez,

Let me start out by saying that I think the opportunity you are creating in this area for economic and urbanization is wonderful, and I think the Related Companies is a quality organization that will create incredible value in the area. While I did read some the many pages in the EIR, I will not be addressing any specific section by name. I am sorry about that, but I think it is unrealistic to expect the regular citizen in the community to ready thousands of pages and provide comments on them. I will break my comments in to sections so I can discuss areas of concern and opportunity.

I am disappointed in the lack of general outreach done by the City of Santa Clara in informing people of the single largest project in this area has ever seen and probably ever will see. For something this large, Related should not just do the "minimum" in terms of outreach and education; they should, under the City's guidance and support, make the public very familiar with the activities going on around the north side of Santa Clara. I feel not aggressively engaging the public will ultimately stress and impact the relationship Related has with the community, and I don't see why that condition had to exist. I feel the City of Santa Clara should have taken a more active and educational role in this process. For example, the project is not on the front page of the City's website.

A. LAND USE:
1. With 239 acres of public land being taken over and privatized, there should be mandated and significant contributions to the community from a land use perspective.
2. Innovative land use should be mandated. Uses should include: urban agriculture, local gardening area throughout the property, prototype solutions on how land can be best utilized with progressive technologies, leveraging renewable energy, utilizing the methane for power or as a showcase for decoration (e.g., natural flames artistically burning and lighting up the property), geo-thermal enteral production, 100% rain water capture, 100% storm water reuse and storage on site, etc.
3. Create regional places for sports. There is a lot of property on site that can be integrated with sports complexes. One could imaging soccers fields and other athletic fields that are very much needed. They could easily be done in a "parking garage" kind of way (think indoor facilities), where they are stacked and space is maximized.
4. Look at "agrihood" design models. Home values have been quite high and people really want to live where their food is grown. It also creates a sense of place.
5. You are in the "Place Making" business. I hope you will continue to balance the community growth needs with profit.

5. Finding ways to link other areas to this area via trails and parks.

B. REGIONAL NEEDS/PEDESTRIAN EXPERIENCE 1. The northern portion of Santa Clara has the opportunity to become a major hub for jobs, housing, and entertainment. Levi's Stadium is just the start of a much larger development area. With City Place, there can be a great pedestrian experience implemented that can extend from the now established Rivermark development all the way through to the stadium and City Place. Significant and substantial dollars should remain in the area (not just poured into the General Fund) to fund major infrastructure elements in the area. This is a multi-generation vision and should have a much larger look than just the footprint of the site or an off-ramp. Think of it in terms of the general residential experience, walking from Rivermark, along a path and goes along side Ulistac. Ulistac can be improved to be more people friendly, adding a visitor center or a learning center so people can experience and learn about the 40-acre natural habitat in the area. From there, a pedestrian crossing could extend over Tasman or even turn the light rail station into more of a mini-transit station, allowing for better transit integration. At the Lick Mill station, Tasman East will have possibly 5,000+ residential units, maybe significantly more to offset the lack of housing on 239 acres. At the low side of high density housing (60 units/acre), 239 acres can support almost 15,000 residential units. Currently, City Place is only looking to provide ~1,300 units due to land fill issues.

So if we assume the density given up by City Place and the 50-75 acres that will hold the Tasman East apartments (another 4,000+ units), and you have a small city in the area. Buildings can rise up to 200 feet and a massive housing system can be built here. So, investing in pedestrian vision for the area are critical as City Place is being planned.

2. The pedestrian experience can then take multiple paths to City Place, whether it is down Tasman or through any of the other access points on the site. Overall, you can have a 1.5 mile pedestrian experience that could really be a special place for the residents in the area and allow for the massive impacts and massive profits fro the development to be offset with some huge community benefits.

Maybe another kind of electric people mover can shuttle from one end to the other. It doe snot have to be manned…it can be a autonomous people mover. How can we implement advanced technologies (developed right here in Silicon Valley) to solve some of our concerns?

C. HOUSING NEEDS
1. Affordable housing needs to be mandated in this area. With the 20,000+ office jobs comes 5,000+ retail and service jobs. How are the service workers getting to work? Cars?

2. The amount of housing is unacceptable. While the County Health Department has limited what can be done, and future housing built needs to take the needed housing not being built here and add it. For example, the Tasman East area seems to be getting purchased by Related so that they can build apartment style housing. This is great and it needs to be pretty massive. There needs to be requirements for the area in terms of housing, so if City Place can't built it, the space right next to it not on landfill can.
3. Look at micro housing and other "small units" that still allow for high $ per sqft, but just a smaller footprint space. There could be shared spaces for these residents.
4. Look at co-housing and see if that can help make more units and more affordable solutions.

D. TRANSPORTATION
1. How will this project embrace the concept of discouraging private automobile ownership?
2. Include ZipCar and other auto sharing solutions for residents 3. Charge for parking for residents. Make parking "unbundled" for the residents, so they have to pay for car ownership. This will create incentives for individuals that do not want to own cars and find other ways to make transportation work.
4. Increase Light Rail capacity and station. Make it a small transit center 5. Have a VTA transit center on site, deep into the property 6. Create multiple ZipCar locations, Uber type pickup and drop off locations, build infrastructure to allow for electric vehicle fleets to ultimately come on line. Not suggesting you build something that doesn't exist yet, but put

the main-line infrastructure all over the complex so you are not digging later 7. Partner with Google, Tesla, Apple or other advanced vehicle manufacture to build prototype solutions on site. You could easily have an autonomous people mover solution for the entire site. It is all private property, so you control the street infrastructure. Consider having dedicated autonomous electric vehicle circulation throughout the campus, from office to retail, housing to retail, and housing to office.
8. Become leaders in how the regional impact this project tis having. Don't just look at norther Santa Clara. This project will affect circulation all over the Bay Area.
9. What is the maximum vehicle count you will allow down Tasman, 101, and 237? What I mean is, is there an allowable traffic volume that would be acceptable? If so, what is it?
10. How are you going to monitor traffic?
11. What mechanisms will you use to remediate traffic issues after the project is underway?

E. INNOVATION
1. Look at how innovative technologies can be implemented throughout the site 2. How can the site be "autonomous car ready?" This is a 100+ year development. Planning for flexibility and how to embrace the next generation technology should be mandatory. How will this development scale and evolve into the future?
3. IoT should be heavily embraced and embedded in all parts of the project 4. Hardwire (fiber and copper) should be run throughout the complex to allow for network connectivity without just depending on wireless technologies 5. Camera technology should be pervasive. Build camera positions that cover parking, public spaces, access points, sensitive areas, housing, office, etc. This site is very target rich. Make sure it is well covered with technology that help protect it.
6. Free WiFi should be mandatory and should be required to be kept current every five (5) years. For example, having 802.11b technology at a state-of-the-art project is silly.
7. Be bold and visionary in how technology can improve the design and result. We are in a technology mecca, and that should be embraced. Have technology pervasive throughout this site.

F. METHANE:
1. Will there be any smells seeping up?
2. Is there any concerns about vapor intrusion?
3. Can the methane be used as a power source to supplement typical grid power?
4. What should people know about the recapturing/reclamation system?
5. How can people see this resource be utilized in the project?
6. Can it be used as a learning tool for kids?
7. Can a composting center of excellence be developed here?
8. How can this "issue" be used as a learning tool for everyone, that people can see and experience, rather than simply covered up and hidden? How can we embrace the concerns?

Looking at circulation and mobility in the area is going to so important to the success of the area. I am attaching a link to an article that shows how our little hi-tech bubble could burst if we are not careful with housing and travel. Of course, articles are not fact, but I hope you will take this into consideration. Look at what Mountain View is doing with capping traffic counts.

http://www.bizjournals.com/sanjose/print-edition/2015/11/13/going-nowhere-fast-traffic-issues-could-stall-tech.html

Thank you for your time and consideration.

Kirk Vartan
related@kvartan.com

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# CITY OF MOUNTAIN VIEW

PUBLIC WORKS DEPARTMENT
500 Castro Street • Post Office Box 7540 • Mountain View • California • 94039-7540
650-903-6311 • Fax 650-962-8503

November 23, 2015

Ms. Debbie Fernandez, Associate Planner
City of Santa Clara Planning Division
1500 Warburton Avenue
Santa Clara, CA 95050

DRAFT ENVIRONMENTAL IMPACT REPORT – CITY PLACE SANTA CLARA PROJECT

Dear Ms. Fernandez:

The City of Mountain View appreciates the opportunity to share with you its comments and concerns regarding the Draft Environmental Impact Report (DEIR) prepared for the City Place Santa Clara Project (Project) dated October 2015.

After reviewing the DEIR, the City of Mountain View is concerned about the potentially significant freeway and other regional transportation impacts the Project will have on the quality of life for those who live and work in the Santa Clara Valley.

We request that the City of Santa Clara carefully consider the comments and concerns contained in this letter and work with City of Mountain View staff as the environmental review process continues to ensure that Mountain View's interests are addressed and proper mitigations are included in the Final EIR to be released in 2016.

The DEIR's Freeway Segment Analysis correctly determined that the Project will add traffic to certain freeway segments resulting in significant impacts, but then falls far short of the expectation and intent of the environmental review process by crafting a set of inadequate mitigation measures based on a conclusion that the mitigation of freeway impacts is beyond the scope of any individual development project, making the impacts both significant and unavoidable.

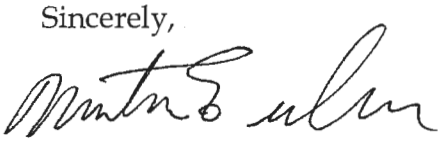
More specifically, Mitigation Measure TRA-3.1, Freeway Segment Improvements, only requires the Project developer to make a voluntary contribution toward certain VTP 2040 Express Lane Projects rather than requiring the developer to work with the City of Santa Clara to proactively identify and implement a more robust/meaningful package of specific transportation improvements. Such improvements should not only decrease

reliance on freeways and automobile use during peak commute periods, but should also encourage the use of other commute modes (e.g., transit, rail, active transportation).

The City of Mountain View is successfully using these transportation strategies and others with developers looking to build in the City's North Bayshore Area and other areas. The City of Mountain View is also studying adding a substantial amount of housing units to the North Bayshore Area to shorten commute times and reliance on our already impacted transportation infrastructure. We encourage the City of Santa Clara to implement these approaches with the City Place development.

Please contact me at *michael.fuller@mountainview.gov* or 650-903-6077 if you have any questions or require additional clarification regarding the City's comments.

Sincerely,



Michael A. Fuller
Public Works Director

MAF/LF/7/PWK
905-11-23-15L-E

cc: City Council

CM, CA, CC, APWD—Solomon, TBM, TP, File

## Debby Fernandez

**From:** esp_jkclaw@yahoo.com
**Sent:** Monday, November 16, 2015 2:16 PM
**To:** Debby Fernandez
**Cc:** Richard Santos; Jill Smith; Bea Leija; Craig Parada
**Subject:** Re: City Place Santa Clara

Hi Debby
I'm interested in finding what impacts have been identified in this project that will impact my way of life as a resident of the Alviso community? Currently we suffer much more traffic and noise nuisances from the 49ner stadium patrons. Our roads become so congested that any resident in need of medical attention can not obtain such services because of the road blockage from 49ner stadium. Please advise.

Mark Espinoza
OCA President
408-417-5338

## Debby Fernandez

**From:** esp_jkclaw@yahoo.com
**Sent:** Wednesday, November 18, 2015 2:41 PM
**To:** Debby Fernandez
**Cc:** mrw@mrwolfeassociates.com; Jill Smith; Craig Parada; Bea Leija; Richard Santos; Lainelink@yahoo.com; ladams@scusd.net; fred.buzo@sanjoseca.gov
**Subject:** Re: Comments for City Place Santa Clara

Debby Fernandez, Associate Planner
City of Santa Clara
Planning Division
1500 Warburton Avenue
Santa Clara CA. 95050

Re: Comments to EIR & impact concerns that I do not see addressed adequately or at all for the Alviso community.

I would like to see all impacts that your EIR has addressed for the Alviso community.

I propose that this project must study the following streets that have definite impacts from this project: Gold Street @ N. Taylor St., Liberty St. @ N. First St., Grand Blvd @ N. First St., Grand St. @ Wilson Way, Grand St. @ Spreckles St.

These streets noted above have been impacted by recent completed projects in your city. These completed projects are located along Great America Parkway. For example, I personally have observed that the hwy 237 entrance at Great America Parkway eastbound is completely packed with cars during traffic hours. Because of this blockage, vehicles use the Alviso community as a shortcut to reach 237 via 1st Street and Zanker Rd. The most alarming to see are the speeds that these vehicles travel, especially on or near 1st street and along Grand Blvd @ Wilson Way. These roadways are used by the pedestrians in the community to reach the elementary school, park, youth center, swim center, and library.

Current projects like **City Place Santa Clara** will compound these issues and add to it, making it an increasingly dangerous and potential deadly environment. I advise that you be sure to notify and involve Santa Clara Unified School District because they are the stakeholders for the impacted school George Mayne Elementary School on 1st Street.

The Alviso community has already experienced the inability to enter and/or exit our own community because of traffic blockage from Levi's Stadium traffic on game days. There are also first-hand accounts of traffic accidents

on 237 where residents became trapped in our own village. In addition, Alviso residents could experience delayed medical services or police response because of these traffic impacts that this project will impose.

It is now evident that your continued development in the area will have an impact by way of increasing traffic on our village roadways. Who would be responsible for repairing damaged roads? Who will be responsible for generated traffic noise and pollution impacts? It is your responsibility to also study and address these heavy concerns in and around the Alviso area.

Please keep me informed as to any noticing of this project or others that have an impact on the Alviso community.

Organizacion Comunidad De Alviso
Attention: Mark Espinoza
PO Box 713
Alviso CA 95002

Pacific Gas and Electric Company®

Scott Brady
Land Agent

408.282.7543 (Office)
Scott.Brady@pge.com

Land Management

111 Almaden Boulevard
Room 814
San Jose, CA 95113

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November 20, 2015

Ms. Debby Fernandez
Associate Planner
City of Santa Clara Planning Division
1500 Warburton Avenue
Santa Clara, CA 95050

Subject: City Place Santa Clara, File SCH# 1204072078, CEQ2014-01180 and PLN 2014-10440, Draft Environmental Impact Report, PG&E Review Comments

Dear Ms. Fernandez:

Thank you for the opportunity to review the Draft Environmental Impact Report (DEIR) for the proposed City Place Santa Clara Project. PG&E has the following comments to offer.

1. PG&E owns and operates gas and electric facilities located within the project area. To promote the safe and reliable maintenance and operation of utility facilities, the California Public Utilities Commission (CPUC) has mandated specific clearance requirements between utility facilities and surrounding objects or construction activities. To ensure compliance with these standards, project proponents should coordinate with PG&E early in the development of their project plans. Any proposed development plans should provide for unrestricted utility access, and prevent easement encroachments that might impair the safe and reliable maintenance and operation of PG&E's facilities. Developers should contact PG&E at www.pge.com/en/mybusiness/services/building/index.page or call 877-743-7782.

2. Developers will be responsible for the costs associated with the relocation of existing PG&E facilities to accommodate their proposed development. Because facilities relocations require long lead times and are not always feasible, developers should be encouraged to consult with PG&E as early in their planning stages as possible.

3. Relocations of PG&E's electric transmission and substation facilities (50,000 volts and above) may also require formal approval from the California Public Utilities Commission. If required, this approval process may take up to two years to complete. Proponents with development plans that may affect such electric transmission facilities should be referred to PG&E for additional information and assistance in the development of their project schedules.

4. Please note that continued development consistent with your General Plan will have a cumulative impact on PG&E's gas systems and may require on-site and off-site additions to the facilities that supply these services. Because utility facilities are operated as an integrated system, the presence of an existing gas transmission or distribution facility does not necessarily mean the facility has capacity to connect new loads. As noted in the DEIR, Silicon Valley Power, not PG&E, provides electric service in the area of the planned development.

5. Expansion of distribution and transmission lines and related facilities is a necessary consequence of growth and development. Upgrades or additions to accommodate additional load on the gas system may include facilities such as regulator stations, odorizer stations, valve lots, distribution and transmission lines.

6. We recommend that environmental documents for proposed development projects include adequate evaluation of cumulative impacts to utility systems, the utility facilities needed to serve those developments, and any potential environmental issues associated with extending utility service to the proposed project. This will assure the project's compliance with CEQA and reduce potential delays to the project schedule.

7. We have the following specific comments and recommended modifications regarding the DEIR: COMMENTS
    - The City of Santa Clara and Related Santa Clara, LLC are working with PG&E for concurrence on the installation of bridge structures within existing PG&E electric transmission easements. PG&E has reviewed the development's preliminary plans and has confirmed that the proposed structures do not preclude PG&E from maintaining, inspecting, repairing or replacing its electric transmission facilities.
    - PG&E has confirmed that based on the preliminary design, there is adequate clearance from the bridge structures, the bridge appurtenances and PG&E's 115kV conductors.
    - No rearrangement of PG&E's electric transmission facilities is anticipated as a result of the planned roadway bridge installations or the at-grade roadway installations within PG&E's electric transmission easements.

8. PG&E remains committed to working with the City of Santa Clara to provide timely, reliable and cost effective gas service to the City Place Santa Clara Project. Please contact me at 408-282-7543 if you have any questions regarding PG&E's comments. We would also appreciate being copied on future correspondence regarding this subject as this project develops.

9. The California Constitution vests in the California Public Utilities Commission (CPUC) exclusive power and sole authority with respect to the regulation of privately owned or investor owned public utilities such as PG&E. This exclusive power extends to all aspects of the location, design, construction, maintenance and operation of public utility facilities. Nevertheless, the CPUC has provisions for regulated utilities to work closely with local governments and give due consideration to their concerns. PG&E must balance our commitment to provide due consideration to local concerns with our obligation to provide the public with a safe, reliable, cost-effective energy supply in compliance with the rules and tariffs of the CPUC.

Thank you for the opportunity to provide comment on the DEIR.

Sincerely,

Scott Brady

Scott Brady
Land Agent

cc (electronically): Aaron Brown, Mark Galicia, Dale Lucas, Anthony Lin, File

## Debby Fernandez

**From:** Debby Fernandez
**Sent:** Thursday, November 19, 2015 2:00 PM
**To:** 'Richard Santos'
**Subject:** RE: Comments related to the EIR for City Place Santa Clara Mixed use project

HI Richard, thank you for your comments. They will be reviewed and responses prepared for incorporation into the Final EIR.
Best regards,
Debby

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**From:** Richard Santos [mailto:rsantos@valleywater.org]
**Sent:** Wednesday, November 18, 2015 8:31 PM
**To:** Debby Fernandez
**Subject:** Comments related to the EIR for City Place Santa Clara Mixed use project

1. Additional raffic congestion into the Alviso Community – results are additional noise and pollution and vehicle violations, such as speeding, parking for more than 3 days and getting lost as traffic been diverted into the Alviso Community via Levi stadium
2. The City of Santa Clara needs to be more pro-active in supporting the Alviso Community, in terms of good PR and a place to visit the historic community as well as our outdoor recreational opportunities, etc (bike riding) walking, etc
3. The City of Santa clara should donate some funding to the Alviso Community for sports activities, educational opportunities for our children – due to the impact from Santa Clara earning tax dollars – share some of our concersn

Richard P. Santos
P.O. Box 244
Alviso, Ca 95002
(408) 251-9696

SAN JOAQUIN
REGIONAL
RAIL COMMISSION

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PLANNING DIVISION

November 20, 2015

City of Santa Clara Planning Division
Debby Fernandez, Associate Planner
1500 Warburton Avenue, Santa Clara, CA 95050

RE: City Place, SCH#2014072078, CEQ2014-01180 and PLN2014-10440

Dear Ms. Fernandez:

Thank you for the opportunity to comment on the City Place Draft Environmental Impact Report (DEIR). The Project creates a compelling entertainment and employment destination that is unique and exciting for the City, the region, and the mega-region. We applaud the City's proposed mixed-use land use intensification in an area strategically located near the Great America station and several VTA Light Rail Stations.

For the last six months, we have appreciated the opportunity to work both with the City of Santa Clara and Related staff and consultants in discussions focused on the Project and its impacts to our Great America rail station, ACE Shuttle operations, VTA Light Rail, and bicyclist/pedestrian connectivity. We hope to have the opportunity to continue as partners as the project planning continues with the finalization of the Infrastructure Master Plan and the Development Area Plans.[1]

The City Place project has a unique opportunity to be a world-class destination served by high quality transit. The DEIR recognizes the importance of supporting alternative modes of travel, both by incorporating accommodations for transit users and by utilizing transportation demand management.[2]

The project is estimated to generate over 140,000 trips per day. However, the DEIR generally views these significant impacts as unavoidable. While this method adheres to the CEQA guidelines being used for the project, we feel that there is an opportunity for the City to go farther in offsetting these trip impacts. We have identified the following offset strategies that we would like the City to consider incorporating in the Development Agreements:

1. Include the build out of the area directly west of the Great America station platform as an actual component of the City Place project. Initial discussions have resulted in some preliminary drawings that include an enhanced shuttle waiting area and improved pedestrian connectivity to the elevated retail sections with grand staircases. This area is within the

[1] Page 2-36 describes additional upcoming project approvals.
[2] Pages 2-6 and 2-35.

*Dedicated to passengers*

*Responsive to change*

*Committed to growth*

Commissioners

**Bob Johnson**
City of Lodi

**Kathy Miller**
San Joaquin County

**Steve Dresser**
City of Lathrop

**Vince Hernandez**
City of Manteca

**Christina Fagazi**
City of Stockton

**Michael Maciel**
City of Tracy

**Executive Director**
**Stacey Mortensen**

DEIR envelope and we'd like to work with Related and the City to finalize design and implement.

2. Implement an aggressive transportation demand management (TDM) program to shift individual travel choices. The DEIR does include some TDM goals, but our analysis finds that the goals could be higher.[3] We would also like to see a retail TDM requirement included—this is particularly useful for retail employees who may be able to commute to work via ACE, VTA, or Capitol Corridor.

3. Make a fair share financial contribution to VTA that will include funding for Great America station upgrades or other ACE needs. This will help over time to reduce vehicle trip impacts and also provide some relief for ACE shuttle and VTA bus and light rail delays resulting from the project.

4. In an effort to encourage the use of public transit by residents, office workers, and retail employees, we would also like the City to consider adjusting further the parking ratios across the Project. Countless studies reinforce that ample and inexpensive parking discourages use of public transportation. We would suggest, in addition, that the Project unbundles parking on the residential units so that renters who choose to not maintain a private motor vehicle are not required to pay for a parking space.

5. A number of our passengers connect to VTA Light Rail and as our two services are expanded we anticipate a growth in shared ridership. We support VTA's efforts to maintain an efficient Light Rail system and would encourage the City to look more closely at how to maintain or decrease existing travel times as we believe that feasible mitigation measures exist to lessen or avoid impacts to VTA light rail.

6. As discussed previously with City staff, there are plans to double track in the Great America Station area in the next several years, which is within the initial phases of the City Place Project implementation. This will shift the Great America Station platform north, and thus would make a second staircase to the north side of the Tasman overcrossing the best connection between this station and the VTA Lick Mill Light Rail station. Currently there is no sidewalk on the north side of Tasman. We would suggest the City requires the Project Developer fund closing this sidewalk gap as a component of the Development Agreement.

Furthermore, we would appreciate it if the City would reexamine the transit capacity analysis for the Great America Station performed in the DEIR. The cumulative impacts identify the build out to 30 Cap Corridor and 20 ACE daily trips as in the "long run,"[4]

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[3] The DEIR contains an overall target of reducing Project office-generated daily traffic by a minimum of 4% and peak-hour traffic by a minimum of 10%, with an overall target of reducing Project residential-generated daily traffic by a minimum of 2% and peak-hour traffic by a minimum of 4%, compared to the traffic estimates used in the EIR.

[4] Page 3-8.

which does not seem appropriate given that we plan to increase service to these levels while the City Place project is still in its construction phase.

Impact TRA-9, Transit Vehicle Capacity, states that the Project would generate public transit ridership that could use available transit capacity and that no mitigation is required.[5] Weekday peak-hour load factors are identified as 0.36 for ACE and 0.40 for Capitol Corridor. The number used for ACE is not correct. Current peak-hour ACE load factors (as shown in the attached ACE ridership report) between Fremont and Pleasanton are typically upwards of **80%** and will clearly be impacted by the Project. The top destination for ACE passengers is by far the Great America station typically serving **55 – 60%** of all ACE riders. For these reasons we urge further discussion on the transit capacity analysis.

Finally, the implementation of this project will take more than a decade and the construction will certainly affect ACE and private shuttle operations. TRA 18.1 requires the Project Developer and construction contractor to meet with Public Works to determine traffic management strategies.[6] ACE would like to be included in these discussions and would ask that the City prioritize having a traffic control person on site to help diminish any shuttle delay.

This mixed-use development is an innovative and momentous proposal with regional impact, and we appreciate the opportunity to discuss the Project with City of Santa Clara and Project Developer staff and consultants. We have a remarkable opportunity here to provide world-class transportation options to and from an exciting activity center and we are delighted to be a part of that vision.

If you or any member of your staff would like to discuss any of these items further, please contact Corinne Winter, ACE outreach lead in Santa Clara County, at corinne@winter.associates.

Sincerely,

FOR

Stacey Mortensen
Executive Director

Cc: Mayor Jamie Matthews, Councilmember Teresa O'Neill,
Julio J. Fuentes, Ruth Shikada, Rajeev Batra, & Kevin Riley
Corinne Winter

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[5] Page 3.3-168.

[6] Page 3.3-219 & 220.

Daily Summary, Monday 9/28/15

**Daily Summary, Monday 10/5/15**

**At-a-Glance**

| | | | |
|---|---|---|---|
| A.M. Total Ridership: | **2,794** | | |
| P.M. Total Ridership: | **3,012** | | |
| Daily Total Ridership: | **5,806** | % Change vs. Last Week: | 0.36% |
| *(last week)* | *5,785* | | |

DAILY TOTAL, by station

| *Station* | *AM Boarding* | *AM Alighting* | *PM Boarding* | *PM Alighting* |
|---|---|---|---|---|
| Stockton | 326 | 0 | 0 | 331 |
| Lathrop/Manteca | 595 | 0 | 0 | 599 |
| Tracy | 653 | 0 | 2 | 645 |
| Vasco Road | 173 | 80 | 72 | 168 |
| Livermore | 224 | 92 | 76 | 199 |
| Pleasanton | 643 | 338 | 378 | 818 |
| Fremont | 180 | 242 | 383 | 252 |
| Great America | 0 | 1,604 | 1,601 | 0 |
| Santa Clara | 0 | 140 | 172 | 0 |
| San Jose Diridon | 0 | 298 | 328 | 0 |
| | **2,794** | | **3,012** | |

DAILY TOTAL, by train A.M.

| *Station* | | **ACE01 - 4:20a (794 seats)** *Boarding* | *Alighting* | **ACE03 - 5:35a (913 seats)** *Boarding* | *Alighting* | **ACE05 - 6:40a (906 seats)** *Boarding* | *Alighting* | **ACE07 - 7:05a (669 seats)** *Boarding* | *Alighting* |
|---|---|---|---|---|---|---|---|---|---|
| Stockton | | 84 | 0 | 124 | 0 | 90 | 0 | 28 | 0 |
| | *load factor* | *10.58%* | | *13.58%* | | *9.93%* | | *4.19%* | |
| Lathrop/Manteca | | 153 | 0 | 223 | 0 | 158 | 0 | 61 | 0 |
| | *load factor* | *29.85%* | | *38.01%* | | *27.37%* | | *13.30%* | |
| Tracy | | 163 | 0 | 219 | 0 | 177 | 0 | 94 | 0 |
| | *load factor* | *50.38%* | | *61.99%* | | *46.91%* | | *27.35%* | |
| Vasco Road | | 29 | 8 | 57 | 39 | 58 | 25 | 29 | 8 |
| | *load factor* | *53.02%* | | *63.96%* | | *50.55%* | | *30.49%* | |
| Livermore | | 33 | 2 | 82 | 42 | 73 | 33 | 36 | 15 |
| | *load factor* | *56.93%* | | *68.35%* | | *54.97%* | | *33.63%* | |
| Pleasanton | | 48 | 34 | 234 | 114 | 210 | 127 | 151 | 63 |
| | *load factor* | *58.69%* | | *81.49%* | | *64.13%* | | *46.79%* | |
| Fremont | | 18 | 62 | 45 | 88 | 55 | 33 | 62 | 59 |
| | *load factor* | *53.15%* | | *76.78%* | | *66.56%* | | *47.23%* | |
| Great America | | 0 | 346 | 0 | 536 | 0 | 479 | 0 | 243 |
| | *load factor* | *9.57%* | | *18.07%* | | *13.69%* | | *10.91%* | |
| Santa Clara | | 0 | 19 | 0 | 50 | 0 | 50 | 0 | 21 |
| | *load factor* | *7.18%* | | *12.60%* | | *8.17%* | | *7.77%* | |
| San Jose Diridon | | 0 | 57 | 0 | 115 | 0 | 74 | 0 | 52 |
| *TRAIN TOTAL* | | *528* | | *984* | | *821* | | *461* | |

*DAILY TOTAL=* 2,794

Daily Summary, Monday 9/28/15

| DAILY TOTAL, by train P.M. | | ACE04 - 3:35p (794 seats) | | ACE06 - 4:35p (913 seats) | | ACE08 - 5:35p (906 seats) | | | ACE010 - 6:38p (669 seats) | |
|---|---|---|---|---|---|---|---|---|---|---|
| *Station* | | *Boarding* | *Alighting* | *Boarding* | *Alighting* | *Boarding* | *Alighting* | | *Boarding* | *Alighting* |
| San Jose Diridon | | 71 | 0 | 109 | 0 | 105 | 0 | | 43 | 0 |
| | *load factor* | *8.94%* | | *11.94%* | | *11.59%* | | | *6.43%* | |
| Santa Clara | | 36 | 0 | 52 | 0 | 72 | 0 | | 12 | 0 |
| | *load factor* | *13.48%* | | *17.63%* | | *19.54%* | | | *8.22%* | |
| Great America | | 340 | 0 | 549 | 0 | 558 | 0 | | 154 | 0 |
| | *load factor* | *56.30%* | | *77.77%* | | *81.13%* | | | *31.24%* | |
| Fremont | | 102 | 19 | 169 | 131 | 83 | 71 | | 29 | 31 |
| | *load factor* | *66.75%* | | *81.93%* | | *82.45%* | | | *30.94%* | |
| Pleasanton | | 129 | 144 | 161 | 223 | 74 | 383 | | 14 | 68 |
| | *load factor* | *64.86%* | | *75.14%* | | *48.34%* | | | *22.87%* | |
| Livermore | | 34 | 31 | 28 | 89 | 9 | 52 | | 5 | 27 |
| | *load factor* | *65.24%* | | *68.46%* | | *43.60%* | | | *19.58%* | |
| Vasco Road | | 45 | 27 | 21 | 75 | 4 | 41 | 0 | 2 | 25 |
| | *load factor* | *67.51%* | | *62.54%* | | *39.51%* | | | *16.14%* | |
| Tracy | | 0 | 219 | 0 | 256 | 2 | 131 | | 0 | 39 |
| | *load factor* | *39.92%* | | *34.50%* | | *25.28%* | | | *10.31%* | |
| Lathrop/Manteca | | 0 | 205 | 0 | 192 | 0 | 165 | | 0 | 37 |
| | *load factor* | *14.11%* | | *13.47%* | | *7.06%* | | | *4.78%* | |
| Stockton | | 0 | 112 | 0 | 123 | 0 | 64 | | 0 | 32 |
| *TRAIN TOTAL* | | *757* | | *1089* | | *907* | | | *259* | |

*DAILY TOTAL=* *3,012*

Daily Summary, Tuesday 9/29/15

**Daily Summary, Tuesday `0/6/15**

**At-a-Glance**

| | | | |
|---|---|---|---|
| AM Total Ridership: | **2,912** | | |
| PM Total Ridership: | **2,964** | | |
| Daily Total Ridership: | **5,876** | % Change vs. Last Week: | -3.97% |
| *(last week)* | *6,119* | | |

DAILY TOTAL, by station

| *Station* | *AM Boarding* | *AM Alighting* | *PM Boarding* | *PM Alighting* |
|---|---|---|---|---|
| Stockton | 349 | 0 | 0 | 322 |
| Lathrop/Manteca | 670 | 0 | 0 | 657 |
| Tracy | 653 | 0 | 0 | 677 |
| Vasco Road | 216 | 94 | 87 | 232 |
| Livermore | 238 | 84 | 59 | 213 |
| Pleasanton | 608 | 276 | 271 | 636 |
| Fremont | 178 | 239 | 328 | 227 |
| Great America | 0 | 1,690 | 1,684 | 0 |
| Santa Clara | 0 | 140 | 162 | 0 |
| San Jose Diridon | 0 | 389 | 373 | 0 |
| | **2,912** | | **2,964** | |

DAILY TOTAL, by train A.M.

| *Station* | | **ACE01 - 4:20a (794 seats)** *Boarding* | *Alighting* | **ACE03 - 5:35a (913 seats)** *Boarding* | *Alighting* | **ACE05 - 6:40a (906 seats)** *Boarding* | *Alighting* | | **ACE07 - 7:05a (669 seats)** *Boarding* | *Alighting* | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Stockton | | 89 | 0 | 132 | 0 | 94 | 0 | | 34 | 0 | | |
| | *load factor* | *11.21%* | | *14.46%* | | *10.38%* | | | *5.08%* | | | |
| Lathrop/Manteca | | 212 | 0 | 227 | 0 | 163 | 0 | | 68 | 0 | | |
| | *load factor* | *37.91%* | | *39.32%* | | *28.37%* | | | *15.25%* | | | |
| Tracy | | 165 | 0 | 240 | 0 | 168 | 0 | | 80 | 0 | | |
| | *load factor* | *58.69%* | | *65.61%* | | *46.91%* | | | *27.20%* | | | |
| Vasco Road | | 54 | 12 | 61 | 38 | 64 | 36 | | 37 | 8 | | |
| | *load factor* | *63.98%* | | *68.13%* | | *50.00%* | | | *31.54%* | | | |
| Livermore | | 47 | 4 | 83 | 26 | 83 | 42 | | 25 | 12 | | |
| | *load factor* | *69.40%* | | *74.37%* | | *54.53%* | | | *33.48%* | | | |
| Pleasanton | | 59 | 22 | 222 | 119 | 220 | 89 | | 107 | 46 | | |
| | *load factor* | *74.06%* | | *85.65%* | | *68.98%* | | | *42.60%* | | | |
| Fremont | | 12 | 39 | 58 | 107 | 70 | 68 | | 38 | 25 | | |
| | *load factor* | *70.65%* | | *80.28%* | | *69.21%* | | | *44.54%* | | | |
| Great America | | 0 | 434 | 0 | 593 | 0 | 455 | | 0 | 208 | | |
| | *load factor* | *15.99%* | | *15.33%* | | *18.98%* | | | *13.45%* | | | |
| Santa Clara | | 0 | 31 | 0 | 35 | 0 | 47 | | 0 | 27 | | |
| | *load factor* | *12.09%* | | *11.50%* | | *13.80%* | | | *9.42%* | | | |
| San Jose Diridon | | 0 | 96 | 0 | 105 | 0 | 125 | 0 | 0 | 63 | | |
| *TRAIN TOTAL* | | *638* | | *1023* | | *862* | | | *389* | | *DAILY TOTAL=* | 2,912 |

Daily Summary, Tuesday 9/29/15

| DAILY TOTAL, by train P.M. | | ACE04 - 3:35p (794 seats) | | ACE06 - 4:35p (913 seats) | | ACE08 - 5:35p (906 seats) | | | ACE010 - 6:38p (669 seats) | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| *Station* | | *Boarding* | *Alighting* | *Boarding* | *Alighting* | *Boarding* | *Alighting* | | *Boarding* | *Alighting* | | |
| San Jose Diridon | | 81 | 0 | 96 | 0 | 142 | 0 | | 54 | 0 | | |
| | *load factor* | *10.20%* | | *10.51%* | | *15.67%* | | | *8.07%* | | | |
| Santa Clara | | 34 | 0 | 43 | 0 | 62 | 0 | | 23 | 0 | | |
| | *load factor* | *14.48%* | | *15.22%* | | *22.52%* | | | *11.51%* | | | |
| Great America | | 361 | 0 | 577 | 0 | 588 | 0 | | 158 | 0 | | |
| | *load factor* | *59.95%* | | *78.42%* | | *87.42%* | | | *35.13%* | | | |
| Fremont | | 84 | 31 | 128 | 33 | 88 | 126 | | 28 | 37 | | |
| | *load factor* | *66.62%* | | *88.83%* | | *83.22%* | | | *33.78%* | | | |
| Pleasanton | | 85 | 67 | 131 | 259 | 47 | 238 | | 8 | 72 | | |
| | *load factor* | *68.89%* | | *74.81%* | | *62.14%* | | | *24.22%* | | | |
| Livermore | | 36 | 26 | 16 | 74 | 5 | 87 | | 2 | 26 | | |
| | *load factor* | *70.15%* | | *68.46%* | | *53.09%* | | | *20.63%* | | | |
| Vasco Road | | 59 | 31 | 24 | 91 | 3 | 81 | 0 | 1 | 29 | | |
| | *load factor* | *73.68%* | | *61.12%* | | *44.48%* | | | *16.44%* | | | |
| Tracy | | 0 | 226 | 0 | 216 | 0 | 202 | | 0 | 33 | | |
| | *load factor* | *45.21%* | | *37.46%* | | *22.19%* | | | *11.51%* | | | |
| Lathrop/Manteca | | 0 | 241 | 0 | 230 | 0 | 129 | | 0 | 57 | | |
| | *load factor* | *14.86%* | | *12.27%* | | *7.95%* | | | *2.99%* | | | |
| Stockton | | 0 | 118 | 0 | 112 | 0 | 72 | | 0 | 20 | | |
| *TRAIN TOTAL* | | *740* | | *1015* | | *935* | | | *274* | | *DAILY TOTAL=* | *2,964* |

Daily Summary, Wednesday 9/30/15

**Daily Summary, Wednesday 10/7/15**

**At-a-Glance**

| | | | |
|---|---|---|---|
| A.M. Total Ridership: | **2,905** | | |
| P.M. Total Ridership: | **2,826** | | |
| Daily Total Ridership: | **5,731** | % Change vs. Last Week: | -1.38% |
| *(last week)* | *5,811* | | |

DAILY TOTAL, by station

| *Station* | *AM Boarding* | *AM Alighting* | *PM Boarding* | *PM Alighting* |
|---|---|---|---|---|
| Stockton | 325 | 0 | 0 | 356 |
| Lathrop/Manteca | 622 | 0 | 0 | 612 |
| Tracy | 695 | 0 | 0 | 616 |
| Vasco Road | 194 | 59 | 71 | 203 |
| Livermore | 255 | 100 | 65 | 235 |
| Pleasanton | 606 | 294 | 211 | 563 |
| Fremont | 208 | 279 | 300 | 241 |
| Great America | 0 | 1,643 | 1,696 | 0 |
| Santa Clara | 0 | 138 | 161 | 0 |
| San Jose Diridon | 0 | 392 | 322 | 0 |
| | **2,905** | | **2,826** | |

DAILY TOTAL, by train A.M.

| | | **ACE01 - 4:20a** (794 seats) | | **ACE03 - 5:35a** (913 seats) | | **ACE05 - 6:40a** (906 seats) | | **ACE07 - 7:05a** (669 seats) | |
|---|---|---|---|---|---|---|---|---|---|
| *Station* | | *Boarding* | *Alighting* | *Boarding* | *Alighting* | *Boarding* | *Alighting* | *Boarding* | *Alighting* |
| Stockton | | 86 | 0 | 128 | 0 | 82 | 0 | 29 | 0 |
| | *load factor* | *10.83%* | | *14.02%* | | *9.05%* | | *4.33%* | |
| Lathrop/Manteca | | 195 | 0 | 197 | 0 | 148 | 0 | 82 | 0 |
| | *load factor* | *35.39%* | | *35.60%* | | *25.39%* | | *16.59%* | |
| Tracy | | 171 | 0 | 250 | 0 | 190 | 0 | 84 | 0 |
| | *load factor* | *56.93%* | | *62.98%* | | *46.36%* | | *29.15%* | |
| Vasco Road | | 47 | 9 | 72 | 0 | 44 | 38 | 31 | 12 |
| | *load factor* | *61.71%* | | *70.87%* | | *47.02%* | | *31.99%* | |
| Livermore | | 62 | 14 | 96 | 31 | 61 | 41 | 36 | 14 |
| | *load factor* | *67.76%* | | *77.98%* | | *49.23%* | | *35.28%* | |
| Pleasanton | | 74 | 48 | 168 | 126 | 237 | 79 | 127 | 41 |
| | *load factor* | *71.03%* | | *82.58%* | | *66.67%* | | *48.13%* | |
| Fremont | | 43 | 71 | 67 | 91 | 51 | 68 | 47 | 49 |
| | *load factor* | *67.51%* | | *79.96%* | | *64.79%* | | *47.83%* | |
| Great America | | 0 | 418 | 0 | 545 | 0 | 447 | 0 | 233 |
| | *load factor* | *14.86%* | | *20.26%* | | *15.45%* | | *13.00%* | |
| Santa Clara | | 0 | 23 | 0 | 43 | 0 | 49 | 0 | 23 |
| | *load factor* | *11.96%* | | *15.55%* | | *10.04%* | | *9.57%* | |
| San Jose Diridon | | 0 | 95 | 0 | 142 | 0 | 91 | 0 | 64 |
| *TRAIN TOTAL* | | *678* | | *978* | | *813* | | *436* | |

0

*DAILY TOTAL=* 2,905

Daily Summary, Wednesday 9/30/15

| DAILY TOTAL, by train P.M. | | ACE04 - 3:35p (794 seats) | | ACE06 - 4:35p (913 seats) | | ACE08 - 5:35p (906 seats) | | | ACE010 - 6:38p (669 seats) | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| *Station* | | *Boarding* | *Alighting* | *Boarding* | *Alighting* | *Boarding* | *Alighting* | | *Boarding* | *Alighting* | | |
| San Jose Diridon | | 91 | 0 | 106 | 0 | 94 | 0 | | 31 | 0 | | |
| | *load factor* | *11.46%* | | *11.61%* | | *10.38%* | | | *4.63%* | | | |
| Santa Clara | | 48 | 0 | 48 | 0 | 43 | 0 | | 22 | 0 | | |
| | *load factor* | *17.51%* | | *16.87%* | | *15.12%* | | | *7.92%* | | | |
| Great America | | 401 | 0 | 517 | 0 | 568 | 0 | | 210 | 0 | | |
| | *load factor* | *68.01%* | | *73.49%* | | *77.81%* | | | *39.31%* | | | |
| Fremont | | 94 | 67 | 99 | 41 | 84 | 91 | | 23 | 42 | | |
| | *load factor* | *71.41%* | | *79.85%* | | *77.04%* | | | *36.47%* | | | |
| Pleasanton | | 72 | 80 | 71 | 157 | 52 | 258 | | 16 | 68 | | |
| | *load factor* | *70.40%* | | *70.43%* | | *54.30%* | | | *28.70%* | | | |
| Livermore | | 36 | 44 | 15 | 82 | 5 | 71 | | 9 | 38 | | |
| | *load factor* | *69.40%* | | *63.09%* | | *47.02%* | | | *24.36%* | | | |
| Vasco Road | | 51 | 39 | 16 | 61 | 2 | 68 | 0 | 2 | 35 | | |
| | *load factor* | *70.91%* | | *58.16%* | | *39.74%* | | | *19.43%* | | | |
| Tracy | | 0 | 222 | 0 | 181 | 0 | 146 | | 0 | 67 | | |
| | *load factor* | *42.95%* | | *38.34%* | | *23.62%* | | | *9.42%* | | | |
| Lathrop/Manteca | | 0 | 216 | 0 | 221 | 0 | 133 | | 0 | 42 | | |
| | *load factor* | *15.74%* | | *14.13%* | | *8.94%* | | | *3.14%* | | | |
| Stockton | | 0 | 125 | 0 | 129 | 0 | 81 | | 0 | 21 | | |
| *TRAIN TOTAL* | | *793* | | *872* | | *848* | | | *313* | | *DAILY TOTAL=* | *2,826* |

Daily Summary, Thursday 10/1/15

**Daily Summary, Thursday 10/8/15**

**At-a-Glance**

| | | | |
|---|---|---|---|
| A.M. Total Ridership: | **2,945** | | |
| P.M. Total Ridership: | **2,744** | | |
| Daily Total Ridership: | **5,689** | % Change vs. Last Week: | -2.00% |
| *(last week)* | *5,805* | | |

DAILY TOTAL, by station

| *Station* | *AM Boarding* | *AM Alighting* | *PM Boarding* | *PM Alighting* |
|---|---|---|---|---|
| Stockton | 331 | 0 | 0 | 291 |
| Lathrop/Manteca | 650 | 0 | 0 | 654 |
| Tracy | 646 | 0 | 0 | 601 |
| Vasco Road | 224 | 79 | 64 | 194 |
| Livermore | 241 | 95 | 81 | 207 |
| Pleasanton | 623 | 315 | 228 | 569 |
| Fremont | 230 | 278 | 276 | 228 |
| Great America | 0 | 1,649 | 1,614 | 0 |
| Santa Clara | 0 | 153 | 150 | 0 |
| San Jose Diridon | 0 | 376 | 331 | 0 |
| | **2,945** | | **2,744** | |

DAILY TOTAL, by train A.M.

| | | **ACE01 - 4:20a (794 seats)** | | **ACE03 - 5:35a (913 seats)** | | **ACE05 - 6:40a (908 seats)** | | **ACE07 - 7:05a (669 seats)** | |
|---|---|---|---|---|---|---|---|---|---|
| *Station* | | *Boarding* | *Alighting* | *Boarding* | *Alighting* | *Boarding* | *Alighting* | *Boarding* | *Alighting* |
| Stockton | | 90 | 0 | 120 | 0 | 83 | 0 | 38 | 0 |
| | *load factor* | *11.34%* | | *13.14%* | | *9.14%* | | *5.68%* | |
| Lathrop/Manteca | | 197 | 0 | 209 | 0 | 179 | 0 | 65 | 0 |
| | *load factor* | *36.15%* | | *36.04%* | | *28.85%* | | *15.40%* | |
| Tracy | | 169 | 0 | 237 | 0 | 155 | 0 | 85 | 0 |
| | *load factor* | *57.43%* | | *61.99%* | | *45.93%* | | *28.10%* | |
| Vasco Road | | 49 | 10 | 71 | 46 | 65 | 19 | 39 | 4 |
| | *load factor* | *62.34%* | | *64.73%* | | *50.99%* | | *33.33%* | |
| Livermore | | 41 | 8 | 87 | 53 | 86 | 26 | 27 | 8 |
| | *load factor* | *66.50%* | | *68.46%* | | *57.60%* | | *36.17%* | |
| Pleasanton | | 70 | 42 | 192 | 141 | 197 | 81 | 164 | 51 |
| | *load factor* | *70.03%* | | *74.04%* | | *70.37%* | | *53.06%* | |
| Fremont | | 42 | 66 | 64 | 98 | 68 | 72 | 56 | 42 |
| | *load factor* | *67.00%* | | *70.32%* | | *69.93%* | | *55.16%* | |
| Great America | | 0 | 417 | 0 | 461 | 0 | 478 | 0 | 293 |
| | *load factor* | *14.48%* | | *19.82%* | | *17.29%* | | *11.36%* | |
| Santa Clara | | 0 | 27 | 0 | 59 | 0 | 38 | 0 | 29 |
| | *load factor* | *11.08%* | | *13.36%* | | *13.11%* | | *7.03%* | |
| San Jose Diridon | | 0 | 88 | 0 | 122 | 0 | 119 | 0 | 47 |
| *TRAIN TOTAL* | | *658* | | *980* | | *833* | | *474* | |

*DAILY TOTAL=* 2,945

Daily Summary, Thursday 10/1/15

| DAILY TOTAL, by train P.M. | | ACE04 - 3:35p (794 seats) | | ACE06 - 4:35p (913 seats) | | ACE08 - 5:35p (906 seats) | | | ACE010 - 6:38p (669 seats) | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| *Station* | | *Boarding* | *Alighting* | *Boarding* | *Alighting* | *Boarding* | *Alighting* | | *Boarding* | *Alighting* | | |
| San Jose Diridon | | 70 | 0 | 112 | 0 | 107 | 0 | | 42 | 0 | | |
| | *load factor* | *8.82%* | | *12.27%* | | *11.81%* | | | *6.28%* | | | |
| Santa Clara | | 26 | 0 | 57 | 0 | 48 | 0 | | 19 | 0 | | |
| | *load factor* | *12.09%* | | *18.51%* | | *17.11%* | | | *9.12%* | | | |
| Great America | | 330 | 0 | 594 | 0 | 531 | 0 | | 159 | 0 | | |
| | *load factor* | *53.65%* | | *83.57%* | | *75.72%* | | | *32.88%* | | | |
| Fremont | | 81 | 27 | 101 | 68 | 72 | 85 | | 22 | 48 | | |
| | *load factor* | *60.45%* | | *87.19%* | | *74.28%* | | | *29.00%* | | | |
| Pleasanton | | 85 | 35 | 89 | 225 | 39 | 235 | | 15 | 74 | | |
| | *load factor* | *66.75%* | | *72.29%* | | *52.65%* | | | *20.18%* | | | |
| Livermore | | 37 | 31 | 20 | 74 | 16 | 86 | | 8 | 16 | | |
| | *load factor* | *67.51%* | | *66.37%* | | *44.92%* | | | *18.98%* | | | |
| Vasco Road | | 40 | 32 | 21 | 70 | 2 | 79 | 0 | 1 | 13 | | |
| | *load factor* | *68.51%* | | *61.01%* | | *36.42%* | | | *17.19%* | | | |
| Tracy | | 0 | 213 | 0 | 228 | 0 | 115 | | 0 | 45 | | |
| | *load factor* | *41.69%* | | *36.04%* | | *23.73%* | | | *10.46%* | | | |
| Lathrop/Manteca | | 0 | 248 | 0 | 213 | 0 | 144 | | 0 | 49 | | |
| | *load factor* | *10.45%* | | *12.71%* | | *7.84%* | | | *3.14%* | | | |
| Stockton | | 0 | 83 | 0 | 116 | 0 | 71 | | 0 | 21 | | |
| *TRAIN TOTAL* | | *669* | | *994* | | *815* | | | *266* | | *DAILY TOTAL=* | *2,744* |

Daily Summary, Friday 10/2/15

**Daily Summary, Friday 10/9/15**

**At-a-Glance**

| | | | |
|---|---|---|---|
| A.M. Total Ridership: | **2,409** | | |
| P.M. Total Ridership: | **2,377** | | |
| Daily Total Ridership: | **4,786** | % Change vs. Last Week: | -5.75% |
| *(last week)* | *5,078* | | |

DAILY TOTAL, by station

| *Station* | *AM Boarding* | *AM Alighting* | *PM Boarding* | *PM Alighting* |
|---|---|---|---|---|
| Stockton | 275 | 0 | 0 | 261 |
| Lathrop/Manteca | 460 | 0 | 0 | 477 |
| Tracy | 481 | 0 | 0 | 470 |
| Vasco Road | 180 | 69 | 39 | 143 |
| Livermore | 234 | 95 | 40 | 179 |
| Pleasanton | 568 | 304 | 210 | 697 |
| Fremont | 211 | 225 | 250 | 150 |
| Great America | 0 | 1,268 | 1,345 | 0 |
| Santa Clara | 0 | 107 | 143 | 0 |
| San Jose Diridon | 0 | 341 | 350 | 0 |
| | **2,409** | | **2,377** | |

DAILY TOTAL, by train A.M.

| | **ACE01 - 4:20a (794 seats)** | | **ACE03 - 5:35a (913 seats)** | | **ACE05 - 6:40a (908 seats)** | | **ACE07 - 7:05a (669 seats)** | |
|---|---|---|---|---|---|---|---|---|
| *Station* | *Boarding* | *Alighting* | *Boarding* | *Alighting* | *Boarding* | *Alighting* | *Boarding* | *Alighting* |
| Stockton | 76 | 0 | 95 | 0 | 69 | 0 | 35 | 0 |
| *load factor* | *9.57%* | | *10.41%* | | *7.60%* | | *5.23%* | |
| Lathrop/Manteca | 154 | 0 | 161 | 0 | 101 | 0 | 44 | 0 |
| *load factor* | *28.97%* | | *28.04%* | | *18.72%* | | *11.81%* | |
| Tracy | 121 | 0 | 201 | 0 | 104 | 0 | 55 | 0 |
| *load factor* | *44.21%* | | *50.05%* | | *30.18%* | | *20.03%* | |
| Vasco Road | 27 | 5 | 69 | 23 | 63 | 37 | 21 | 4 |
| *load factor* | *46.98%* | | *55.09%* | | *33.04%* | | *22.57%* | |
| Livermore | 38 | 8 | 84 | 31 | 77 | 46 | 35 | 10 |
| *load factor* | *50.76%* | | *60.90%* | | *36.45%* | | *26.31%* | |
| Pleasanton | 49 | 29 | 210 | 122 | 202 | 124 | 107 | 29 |
| *load factor* | *53.27%* | | *70.54%* | | *45.04%* | | *37.97%* | |
| Fremont | 34 | 37 | 70 | 82 | 50 | 79 | 57 | 27 |
| *load factor* | *52.90%* | | *69.22%* | | *41.85%* | | *42.45%* | |
| Great America | 0 | 312 | 0 | 494 | 0 | 271 | 0 | 191 |
| *load factor* | *13.60%* | | *15.12%* | | *12.00%* | | *13.90%* | |
| Santa Clara | 0 | 21 | 0 | 37 | 0 | 28 | 0 | 21 |
| *load factor* | *10.96%* | | *11.06%* | | *8.92%* | | *10.76%* | |
| San Jose Diridon | 0 | 87 | 0 | 101 | 0 | 81 | 0 | 72 |
| *TRAIN TOTAL* | *499* | | *890* | | *666* | | *354* | |

0

*DAILY TOTAL=* 2,409

Daily Summary, Friday 10/2/15

| DAILY TOTAL, by train P.M. | | ACE04 - 3:35p (794 seats) | | ACE06 - 4:35p (913 seats) | | ACE08 - 5:35p (908 seats) | | | ACE010 - 6:38p (669 seats) | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| *Station* | | *Boarding* | *Alighting* | *Boarding* | *Alighting* | *Boarding* | *Alighting* | | *Boarding* | *Alighting* | | |
| San Jose Diridon | | 115 | 0 | 113 | 0 | 81 | 0 | | 41 | 0 | | |
| | *load factor* | *14.48%* | | *12.38%* | | *8.92%* | | | *6.13%* | | | |
| Santa Clara | | 56 | 0 | 41 | 0 | 34 | 0 | | 12 | 0 | | |
| | *load factor* | *21.54%* | | *16.87%* | | *12.67%* | | | *7.92%* | | | |
| Great America | | 324 | 0 | 551 | 0 | 363 | 0 | | 107 | 0 | | |
| | *load factor* | *62.34%* | | *77.22%* | | *52.64%* | | | *23.92%* | | | |
| Fremont | | 107 | 31 | 73 | 51 | 56 | 42 | | 14 | 26 | | |
| | *load factor* | *71.91%* | | *79.63%* | | *54.19%* | | | *22.12%* | | | |
| Pleasanton | | 88 | 161 | 70 | 306 | 37 | 171 | | 15 | 59 | | |
| | *load factor* | *62.72%* | | *53.78%* | | *39.43%* | | | *15.55%* | | | |
| Livermore | | 21 | 55 | 13 | 55 | 5 | 58 | | 1 | 11 | | |
| | *load factor* | *58.44%* | | *49.18%* | | *33.59%* | | | *14.05%* | | | |
| Vasco Road | | 32 | 41 | 6 | 48 | 0 | 44 | 0 | 1 | 10 | | |
| | *load factor* | *57.30%* | | *44.58%* | | *28.74%* | | | *12.71%* | | | |
| Tracy | | 0 | 187 | 0 | 157 | 0 | 95 | | 0 | 31 | | |
| | *load factor* | *33.75%* | | *27.38%* | | *18.28%* | | | *8.07%* | | | |
| Lathrop/Manteca | | 0 | 171 | 0 | 179 | 0 | 94 | | 0 | 33 | | |
| | *load factor* | *12.22%* | | *7.78%* | | *7.93%* | | | *3.14%* | | | |
| Stockton | | 0 | 97 | 0 | 71 | 0 | 72 | | 0 | 21 | | |
| *TRAIN TOTAL* | | *743* | | *867* | | *576* | | | *191* | | *DAILY TOTAL=* | *2,377* |

**Weekly Summary, 9/28/15 - 10/2/15**

**At-a-Glance**

| | *Mon 9/28* | *Tue 9/30* | *Wed 9/30* | *Thur 10/1* | *Fri 10/2* | ***Average*** |
|---|---|---|---|---|---|---|
| A.M. Total Ridership: | 2,794 | 2,912 | 2,905 | 2,945 | 2,409 | **2,793** |
| P.M. Total Ridership: | 3,012 | 2,964 | 2,826 | 2,744 | 2,377 | **2,785** |
| Daily Total Ridership: | **5,806** | 5,876 | **5,731** | 5,689 | 4,786 | **5,578** |

| | MONDAY 9/28 | | | TUESDAY 9/29 | | |
|---|---|---|---|---|---|---|
| *Station* | *Boarding* | *Alighting* | *Difference* | *Boarding* | *Alighting* | *Difference* |
| Stockton | 326 | 331 | -5 | 349 | 322 | 27 |
| Lathrop/Manteca | 595 | 599 | -4 | 670 | 657 | 13 |
| Tracy | 655 | 645 | 10 | 653 | 677 | -24 |
| Vasco Road | 245 | 248 | -3 | 303 | 326 | -23 |
| Livermore | 300 | 291 | 9 | 297 | 297 | 0 |
| Pleasanton | 1,021 | 1,156 | -135 | 879 | 912 | -33 |
| Fremont | 563 | 494 | 69 | 506 | 466 | 40 |
| Great America | 1,601 | 1,604 | -3 | 1,684 | 1,690 | -6 |
| Santa Clara | 172 | 140 | 32 | 162 | 140 | 22 |
| San Jose Diridon | 328 | 298 | 30 | 373 | 389 | -16 |

| | WEDNESDAY 9/30 | | | THURSDAY 10/1 | | |
|---|---|---|---|---|---|---|
| *Station* | *Boarding* | *Alighting* | *Difference* | *Boarding* | *Alighting* | *Difference* |
| Stockton | 325 | 356 | -31 | 331 | 291 | 40 |
| Lathrop/Manteca | 622 | 612 | -10 | 650 | 654 | 4 |
| Tracy | 695 | 616 | -79 | 646 | 601 | -45 |
| Vasco Road | 265 | 262 | -3 | 288 | 273 | -15 |
| Livermore | 320 | 335 | 15 | 322 | 302 | -20 |
| Pleasanton | 817 | 857 | 40 | 851 | 884 | 33 |
| Fremont | 508 | 520 | 12 | 506 | 506 | 0 |
| Great America | 1,696 | 1,643 | -53 | 1,614 | 1,649 | 35 |
| Santa Clara | 161 | 138 | -23 | 150 | 153 | 3 |
| San Jose Diridon | 322 | 392 | 70 | 331 | 376 | 45 |

| | FRIDAY 10/2 | | | **DAILY AVERAGE** | | |
|---|---|---|---|---|---|---|
| *Station* | *Boarding* | *Alighting* | *Difference* | *Boarding* | *Alighting* | *Difference* |
| Stockton | 275 | 261 | 14 | 321 | 312 | 9 |
| Lathrop/Manteca | 460 | 477 | -17 | 599 | 600 | 0 |
| Tracy | 481 | 470 | 11 | 626 | 602 | 24 |
| Vasco Road | 219 | 212 | 7 | 264 | 264 | 0 |
| Livermore | 274 | 274 | 0 | 303 | 300 | 3 |
| Pleasanton | 778 | 1,001 | -223 | 869 | 962 | -93 |
| Fremont | 461 | 375 | 86 | 509 | 472 | 37 |
| Great America | 1,345 | 1,268 | 77 | 1,588 | 1,571 | 17 |
| Santa Clara | 143 | 107 | 36 | 158 | 136 | 22 |
| San Jose Diridon | 350 | 341 | 9 | 341 | 359 | -18 |

CITY OF
SAN JOSE
CAPITAL OF SILICON VALLEY

*Department of Planning, Building and Code Enforcement*

HARRY FREITAS, DIRECTOR

November 23, 2015

Debby Fernandez
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

Subject: City Place Project, Comments on Draft Environmental Impact Report
SCH #2014072078

Dear Ms. Fernandez,

This letter is in response to the Notice of Availability for Public Review of the Draft Environmental Impact Report prepared for the City Place Project (Project) received by the City of San José on October 9, 2015. The project site is located north of Tasman Drive on the west side of the Guadalupe River. The 240-acre site is immediately adjacent to the City of San José limits to the east. The City of San José is a responsible agency for purposes of mitigation measure implementation within City limits. The City of San José has the following comments on the project and DEIR.

**Project Description**

The project description is clear with regard to the inclusion of a General Plan Amendment for the creation of a new General Plan Land Use designation of Urban Center/Entertainment District that would be applied to the site. It is also clear the development of the site as described is not currently included or planned for in the adopted Santa Clara General Plan. The conclusions of the DEIR raise serious issues with respect to the City of Santa Clara's ability to determine General Plan conformance for this project.

Based on the land use analysis it appears that Santa Clara did not shift development capacity or revise the General Plan and GP environmental review to account for this project. It is not apparent how some of the significant unavoidable impacts of the project can be reconciled with inconsistencies with very fundamental General Plan policies, particularly with regard to increased jobs/housing ratio, VMT, air quality and population/housing. The document is not clear that the environmental impact assessment includes a comprehensive analysis of updating the General Plan to include the additional development from the project.

**Land Use and Planning**

The conclusions of the Land Use and Planning analysis raise serious concerns for San José's ability to implement its own General Plan and construct desired development in North San José

particularly. The lack of adequate residential development as part of the proposed project results in inadequate housing being made available to support the number of new jobs created, a substantial increase in VMT and congestion, and a corresponding degradation in regional air quality and increase in GHG emissions. The lack of proposed housing by the project or incorporated in the Santa Clara General Plan results in major General Plan policy inconsistencies. This raises the question how the project can be approved without major revisions to the General Plan and additional environmental impact analysis.

The amount of proposed development is unplanned locally and regionally, i.e. not accounted for in <u>any</u> plans. The project results in 24,760 "net" new jobs. Only 13.5% of project employees are estimated to live in Santa Clara. The project will result in the demand for 15,408 residential units to be provided outside of Santa Clara. This equates to a population growth of 40,677 residents to be accommodated regionally. The Santa Clara General Plan projects a population increase of only 34,000 residents between 2015 and 2040. This housing demand and population growth from the project becomes a burden for other jurisdictions -- "*...the likely result of the induced housing demand resulting from Project generated jobs is upward pressure for additional housing units to be built in the City, region and possibly even outside the region.*" (p.3.12-11)

Given the scope of the City Place project and the regional nature of housing, the EIR should provide analysis of the jobs-housing conditions on a broader geographic scale, as the project deficiency in providing housing may adversely affect other nearby jurisdictions. The project as currently proposed will exacerbate the region's housing crisis as there are no plans to include affordable housing. This will add pressure on neighboring cities, such as San José, to provide housing for all sectors of the workforce.

The impact/burden of induced housing demand and population on San José will result in the need for additional services to be provided by the City (police, fire, parks, etc.). Pushing the induced housing demand and resulting population to other jurisdictions will affect their respective fiscal health. Cities that have significant fiscal challenges, i.e. jobs-poor cities like San José, provide the bulk of public services to our most in need (poor) communities in the South Bay. Jobs-rich cities don't carry that financial burden. This project will perpetuate the wealth and resource divide between cities and further aggravate disparity in our county.

The Land Use impact analysis should be amended to include an analysis and discussion of the number of housing units required for Santa Clara to maintain the currently projected 2.57 jobs/housing ratio. We estimate the number to be about 9,634 residential units. Footnote No. 15 on page 3.1-13 should be modified to provide clarification that 6,640 additional housing units are not adequate to offset the number of jobs created by the project in order to maintain the current jobs/housing ratio.

Mitigation Measure LU-1.1 is inadequate as a mitigation measure and should not be referred to as such. A valid mitigation measure cannot defer to further study during some future General Plan update. It provides no certainty that the significant and unavoidable land use impacts will be avoided, minimized or reduced. It should not be listed as a mitigation measure, unless th city does the necessary General Plan analysis at this time.

If the project site cannot accommodate additional housing units, then the City of Santa Clara should amend its General Plan to plan for additional units in the City first. If it is not possible for Santa Clara to balance the project induced jobs and housing city-wide, then the City should provide assistance for other jurisdictions to accommodate the housing, such as a financial contribution to affordable housing.

**Transportation**

Detailed comments regarding the transportation analysis, impact conclusions and mitigation measures are attached to this letter. The detailed comments are generally focused on:

- ABAG 2020 vs. San José GP 2040 land use projections for North San José
- Mitigation measures to support multi-modal use
- Fair share calculation methodology
- 19 specific project mitigation measures

The City of San José is requesting additional technical information, including more detailed traffic assumptions, full project definitions for the proposed mitigation measures (i.e. feasibility analysis), the estimated full cast of each mitigation measure (including potential property acquisitions), the methodology for calculating fair-share and timing of mitigation measures and/or payments.

Traffic impacts were identified based on current Level of Service standards of congestion along all the major transportation facilities within North San José. The report also identified unmitigated impacts to the surrounding regional County facilities serving North San José, which resulted in significant project volumes within San Jose and unmitigated traffic impacts. Of the 26 study intersections in San Jose, approximately 12 were significantly impacted and no capacity improvements were provided in North San Jose to mitigate project traffic. Therefore, the report did not demonstrate whether traffic capacity truly exists to support City Place traffic volumes in San Jose.

If it is Santa Clara's intent to not demonstrate or provide transportation capacity because it is assumed that the measurement of traffic impacts will shift to VMT standards, then the analysis is inadequate and conclusions are faulty. The project will realistically have more traffic impacts using VMT thresholds since the proposed project does not reduce project generated traffic by proposing a balanced mixed use project, i.e. jobs to housing units. Whether using LOS or VMT, the implementation of the City Place project will have significant transportation impacts in North San Jose with no immediate solutions to providing traffic capacity. The added traffic to North San Jose will be overwhelming.

**Air Quality**

As a secondary impact, regional air quality is made worse due to the lack of substantially more residential units being incorporated into the project or Santa Clara's General Plan. The lack of new residential units leads to a dramatic increase in VMT. The project conflicts with the 2010 Clean Air Plan because it is inconsistent with population and employment growth in the 2010

Clean Air Plan. Both Scheme A and B would be Significant Unavoidable, but Scheme A with 1,360 housing units is somewhat better because it provides more housing with the 24,760 net new jobs. The Air Quality analysis should be amended to include a discussion of the potential benefits of decreasing GHG emissions by increasing housing capacity in Santa Clara to offset the increase in employment.

Health Risks from Construction Period Air Quality Impacts

Mitigation Measures AQ-6.1 and AQ-7.1 only apply to construction that occurs after the first occupancy of on-site residences and day care centers. The construction activities on the eastern portion of the site along the Guadalupe River will be closer to sensitive receptors in residences in the City of San Jose than the proposed residences on the site (the distance between the project site and residents across the Guadalupe River is less than 600 feet). We ask that these mitigation measures be required to be implemented for construction along the eastern portion of the site in addition to construction near proposed on-site residences.

## Biological Resources

Although the project site is located outside of the Santa Clara Valley Habitat Plan (SCVHP) area, it is immediately adjacent to the border of the covered area, just west of the City of San Jose. The SCVHP is the best regional biology science available, particularly for Burrowing Owls and Nitrogen Deposition. Even though Santa Clara is not in the SCVHP, the DEIR should utilize the SCVHP framework for analytical information and disclosure purposes. It would be prudent for Santa Clara to remember that the original intent of the wildlife agencies was for the SCVHP to be County-wide in coverage.

Burrowing Owl

The EIR analysis does not adequately address the potential impacts due to the loss of 100 acres of burrowing owl habitat. The project site is located in an area of the Santa Clara Valley that has been documented as prime burrowing owl habitat. The project site is located within the Extended Study Area for Burrowing Owl Conservation designated by the SCVHP- areas where burrowing owl conservation areas are expected to occur between 2013 and 2063. The north San José area is designated as a Burrowing Owl Fee Zone. The project will reduce nesting and foraging of the habitat that could affect populations in North San Jose.

The burrowing owl mitigation measures are inadequate to reduce the impacts to a less than significant level. Mitigation is proposed by simply allowing SCVHP Agency biologists access to portions of the site for annual surveying. This mitigation approach does not meet what is considered best practice/science. Mitigation does not provide any mechanism for proactively replenishing the habitat lost through this project. There are no proposed burrowing owl habitat surveys to be conducted through the phases of the project. Active pre-construction surveys specific to Burrowing Owl habitat is not proposed and does not meet the best science/practice of the SCVHP (Condition 15). The City of Santa Clara has not contributed to conservation efforts for this species since the noted 58.8 acres in 1999. The knowledge base for burrowing owls has advanced significantly since 1999 and should be reflected in the DEIR.

Nitrogen Deposition/Bay Checkerspot Butterfly

The proposed 39% voluntary contribution does not account for a fair share contribution given the site proximity to the SCVHP boundaries. This project will contribute to a significant number of new vehicle trips and will have impacts equal to a project proposed within the same general area covered by the SCVHP. The project is likely to result in a significant unavoidable impact on air quality, but concludes a less than full nitrogen deposition contribution. It does not seem reasonable that this can mitigate nitrogen deposition to less than significant based on project size.

Thank you for the opportunity to comment on the City Place DEIR. If you have any questions, please contact Steve McHarris, Planning Official at (408) 535-7819, or steve.mcharris@sanjoseca.gov. We can make ourselves available to meet with the City of Santa Clara at your earliest convenience to discuss our comments and concerns in more detail. The City looks forward to partnering with the City of Santa Clara to support future development, particularly in North San José.

Sincerely,

Harry Freitas, Director
Department of Planning, Building & Code Enforcement
City of San José

Enclosure: Transportation Comments Attachment

ec: City Manager
City Attorney
Mayor's Office

## ATTACHMENT 1

TRANSPORTATION COMMENTS
*November 10, 2015*

The City of San Jose ("San Jose") has completed the review of the transportation chapter of the Draft Environmental Impact Report ("DEIR") for the City Place Project ("Project") located in the City of Santa Clara. This attachment provides a detailed summary of our technical comments. Overall, we believe that the DEIR inadequately addresses the transportation impacts of the development of the Project on San Jose, which is immediately adjacent to the Project site. The DEIR also inadequately addresses the s proposed for the Project impacts within San Jose. The assumptions used in developing Project-generated trips, mode split and future growth were generally sound. San Jose provides the following comments consistent with the City's mobility goals to provide an efficient, safe, and attractive transportation system for pedestrians, bicyclists, and transit riders.

San Jose has the following comments after review of the DEIR:

**Page 3.3-48 San Jose Land Use Projections under Background Conditions**
The North San Jose Area Development Policy and Final Environmental Impact Report approved 26.7 million square feet of industrial space, 1.7 million square feet of commercial space, and 32,000 residential units in the North San Jose area. The approved North San Jose development is much larger than the ABAG 2020 land use projections in the area. Given that North San Jose is immediate proximity to the City Place site, please explain the use of ABAG 2020 land use projections for San Jose instead of the full North San Jose and San Jose General Plan 2040 land use assumptions.

**Page 3.3-61 Project Trip Distribution and Assignment**
The DEIR indicates that the application of the VTA Travel Demand Forecasting model in the Project trip generation stage is to develop Project traffic assignments. Please provide both trip distribution and trip assignment that show the distribution of City Place-generated traffic and the proportion of trips traveling through San Jose.

**Mitigation Measures to Support Multimodal Use**
In proposing full, partial, or off-setting mitigation measures to Project impacts, the DEIR proposes modifications to intersection geometries or operations but does not adequately address improvements to bicycle, pedestrian, and transit facilities. With the goal to shift travelers from automobiles to bicycling, walking, and transit uses, San Jose supports mitigation measures that pursue the following improvements in addition to LOS improvements:

- Provide multiple points of access and safer, more effective routes to the Guadalupe River Trail
- Complete the Coyote Creek Trail and safer and more effective access to the trail
- Install or improve pedestrian and bicycle facilities along Montague Expressway
- Improve light rail including operations, speed, frequency, and connectivity of stations

- Support the establishment of a transportation management association to effectively manage auto traffic demand
- Support the upgrades of traffic signals and ITS to manage traffic generated by the Project
- To offset traffic impacts and minimize effects of Project traffic, support or construct innovative bicycle treatments that enhance visibility and safety for bicyclists and pedestrians, such as two-stage left-turns or bike boxes particularly where a second or third left-turn lane is proposed, bicycle or pedestrian detectors, pedestrian bulbouts, and separated bikeways.

**Calculations of Fair-Share Contribution**
The Project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed between San Jose and City of Santa Clara for all proposed mitigation measures. One generally adopted methodology is the percent increase in average vehicular delay caused by the Project at each impacted intersection. Please submit calculations of fair share for review by San Jose.

San Jose would like to work with the City of Santa Clara fully address the following specific comments to the DEIR:

**Page 3.3-193 Renaissance Drive/ Tasman Drive, Off-setting Mitigation**
San Jose supports that the Project Developer pays a fair-share contribution toward implementation of off-setting mitigation measures to this Cumulative impact, which could include the proposed light-rail operations capital improvements.

**Page 3.3-94 and 3.3-194 Rio Robles/ Tasman Drive, Partial Mitigation**
San Jose supports that the Project Developer pays a fair-share contribution toward the construction of partial mitigation measures to this impact. The mitigation measure at this intersection is to widen the southbound approach to include one left-turn lane, one through lane, and one right-turn lane. Given the high pedestrian volume at this intersection during commute periods, the mitigation measures shall include crosswalk treatments that enhance visibility and pedestrian safety, and traffic surveillance cameras at the intersection.

**Page 3.3-95 and 3.3-194 North First Street/ Tasman Drive, Off-setting Mitigation**
San Jose supports that the Project Developer pays a fair-share contribution toward the construction of off-setting mitigation measures to this impact. Besides the proposed off-setting mitigation measure, San Jose supports the inclusion of upgrades at the Tasman Light Rail Station and crosswalks to enhance pedestrian and bicycle access to and from the light rail station.

**Page 3.3-194 Zanker Road/ Tasman Drive, Off-setting Mitigation**
San Jose supports that the Project Developer pays a fair-share contribution toward constructing or implementation of off-setting mitigation measures to this Cumulative impact, which could include the proposed light-rail operations capital improvements.

**Page 3.3-96 and 3.3-195 North First Street/ Montague Expressway, Off-setting Mitigation**

San Jose supports that the Project Developer pays a fair-share contribution toward the construction of a full-grade separation of the light rail. A full-grade separation will improve light rail speed, signal operations, and access to the light rail station, consistent with San Jose's multimodal vision.

**Page 3.3-96 and 3.3-195 Zanker Road/ Montague Expressway, Partial Mitigation**
San Jose supports that the Project Developer pays a fair-share contribution toward the construction of Zanker Road Widening project that includes separated bike lanes on both sides of the street, crosswalk treatments, and other improvements consistent with San Jose's multimodal mobility goals. San Jose also supports the inclusion of a second northbound left-turn lane and a second southbound left-turn lane as part of the Zanker Widening project identified in the current North San Jose Area Development Policy.

**Page 3.3-97 and 3.3-195 Montague Expressway/Plumeria Drive-River Oaks Parkway, Partial Mitigation**
Please explain the proposed mitigation measure to limit northbound (Montague Expressway) U-turns. Appendix 3.3E shows that under the Existing condition, the northbound left is a critical movement with 666 vehicles and 118 vehicles during the AM and PM peak hour, respectively, and the Project will contribute a minimal amount of vehicles to this movement during these periods. Is there a significant amount of northbound U-turn activities that prohibiting these U-turns is expected to reduce the average delay at the intersection?

San Jose supports signal modifications, which could include an overlap phase on the eastbound right movement, that improve access to existing sites and driveways without compensating pedestrian crossing.

**Page 3.3-97 and 3.3-195 Trimble Road/ Montague Expressway, Partial Mitigation**
San Jose supports that the Project Developer pays a fair-share contribution toward the construction of the Montague-Trimble fly-over.

**Page 3.3-97 and 3.3-195 McCarthy Boulevard-O'Toole Avenue/ Montague Expressway, Partial Mitigation**
San Jose supports that the Project Developer pays a fair-share contribution toward the construction of the square-loop interchange along with the interchange modifications at I-800/ Montague Expressway as a bundled project identified in the County Expressway Plan 2040.

**Page 3.3-97 and 3.3-196 De La Cruz Boulevard/ Trimble Road, Partial Mitigation**
Appendix 3.3E shows that under the Background condition, the Project would contribute 510 vehicles to the southbound left movement during the PM peak hour, causing the V/C ratio to from 0.83 to 1.12 and a significant increase in average delay at this movement and the intersection as a whole. However, during the AM peak hour, zero Project trips are added to the westbound right movement that operates below capacity. This is counter-intuitive; if Trimble Road is used by Project trips as an alternative route to bypass congestion on Montague Expressway, it would make more sense that a comparable amount of Project trips in the PM peak hour would be contributed to the counter, westbound right movement in the AM peak hour. The same issue applies to the 560 eastbound left Project trips in the AM peak hour but zero

southbound right Project trips in the PM peak hour. Please explain the origin of these Project trips and how trip assignment is assumed for these trips.

**Page 3.3-98 and 3.3-196 North First Street/ Trimble Road, Partial Mitigation**
San Jose supports that the Project Developer pays a fair-share contribution toward the construction of mitigation measures that include a second eastbound left-turn lanes, a second northbound left-turn lane, a second southbound left-turn lane, and the construction of adequate treatments at the intersection to facilitate safe and comfortable bicycle left-turns and pedestrian crossing, such as bike boxes/ two-stage left-turn boxes, pedestrian refuges/bulbouts, and signal jump detectors, etc.

**Page 3.3-196 Zanker Road/ Trimble Road, Off-setting Mitigation**
San Jose proposes to alter the proposed off-setting mitigation measure to this Cumulative impact that the Project Developer pays a fair-share contribution toward the construction of Zanker Road Widening project that should include separated bike lanes on both sides of the street, crosswalk treatments, and other improvements consistent with San Jose's multimodal goals.

**Page 3.3-98 and 3.3-196 North First Street/ Brokaw Road, Partial Mitigation**
The mitigation measure to address the impact at this intersection is the connection of Zanker Road from Old Bayshore Highway to Skyport Drive, along with a partial US-101 interchange for the connection. The Zanker Road-Skyport Drive connection diverts vehicular traffic away from North First Street, and is part of the North San Jose Grid Street System project identified in the current North San Jose Area Development Policy. The Project Developer shall contribute fair-share toward this mitigation measure.

**Page 3.3-196 Zanker Road/ Brokaw Road, Partial Mitigation**
San Jose supports that the Project Developer pays a fair-share contribution toward the construction of Zanker Road Widening project that includes a second eastbound left-turn lane, a second northbound left-turn lane, and a second southbound left-turn lane as an off-setting mitigation measure to this Cumulative impact.

**Page 3.3-101 and 3.3-198 Great America Parkway/ SR 237 NB Off-Ramp, Full Mitigation**
The DEIR incorrectly indicates that the interchange of Great America Parkway/ SR 237 northbound off-ramp is a CMP-designated intersection within the City of Santa Clara; the interchange is a CMP intersection located within San Jose, and should be under the jurisdiction of both San Jose and County of Santa Clara.

The Highway 237 Bikeway that extends in parallel to SR-237 has an on-street connection between Lafayette Street and Great America Parkway. From the connectivity standpoint, this segment is one of the missing pieces of what would otherwise be a complete, off-street trail network direct linkage between the Bay Trail, San Tomas Aquino Creek Trail, Guadalupe River Trail, and Coyote Creek Trail. Currently, bicyclists and pedestrians need to cross the Great American Parkway/ SR-237 NB Off-Ramp interchange and Gold Street/ Gold Street Connector intersection to complete the connection. The proposed full mitigation measure to add a third westbound left-turn lane and a second westbound right-turn lane require right-of-way acquisition

that could affect the alignment of this on-street connection and make bicycle and pedestrian travel even less encouraging.

San Jose supports that the Project Developer is fully responsible for geometry changes at the intersection that include the alignment of the bikeway connection. In addition, San Jose supports the inclusion of high-quality, safe and convenient bicycle and pedestrian facilities along Great American Parkway to improve visibility and access to and from the Great America Station that hosts Amtrak's Capitol Corridor trains and Altamont Corridor Express trains.

**Page 3.3-106 and 3.3-201 Gold Street/ Gold Street Connector, Partial Mitigation**
San Jose supports the partial mitigation measure to add a second northbound left-turn lane, add a second eastbound right-turn lane, and crosswalk relocation that improves connection to the trail. The required right-of-way acquisition on Gold Street Connector will affect the alignment of the on-street, Highway 237 Bikeway connection.

As an off-setting mitigation measure, San Jose proposes to install new traffic surveillance cameras and high quality, safe and convenient bicycle and pedestrian facilities at the intersection. San Jose also supports for improved connections between Coyote Creek Trail and Highway 237 Bikeway, such as upgrading the existing bicycle facilities or extending the Highway 237 Bikeway from North First Street to Zanker Road. The cost and construction of these mitigation measures is the full responsibility of the Project Developer.

**Page 3.3-108 and 3.3-202 Great America Parkway/ Gold Street Connector, Full Mitigation**
San Jose supports that the Project Developer is fully responsible for the cost and construction of the proposed second northbound right-turn lane as a receiving lane and a bundled project to the associated second westbound right-turn lane proposed at the Great America Parkway/ SR 237 northbound off-ramp intersection.

**Page 3.3-109 and 3.3-202 San Tomas Expressway/ Stevens Creek Boulevard, Partial Mitigation**
San Jose supports that the Project Developer pays fair-share contribution toward construction of the widening of San Tomas Expressway, which should also include components consistent with San Jose's multimodal vision, including but not limited to the removal of pork chops and free northbound right-turns, improved access to transit, more human-scale pedestrian crossing, and traffic calming treatments, etc.

**Page 3.3-113 Liberty Street/ North Taylor Street, Proposed Mitigation**
Appendix 3.3E shows that under the Background condition, the Project is expected to contribute 600 vehicles to the eastbound through movement during the PM peak hour, causing the V/C ratio to rise from 0.17 to 1.21 and the signal warrant to be met at this all-way-stop intersection. However, zero project trips are assigned to the counter, westbound through movement in the AM peak hour. Please explain the general destination of these trips and how trip assignment is assumed for these trips during the two periods.

San Jose is concerned about the effect of Project-generated vehicles on local streets within the Alviso neighborhood. In lieu of installing a traffic signal, construct traffic control devices at the intersection and/or other locations along Gold Street and North First Street to divert Project traffic from intruding the Alviso neighborhood. The Project Developer shall contribute fair-share toward the construction of traffic control devices.

NORMAN Y. MINETA
SAN JOSE
INTERNATIONAL
AIRPORT
SILICON VALLEY'S AIRPORT

October 27, 2015

Debby Fernandez, Associate Planner
City of Santa Clara Planning Division
1500 Warburton Avenue
Santa Clara, CA 95050

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PLANNING DIVISION

**Subject: Comments on Draft EIR for City Place Santa Clara Project**

Dear Debby:

The City of San Jose Airport Department has reviewed the subject Draft Environmental Impact Report and offers the following suggested corrections/revisions regarding the analysis of San Jose International Airport (SJC) aircraft noise and airspace safety issues.

**Aircraft Noise**

The Draft EIR's "Impact LU-2" (Section 3.1) identifies aircraft noise as a significant impact. However, the most current City of San Jose aircraft noise projections, available on the SJC website (www.sjc.org), show the project site located well outside the 65 dB CNEL impact area of SJC, with a portion of the site located outside the 60 dB CNEL.

The County ALUC's June 2015 determination that the proposed project General Plan Amendment/rezoning is inconsistent with the SJC CLUP noise policies is appropriately addressed in the Draft EIR, but the analysis should have cited other relevant technical information before concluding that aircraft noise is a significant impact.

Note: The City should also reconsider whether the ALUC should be designated a responsible agency under CEQA (p. 2-37). Once the ALUC has issued a CLUP consistency determination for a proposed General Plan Amendment/rezoning, it has no further authority for the project unless a subsequent General Plan Amendment, rezoning, or specific plan is proposed.

**Airspace Safety**

The Draft EIR addresses building height compatibility with Federal Aviation Regulations (FAR) Part 77 in multiple sections, some of which are duplicative and none fully correct:

- Page 3.1-16. The 1st full paragraph can be deleted as it's not related to "Impact LU-2". The Hazards and Hazardous Material section of the DEIR already more appropriately discusses airspace safety issues.
- Page 3.11-14 ("Aviation Hazards") and Page 3.11-35 ("Impact HAZ-7"). These paragraphs should delete the references to the CLUP and its height restriction dimensions, and instead state that FAR Part 77 requires that the Federal Aviation Administration (FAA) be notified of any proposed structure which would extend above an imaginary slope radiating out for

several miles from an airport's runways, in SJC's case a 100:1 slope from any point of the 3 runways out to a horizontal distance of 20,000 feet. This "notification surface" ranges over the project site from approx. 175 feet MSL along the Tasman Drive frontage to approx. 215 feet MSL at the Highway 237 side of the site.

Also, while the statement under "Impact HAZ-7" that a maximum building height of 219 feet MSL would not exceed published FAR-defined obstruction surfaces is correct, such obstruction surfaces are not the sole factors considered by the FAA in determining whether a structure would be a potential hazard or not. It would be more correct to simply state that any potential impact to aviation safety will be reduced to a level of insignificance through compliance with the FAR 77 notification requirements and the determinations subsequently issued by the FAA.

- Page 3.11-40. The "Aviation Hazards" subsection can be deleted as it appears to duplicate the discussion concluded on Page 3.11-35. If retained, however, the text should be corrected to state that the requirement for FAA review of certain proposed structures is set by federal regulations (FAR Part 77), not the County ALUC's CLUP.

City staff or consultants are welcome to contact me at cgreene@sjc.org or 408-392-3623 for any needed clarification regarding the above comments, or to request review of draft document revisions prior to completing the response to comments.

Sincerely,

Cary Greene
Airport Planner

SANTA CLARA VALLEY
HABITAT AGENCY

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November 19, 2015

Ms. Debby Fernandez
Associate Planner
City of Santa Clara Planning Division
1500 Warburton Avenue
Santa Clara, CA 95050

**Subject: City Place Project Draft Environmental Impact Report: Impacts to Western Burrowing Owl**

Dear Ms Fernandez:

I am writing to express my concern about impacts to western burrowing owls in response to the City Place Santa Clara Project (Project) draft Environmental Impact Report (EIR). The Santa Clara Valley Habitat Agency (Habitat Agency), as a responsible public agency tasked with conserving natural communities and the recovery of state and federal special status species covered by the Santa Clara Valley Habitat Plan (Plan), wishes to bring to the Lead Agency's (City of Santa Clara) attention to Project impacts that could detrimentally effect the Santa Clara Valley Habitat Agency's ability to implement several of the Plan's conservation goals and objectives. In particular, direct impacts to Western burrowing owl breeding and foraging habitat.

Nesting burrowing owls in the greater San Francisco Bay area and the South Bay area in particular, are a dwindling resource. In the early 1990s there were an estimated 150–170 breeding pairs in the San Francisco Bay area (DeSante and Ruhlen 1995; DeSante et al. 1997). It was estimated that these numbers represented a 53% decline from the previous census period of 1986–1990 (DeSante et al. 1997) and more recent numbers indicate that, if anything, the downward trend is increasing. In those estimates it was assumed that 75% of the San Francisco Bay area burrowing owl population occurred in Santa Clara County and nearly all of those owls were congregated around the southern edge of the San Francisco Bay (DeSante et al. 1997). Surveys in the early 1990s revealed that about a third (43–47 pairs) of Santa Clara County breeding pairs occurred inside what is now the Santa Clara Valley Habitat Plan study area (City of San José 2000).

The Plan proposes to undertake a suite of measures aimed at reversing the declining trend of the burrowing owl population in Santa Clara County. The conservation goal of the Plan, as implemented by these measures, is to establish a burrowing owl population in the Santa Clara County that is first stable, then increasing over time, while accounting for normal fluctuations in population levels. The general

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approach will be to increase the numbers, distribution, and connectivity of burrowing owl colonies in the permit area so that the potential for conservation success is high. The conservation strategy includes the Habitat Plan permit area as well as an expanded study area that targets the North San Jose/Baylands region. The Project site is located within this area. The EIR incorrectly states that, "The Project site is located in the South San José Region, which does not play a prominent role in the conservation strategy within the expanded study area for burrowing owls, as outlined in the HCP/NCCP (City Place DEIR, 3.8-13)." According to the Habitat Plan, the Project site is located in a high priority conservation zone, with high potential to increase the burrowing owl population (See Attachment 1).

The Project site is located within occupied nesting habitat for the western burrowing owl. The Plan defines occupied nesting habitat as breeding sites and associated essential foraging habitat within 0.5 mile of nest sites. The project is located within 0.4 miles to the north and 1 mile to the southwest of known occurrences and is part of the remaining burrowing owl breeding and foraging areas along Highway 237. The proposed Project site is critical to the survival of the local population and loss of these five parcels is a significant impact to western burrowing owl long-term survivability in Santa Clara County. The EIR does not currently include mitigation measures to offset the Project impacts.

In addition, the EIR fails to acknowledge that a portion of the Project site was recommended by the City Council to serve as a burrowing owl mitigation site. On page 3.8-6, the EIR states:

*In 2000, City Council considered taking additional steps related to burrowing owl conservation but never took any final actions. On May 2, 2000, the City Council gave the City Manager the direction to look into potentially developing and maintaining "44.5 acres of burrowing owl habitat in some combination on the following three sites: the closed Lafayette landfill adjacent to the Santa Clara P.A.L. Track, two of the four slopes of the relocated golf holes on the Project site, and at the San José/Santa Clara Water Pollution Control Plant." No subsequent report was ever made to City Council on the potential for creating such habitat, and City Council did not take up the issue again after 2000. As the agenda report at the May 2, 2000, meeting explained, 6 the Mitigation Agreement required the City to acquire the 58.5 acres in Byron, but designating an additional 44.5 acres was a voluntary step, which the City ultimately did not undertake.*

However, May 2, 2000 City Council meeting notes reveal that the additional 44.5 acres was not merely a "voluntary step," but a "Staff recommendation" for the Council (See Attachment 2). The Staff recommended that the Council "*seek development and maintenance of 44.6 acres of burrowing habitat in some combination on the follow three sites—the closed Lafayette landfill adjacent to the PAL/BMX Track, two of the four slopes of the relocated golf holes on the Project site, and at the San José/Santa Clara Water Pollution Control Plant.*" These three sites are located on the current proposed Project site. The EIR fails to adequately acknowledge that the Project site was ever recommended to be a burrowing owl mitigation site.

The current EIR fails to adequately mitigate for impacts to burrowing owl habitat, as specified in the Habitat Plan Burrowing Owl Conservation strategy. The Habitat Agency recommends that the Project should be amended to include mitigation measures for impacts to burrowing owl, which can be achieved by providing conservation lands. The Habitat Agency is available to partner with the City of Santa Clara to seek out and acquire suitable lands. If the City does not wish to acquire conservation lands, the Project may opt to pay the burrowing owl fee to support burrowing owl conservation efforts.

If you have any questions, please feel free to contact me at (408) 779-7265 or edmund.sullivan@scv-habitatagency.org.

Sincerely,

Edmund Sullivan,

Executive Officer

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Santa Clara Valley
Audubon Society

November 23rd, 2015 *via email*

Debby Fernandez, Associate Planner
City of Santa Clara Planning Division
dfernandez@santaclaraca.gov

Re: City Place Santa Clara Draft Environmental Impact Report
SCH#2014072078, CEQ2014-01180 and PLN2014-10440

Dear Ms. Fernandez,

The Santa Clara Valley Audubon Society (SCVAS) appreciates the opportunity to comment on the Draft Environmental Impact Report (DEIR) for the proposed City Place Project in the City of Santa Clara. SCVAS was founded in 1926 and with over 3,000 members in Santa Clara County is one of the largest Audubon chapters in California. Our Mission is to preserve, to enjoy, to restore and to foster public awareness of native birds and their ecosystems, mainly in Santa Clara County. SCVAS members share a passion for the protection of birds and their habitats, and are especially concerned with the declining population of burrowing owls and with increasing risks to migratory birds in our region.

The proposed Project would convert 240 acres of what is currently recreational open space to a high-density mixed-use development, with over 9 million square feet of combined office, retail, hotel, entertainment and residential uses, and additional parking facilities. As recognized in the DEIR, the potential impacts of the Project on land use, traffic, air quality, and biological resources are significant and unavoidable.

We maintain that the document as written is legally flawed in its conclusion regarding impacts to burrowing owls and land use compatibility and thus must be redrafted and recirculated. In addition, we believe that the proposed mitigation of potential bird collisions with windows and glass surfaces is insufficient. Impacts of loss of open space and recreation, and loss of over a thousand trees, should also be deemed a significant impact and adequately assessed and mitigated.

**1. Impacts to Burrowing Owls**

**The Environmental Impact Report Should Find that Impacts to Burrowing Owl Habitat are Significant, Requiring Mitigation**

The relevant threshold of significance here is found at page 3.8-12 and states, in part, "Have a substantial adverse effect, **either directly or through habitat modifications**, on any species

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identified as a candidate, sensitive, or special-status species in local or regional plans, policies, or regulations or by DFW or FWS." [Emphasis added] This threshold is also reflected in the City's General Plan goal number 5.10.1-G1, calling for, "the protection of fish, wildlife, and their habitats, including rare and endangered species." Page 3.8-5.

The DEIR erroneously finds that impacts to burrowing owl habitats are less than significant. The EIR acknowledges that there are approximately 50 acres of ruderal lands and 50 acres of annual grasslands on the site. These are the habitats most commonly used by burrowing owls locally. The irrigated turf on the site, while not currently used for nesting, can and has in the past provided important foraging habitat for owls. Furthermore, burrowing owls nest on the Shoreline golf course. Burrowing owls have historically nested on the Santa Clara Golf Course with the golf course supporting six nesting pairs of burrowing owls in 1999. There is no reason that owls could not return. Thus, the vast majority of the site provides foraging and potential nesting habitat. This habitat is similar in quality to many of the semi-degraded lands occupied by owls in the South Bay, with the best comparison being especially at Shoreline Park.

The Project site's proximity to other owl habitats in the region should also weigh in favor of finding this impact to be significant. As Figure 3.8-3 shows, owls have occurred in several nearby areas in addition to the Project site itself. Owl colonies persist just to the north in the Alviso area at the Regional Wastewater Facility as well as to the west at Moffett Field and Sunnyvale Baylands Park. Recently, a pair of burrowing owls nested and raised chicks near the Santa Clara power station. The proposed Project site is critical to the survival of the local population and loss of these five parcels is a significant impact to western burrowing owl long-term survivability in Santa Clara County.

When chicks fledge in these other areas, they will require habitats to disperse to, and this Project site is one of the best available to them. Owls have colonized the Project site many times in the past, and the mere fact that owls have not been seen here in surveys for the Project does not alter the site's suitability or its historic use. It is not uncommon for owls not to be recorded regularly at a site and then to suddenly occur on that site, again due largely to dispersal.

The Santa Clara Valley Habitat Conservation Plan / Natural Community Conservation Plan (VHP) for the region identifies open lands - including closed landfills and golf courses - along and near Highway 237 as essential for the stability and/or recovery of the species in the region. While Santa Clara is not a partner agency in the VHP, the VHP nonetheless represents the best available science on owls in the region. The Project EIR should analyze whether the loss of these lands due to Project development would undermine the goals set by the VHP and what it would take to mitigate for that loss, utilizing the science based approach of the VHP.

Finally, the fact that suitable owl habitat is so rare regionally argues for the significance of this site. As is well known, loss of habitat is the most important factor in the decline of burrowing owls in the South Bay. Our region had approximately 250 breeding pairs in the 1980's, 150 breeding pairs in the 1990's (Desante and Ruhlen 1995; Desante et al. 1997), and currently has fewer than 30 breeding pairs (Santa Clara Valley Audubon count, 2015). With numbers so

small, losing any sizable and suitable habitat to development ought to be considered a significant impact.

This position is supported by August 28, 2015 letters from Scott Wilson of the California Department of Fish and Wildlife (CDFW, attached). In that, CDFW reviewed the history of declines in owl habitats and owl numbers regionally, concluding,

> "These areas [along Highway 237] are critical to the sustainability of the local burrowing owl population and any loss of usable open space in this area should be considered a significant impact in any CEQA evaluation."

The CDFW letters specifically note "a pair of owls" breeding near Levi Stadium over the past two years, owls seen foraging on the golf course by owl biologists, owls nesting on the slope of Tasman Drive in front of the golf course parking lot, owls nesting under the sidewalk along Centennial Drive, and owls nesting on a berm near the PG&E substation. The CDFW letters conclude,

> "These records and the proximity of other nesting occurrences establish the site as active burrowing owl habitat and this should be used as the CEQA baseline in the draft EIR."

This position is also supported by the Santa Clara Valley Habitat Agency, which oversees the Santa Clara Valley Habitat Plan (VHP). In their letter dated November 19, 2015, the Habitat Agency begins by stating:

> "…the Santa Clara Valley Habitat Agency wishes to bring to the Lead Agency's (the City of Santa Clara) attention to Project impacts that could detrimentally effect the Santa Clara Valley Habitat Agency's ability to implement several of the Plan's conservation goals and objectives. In particular, direct impacts to Western burrowing owl breeding and foraging habitat." (letter of Edmund Sullivan, page 1, attached).

The letter goes on to state:

> "The Project site is located in a high priority conservation zone, with high potential to increase the burrowing owl population…. The proposed Project site is critical to the survival of the local population and loss of these five parcels is a significant impact to Western burrowing owl long-term survivability in Santa Clara County" (ibid, page 2)

Finally, the Habitat Agency offers to work with the City of Santa Clara and the Project developers to find suitable, feasible mitigation for the potential loss of owl habitat on this site. This argues that mitigation is indeed feasible under CEQA.

It is possible that a modified version of the Project may be able to go forward while conserving areas vital to the survival of burrowing owls and their habitat regionally. We urge the City to find and preserve suitable acreage of owl habitat in order to mitigate lost habitat at a 1:1 ratio. These lands would preferably be on the proposed Project site or in close proximity to existing, local burrowing owl areas such as at the Regional Wastewater Facility. If suitable local lands are not available, then mitigation through the Santa Clara Valley Habitat Agency should be considered even though Santa Clara is not a partner agency with the VHP. An analysis of

potential mitigation measures must be included in the EIR in order for CEQA legal standards to be met.

**The Draft Environmental Impact Report Wrongly States Previous Council Action(s) Relating to Burrowing Owls and Thus a Significant Land Use Impact Exists**

The Santa Clara Valley Audubon Society agrees with the DEIR comment letter authored by Jan Hintermeister regarding Council and Burrowing Owl Habitat Committee actions taken to address burrowing owl mitigation and protection in Santa Clara in the year 2000 as the result of discussions surrounding the approval of the North Bayshore Redevelopment Area project.

The DEIR is therefore inaccurate in stating, at page 3.8-6,

> "In 2000, City Council considered taking additional steps related to burrowing owl conservation but never took any final actions. On May 2, 2000, the City Council gave the City Manager the direction to look into potentially developing and maintaining "44.5 acres of burrowing owl habitat in some combination on the following three sites: the closed Lafayette landfill adjacent to the Santa Clara P.A.L. Track, two of the four slopes of the relocated golf holes on the Project site, and at the San José/Santa Clara Water Pollution Control Plant."

The minutes of that meeting are far clearer than presented in the DEIR. The minutes of the May 2, 2000 City Council meeting clearly state:

> "Also as a Special Order of Business, the Council proceeded with the review of the recommendations contained in the Final Report of the Burrowing Owl Habitat Committee regarding burrowing owl habitats within the City."

It then goes on to state:

> "**MOTION** was made by McLemore, seconded and unanimously carried, that the Council **approve** the following recommendations: Staff Recommendations: 1) Direct the City Manager to seek the development and maintenance of 44.5 acres of burrowing owl habitat in some combination on the following three sites: the closed Lafayette landfill adjacent to the PAL/BMX Track, two of the four slopes of the relocated golf holes and at the San Jose/Santa Clara Water Pollution Control Plant; 2) Direct the City Manager to work with the City of San Jose in the identification and development of burrowing owl habitat land at the San Jose/Santa Clara Water Pollution Control Plant; 3) Direct the City Manager to adopt and implement Best Management Practices for the long-term maintenance of City-owned designated habitat; … 6) Direct the City Manager to use appropriated Redevelopment Agency funds (939-9011-8030-9048), not to exceed $90,000, for the development of burrowing owl habitat on the voluntary 44.5 acres and added Committee recommendations: 7) Direct the City Manager to perform an annual survey of burrowing owls in the general area of the golf course and adjacent City-owned properties; …

This list is not exhaustive. There are a total of 9 items approved unanimously by the City Council at that time, with direction to staff for each item. These items reflect extensive work by

the Burrowing Owl Habitat Committee, and essentially the same recommendations can be found in minutes of that Committee from March and April of 2000.

Thus, when the DEIR states, at page 3.8-6, that City staff were to look into "**potentially** developing and maintaining 44.5 acres of burrowing owl habitat," [emphasis added], this statement is simply incorrect. Staff was to carry out the City Council directives—not to "potentially" carry them out.

This creates a significant land use impact. The standard for this impact can be found in the DEIR at page 3.1-9:

> "[Would the project] conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to, a general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect." (DEIR 3.1-9)

Another threshold asks, "[Would the Project] Conflict with any applicable habitat conservation plan or natural community conservation plan."

The Project as proposed conflicts with both the above provisions. In 2000, the Council adopted a plan for creating and maintaining owl habitat in the City. The fact that City staff never implemented aspects of that plan is besides the point. The point is that the motion was made and carried unanimously and has never been undone. Thus, the Project conflicts. The Project also conflicts with the goals of the local Valley Habitat Plan.

The Draft EIR should analyze each of the directives approved by the City Council in May of 2000 and discuss which of those have been performed and which have not been performed. Where a directive has not been performed, the DEIR should discuss what impact that lack of performance may have had on the potential viability of owls and owl habitats in Santa Clara, with specific attention given to the properties proposed to be developed by the Project.

We assert that the Project as proposed conflicts with the previous Council actions from the year 2000. Those actions were adopted for the purpose of avoiding or mitigating impact to burrowing owls and their habitats in the City. In addition, the proposed Project is in conflict with the long-term stabilization and recovery goals of the local VHP. Both of these items should be analyzed in the EIR and appropriate mitigation measures identified.

**In conclusion, the Santa Clara Valley Audubon Society asserts that the Project DEIR is legally flawed in not having found the loss of burrowing owl habitat on the Project site to be a significant impact under CEQA and for not finding a conflict between the Project as proposed and previous City Council actions dating to 2000 and the Valley Habitat Conservation Plan. We therefore recommend that the City correct this error and recirculate the document, this time looking at ways to mitigate that impact. We believe that mitigation in this case is available and feasible. Finally, it appears that the City staff has never fulfilled the Council commitments from the year 2000 to find and maintain an**

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**additional approximately 45 acres of owl habitat, and we urge the City to continue that pursuit.**

**2. Bird collision impacts on resident and migratory birds**

The DEIR recognizes the science that shows that bird strikes on glass surfaces are an important contributor to bird mortality, proposing that Mitigation Measure BIO-1.2 will help reduce bird mortality caused by the Project.

Several nearby cities, including San Jose, Sunnyvale, Mountain View (for the North Bayshore Precise Plan), Oakland and San Francisco have developed specific ordinances, guidelines or policies and programs for bird-safe building design. All of these are more protective than Mitigation Measure BIO-1.2. Indeed, it is acknowledged in the DEIR,

> "It is unknown whether Mitigation Measure BIO-1.2 would be enough to mitigate impacts related to bird collisions."

Mitigation Measure BIO-1.2 defers the preparation and implementation of specific standards for minimizing bird collisions to "the developer or the contractor". The DEIR provides no success criteria or performance standards, and the most widely relevant mitigation measures (minimizing reflectivity and providing visual cues in all glass surfaces) are not even mentioned.

The DEIR proposes to reduce light pollution "to the extent consistent with the normal and expected operations of the office, hotel, retail, food/beverage, entertainment and residential uses of the Project", which in effect avoids mitigating the impact of light pollution impacts of said "*normal and expected operations* ". Impacts of light pollution due to "normal and expected operations" on birds and the community should thus be adequately mitigated.

Please study the Sunnyvale and San Jose measures (attached) and develop additional mitigation measures that avoid reflective glass and include providing visual cues for all glass surfaces. The San Francisco and Oakland ordinances and the Sunnyvale guidelines include specific measures for sites built close to water, and San Jose is looking to incorporate Bird Friendly Buildings requirements into a stream corridor ordinance. These measures are relevant to this Project because the Project is located near a retention pond which is used by birds, and also along a long stretch of the Guadalupe River, a major water course in Santa Clara County that is heavily used by birds in all seasons.

Because of the stated uncertainty of the effectiveness of Mitigation Measure BIO-1.2, it is important that monitoring be required to determine the actual impact of the Project on bird mortality. There may potentially be simple physical or operational changes that could reduce mortality, but that can only be assessed if a monitoring program is in place.

BIO-1.2 should include a requirement that the City submit the proposed standards for public review and also reach out to organizations such as the Santa Clara Valley Audubon Society for comment and feedback on the standards. Santa Clara Valley Audubon Society should be included because Audubon has experience with bird-safe design and because staff from our local

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Audubon chapter has previously worked with Sunnyvale and San Jose in development of their bird-safe design standards.

**3. Impacts of loss of Trees**

The DEIR states that the Project will require removal of 1405 trees. As mitigation, the DEIR recommends:

*IM-BIO-1: Replace Removed Trees.* The Project Developer shall replace all trees removed as part of the intersection improvements in accordance with the tree preservation policies or ordinances of the jurisdiction in which the improvements are constructed.

One of the relevant City policies is Policy 5.3.1-P10:

*Policy 5.3.1-P10:* Provide opportunities for increased landscaping and trees in the community, including requirements for new development to provide street trees and a minimum 2:1 on- or off-site replacement for trees removed as part of the proposal to help increase the urban forest and minimize the heat island effect.

Based on this policy, the DEIR recommends mitigation for the 1405 removed trees with replacement by 2810 trees. The DEIR does not describe how the replacement trees actually mitigate for the removed trees or where 2810 trees may be planted – it is not clear that Santa Clara fully developed urban landscape can sustain this number of new trees. Success criteria should be provided.

Removal of over a thousand trees should also be analyzed for visual aesthetic impacts, as well as impacts to climate change in terms of loss of sequestered carbon.

Furthermore, all trees are not equal. How can the community be assured that the replacement trees will perform the same function as the removed trees? For example, will the replacement trees provide the same habitat value for birds? Will replacement trees have similar visual impact to those being removed? Will replacement trees provide similar carbon sequestration functions as those being removed? These aspects of tree removal/replacement should be addressed by the EIR. If these issues are not addressed, it is not possible to assess whether the impact after mitigation is actually less than significant.

**4. Loss of Open Space and Recreation**

The loss of open space and recreation in a natural setting should be considered a significant impact. The EIR states, "*The Santa Clara Golf & Tennis Club and BMX track are not included in the City's park and recreation facilities inventory and are not considered in the City's parkland per residents ratio*". But the area is used for recreation, the population of Santa Clara and the region is increasing, and the City currently has very low parkland per resident ratio.

The EIR recognizes, *"There is a need for an additional 97 to 115 acres of new parkland and approximately 29 to 30 acres of active sports facilities in the City in order to achieve the City standard." Page: 3.13-10*, and *"According to the City's General Plan, opportunities for additional regional open space within the City are limited because of its current build-out condition." p 3.13-13.*

The DEIR states that approximately 74.1 acres of the Project site would be devoted to "usable public open space" and approximately 5.3 acres would be "private open space." This public open space would include "approximately 31.9 acres of slope/habitat areas, 26.1 acres of park areas, 3.9 acres of pedestrian concourse, 3.4 acres of courtyards, and 8.8 acres at the Retention Basin." Further analysis is needed to clarify what type of recreation will be provided on the slopes and in the retention basin, and what species of animals and plants would benefit from the proposed habitat.

We maintain that the proposed park components that are included in the project are insufficient to satisfy the existing need for open space and recreation, which is expected to increase due to the sheer size of the project, with employees and residents all seeking open space to relax and recreate in. Residents of Santa Clara value parkland, trails and natural areas, as evident from the priorities selected by residents in a 2014 citywide survey (attached), and deserve the preservation of the site as open space.

The EIR should analyze and determine the *"actual parkland and facilities required"* and not defer this analysis to be *"determined during the approval process."* Furthermore, the City should not allow payment of in lieu fees because there is no land that can be available in the City of Santa Clara for the creation of new parks. We ask that the EIR analyze a new alternative that designates a minimum of 115 acres to public parks and open space, 30 acres to active recreation, and 45 acres to burrowing owl habitat.

**5. The Redrafted EIR Should Include a Nature-Oriented Alternative**

The DEIR should include an alternative that leaves the majority of the land in natural habitats, with restoration where possible. The area could be turned into a park, as the city falls well below the regional average for park acreage. Funds could come from a variety of sources, including the local VHP, the Santa Clara Valley Water District for restoration along the creek frontages, and the Open Space Authority. Please include such a scenario in the next version of the EIR.

We thank you for the opportunity to provide comments on the DEIR. If you have questions, please contact Shani Kleinhaus at (650) 868-2114.

Thank you,

Shani Kleinhaus

Shani Kleinhaus, Ph.D.,
Environmental Advocate

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SANTA CLARA VALLEY
HABITAT AGENCY

November 19, 2015

Ms. Debby Fernandez
Associate Planner
City of Santa Clara Planning Division
1500 Warburton Avenue
Santa Clara, CA 95050

**Subject: City Place Project Draft Environmental Impact Report: Impacts to Western Burrowing Owl**

Dear Ms Fernandez:

I am writing to express my concern about impacts to western burrowing owls in response to the City Place Santa Clara Project (Project) draft Environmental Impact Report (EIR). The Santa Clara Valley Habitat Agency (Habitat Agency), as a responsible public agency tasked with conserving natural communities and the recovery of state and federal special status species covered by the Santa Clara Valley Habitat Plan (Plan), wishes to bring to the Lead Agency's (City of Santa Clara) attention to Project impacts that could detrimentally effect the Santa Clara Valley Habitat Agency's ability to implement several of the Plan's conservation goals and objectives. In particular, direct impacts to Western burrowing owl breeding and foraging habitat.

Nesting burrowing owls in the greater San Francisco Bay area and the South Bay area in particular, are a dwindling resource. In the early 1990s there were an estimated 150–170 breeding pairs in the San Francisco Bay area (DeSante and Ruhlen 1995; DeSante et al. 1997). It was estimated that these numbers represented a 53% decline from the previous census period of 1986–1990 (DeSante et al. 1997) and more recent numbers indicate that, if anything, the downward trend is increasing. In those estimates it was assumed that 75% of the San Francisco Bay area burrowing owl population occurred in Santa Clara County and nearly all of those owls were congregated around the southern edge of the San Francisco Bay (DeSante et al. 1997). Surveys in the early 1990s revealed that about a third (43–47 pairs) of Santa Clara County breeding pairs occurred inside what is now the Santa Clara Valley Habitat Plan study area (City of San José 2000).

The Plan proposes to undertake a suite of measures aimed at reversing the declining trend of the burrowing owl population in Santa Clara County. The conservation goal of the Plan, as implemented by these measures, is to establish a burrowing owl population in the Santa Clara County that is first stable, then increasing over time, while accounting for normal fluctuations in population levels. The general

535 Alkire Avenue, Suite 100, Morgan Hill, CA 95037-4728 • Tel: (408) 779-7261 • Fax: (408) 825-4866 • www.scv-habitatagency.org

approach will be to increase the numbers, distribution, and connectivity of burrowing owl colonies in the permit area so that the potential for conservation success is high. The conservation strategy includes the Habitat Plan permit area as well as an expanded study area that targets the North San Jose/Baylands region. The Project site is located within this area. The EIR incorrectly states that, "The Project site is located in the South San José Region, which does not play a prominent role in the conservation strategy within the expanded study area for burrowing owls, as outlined in the HCP/NCCP (City Place DEIR, 3.8-13)." According to the Habitat Plan, the Project site is located in a high priority conservation zone, with high potential to increase the burrowing owl population (See Attachment 1).

The Project site is located within occupied nesting habitat for the western burrowing owl. The Plan defines occupied nesting habitat as breeding sites and associated essential foraging habitat within 0.5 mile of nest sites. The project is located within 0.4 miles to the north and 1 mile to the southwest of known occurrences and is part of the remaining burrowing owl breeding and foraging areas along Highway 237. The proposed Project site is critical to the survival of the local population and loss of these five parcels is a significant impact to western burrowing owl long-term survivability in Santa Clara County. The EIR does not currently include mitigation measures to offset the Project impacts.

In addition, the EIR fails to acknowledge that a portion of the Project site was recommended by the City Council to serve as a burrowing owl mitigation site. On page 3.8-6, the EIR states:

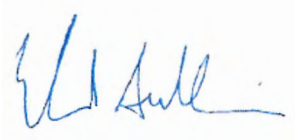
*In 2000, City Council considered taking additional steps related to burrowing owl conservation but never took any final actions. On May 2, 2000, the City Council gave the City Manager the direction to look into potentially developing and maintaining "44.5 acres of burrowing owl habitat in some combination on the following three sites: the closed Lafayette landfill adjacent to the Santa Clara P.A.L. Track, two of the four slopes of the relocated golf holes on the Project site, and at the San José/Santa Clara Water Pollution Control Plant." No subsequent report was ever made to City Council on the potential for creating such habitat, and City Council did not take up the issue again after 2000. As the agenda report at the May 2, 2000, meeting explained, 6 the Mitigation Agreement required the City to acquire the 58.5 acres in Byron, but designating an additional 44.5 acres was a voluntary step, which the City ultimately did not undertake.*

However, May 2, 2000 City Council meeting notes reveal that the additional 44.5 acres was not merely a "voluntary step," but a "Staff recommendation" for the Council (See Attachment 2). The Staff recommended that the Council "*seek development and maintenance of 44.6 acres of burrowing habitat in some combination on the follow three sites—the closed Lafayette landfill adjacent to the PAL/BMX Track, two of the four slopes of the relocated golf holes on the Project site, and at the San José/Santa Clara Water Pollution Control Plant.*" These three sites are located on the current proposed Project site. The EIR fails to adequately acknowledge that the Project site was ever recommended to be a burrowing owl mitigation site.

The current EIR fails to adequately mitigate for impacts to burrowing owl habitat, as specified in the Habitat Plan Burrowing Owl Conservation strategy. The Habitat Agency recommends that the Project should be amended to include mitigation measures for impacts to burrowing owl, which can be achieved by providing conservation lands. The Habitat Agency is available to partner with the City of Santa Clara to seek out and acquire suitable lands. If the City does not wish to acquire conservation lands, the Project may opt to pay the burrowing owl fee to support burrowing owl conservation efforts.

If you have any questions, please feel free to contact me at (408) 779-7265 or edmund.sullivan@scv-habitatagency.org.

Sincerely,



Edmund Sullivan,

Executive Officer

# City of San José Bird-Friendly Building Design

Designing a bird-friendly building does not have to add to the cost of construction. Retrofitting an existing building can often be done by simply targeting problem areas. Consider bird-friendly best practices early on in project development to meet your project budget and demonstrate environmental leadership.

## THE IMPORTANCE OF BIRDS

Birds provide numerous benefits to our economy, environment, and well-being including:

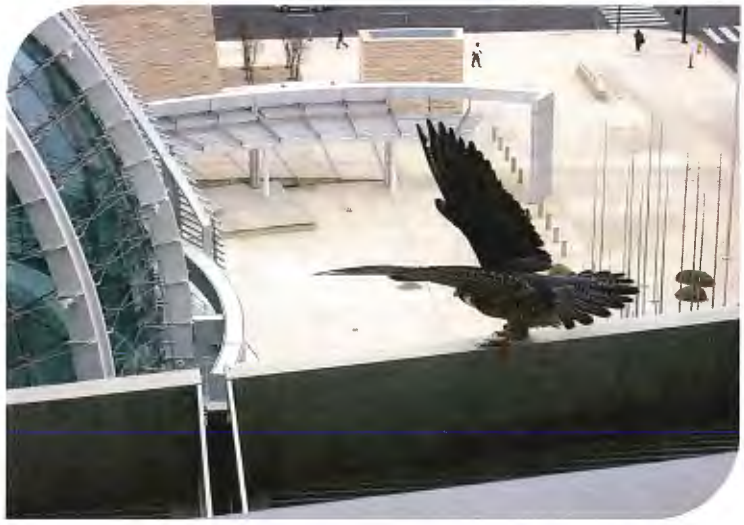
- over $13 billion in tax revenues
- rodent and harmful insect control
- human enjoyment

## BIRDS AND BUILDINGS

Birds can accidentally collide with buildings, causing a decline in the bird population.

**Common Causes of Collisions:**

- Reflective/mirrored glass that birds perceive as actual landscaping, trees, the sky, or another bird
- Transparent glass which shows trees or sky
- Exterior spotlights which can cause birds to collide
- Interior lighting at night that can attract birds



Peregrine Falcon at San José City Hall

## BIRD-FRIENDLY BUILDINGS

The following best practices can reduce bird collisions with buildings and are particularly important for buildings near bird habitat, such as open spaces and water:

- Reduce mirrors and large areas of reflective glass
- Avoid transparent glass skyways, walkways, or entryways, free-standing glass walls and transparent building corners
- Avoid funneling open space towards a building façade
- Strategically place landscaping to reduce reflection and views of foliage inside or through glass
- Eliminate up-lighting and spotlights
- Turn non-emergency lighting off at night, especially during bird migration season (February - May and August - November)

The City applies the above bird-friendly principles to projects north of Highway 237 per policy ER-7.1 in Chapter 3 of the Envision San José 2040 General Plan. The City encourages projects to utilize the checklist on the reverse side in order to incorporate bird-friendly building design.

## RESOURCES:

- The American Bird Conservancy's Bird-friendly Building Design guidelines: www.abcbirds.org/newsandreports/BirdFriendlyBuildingDesign.pdf
- Report Injured/Dead Birds: Contact the Wildlife Center of Silicon Valley at (408) 929-9453 or www.wcsv.org

**Planning, Building and Code Enforcement**
www.sanjoseca.gov/planning| Main: (408) 535-3555

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

# City of San José
# Bird-Friendly Building Design Checklist

- ☐ Avoid transparent glass skyways, walkways, or entryways, free-standing glass walls and transparent building corners
- ☐ Ensure that at least 90% of the exposed façade material from ground level to 40 feet and 60% of the exposed façade material above 40 feet is not composed of transparent or reflective glass

  If the above cannot be met, implement one of the following measures:

  - ☐ Secondary facades, netting, screens, shutters, or exterior shades
  - ☐ Patterned glass that contains UV-reflective or contrasting patterns that are visible to birds
  - ☐ Patterned glass designed in accordance with the "2 x4 rule", which restricts glass areas to less than 2' high or less than 4' wide
- ☐ Reduce transparent glass at the top of buildings, especially when incorporating a green roof into the design
- ☐ Avoid the use of mirrored glass facades
- ☐ Avoid the funneling of open space towards a building façade
- ☐ Locate water features and other bird habitat away from building exteriors to reduce reflection
- ☐ Reduce or eliminate the visibility of landscaped areas behind glass
- ☐ Reduce or eliminate up-lighting and spotlights
- ☐ Ensure all site lighting uses shielded fixtures to cast light down onto the area to be illuminated
- ☐ Turn non-emergency lighting off at night, especially during bird migration season (February - May and August - November)

SANTA CLARA UNIFIED SCHOOL DISTRICT

1889 Lawrence Road
Santa Clara, CA
95051
408-423-2000

Stanley Rose III, Ed.D.
Superintendent

RECEIVED
NOV 23 2015
PLANNING DIVISION

VIA EMAIL

November 18, 2015

Debby Fernandez
Associate Planner
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
dfernandez@santaclaraca.gov

Re: City Place Santa Clara; CEQ2014-01180; SCH2014072078

Dear Ms. Fernandez,

The Santa Clara Unified School District (SCUSD) appreciates the opportunity to respond to the California Environmental Quality Act (CEQA) Environmental Impact Report (EIR) for the proposed development referred to as City Place Santa Clara. The project has impacts to schools and the environment the EIR does not adequately consider. The City Place Santa Clara Project will increase the population of the City of Santa Clara by between 480 and 3,270 people, according to the EIR, Table 2-9 Proposed On-site Residents and Employees-Scheme A or Scheme B. The EIR also estimates the project will increase the number of employees on the site by between 24,760 and 28,720 employees on the site at build out. The unmitigated impacts of the increased population, traffic, and public service needs on the surrounding community will be immense.

The increase in vehicular traffic on all roads and associated traffic safety impacts were inadequately studied in the EIR. Katherine Hughes Elementary School is a few blocks southeast of the project located at 4949 Calle De Escuela. The only intersection used to access the site is Lafayette Street at Calle De Primavera. The Traffic Study for the EIR was mostly conducted on August 12, 2014 prior to the start of the school year and no analysis was ever completed at this intersection. Therefore, the traffic and safety impacts of the increase in vehicle trips associated with the City Place Santa Clara Development on pedestrians, bikers, and vehicles accessing the school at the beginning and end of the school day has not been studied or mitigated. The EIR did not accurately capture the existing vehicle trips surrounding the development.

The residential portion of the project consists of multi-family housing. The EIR does not specify if the units will be at market rate, affordable or below market rate. The City Place Santa Clara, EIR Section 3.13, Impact PS-3 Impacts on School Facilities states the Project will generate 141 elementary school students, 53 middle school students, and 65 high school students for a total of 259 students based on general District wide generation rates (.104 elementary school, .039 middle school, and .048 high school students per household). The student generation rate (SGR) for market rate multi-family housing is based on current household characteristics which are likely to change in the future. Therefore, the current generation rate is significantly lower than a likely future rate. The rate will increase in the future as the development ages, which would substantially change the number of students attending each of the

Board
of Education
...
Jim Canova
Albert Gonzalez
Jodi Muirhead
Andrew Ratermann
Michele Ryan Ph.D.
Noelani Sallings
Christopher Stampolis

schools. Further, if a portion of the units or all of the units are affordable or below market rate, the student generation number increases dramatically to .65 students per household. The difference between the two student generation rates for 1,360 units could be 259 students, per the EIR, and 884 (.65 SGR) students. The District does not have capacity for the 259 students without additional schools being constructed and the Development has a potential to generate over 800 students.

The City Place Santa Clara Project is located within the attendance boundaries of George Mayne Elementary, Don Callejon Middle, and Wilcox High Schools. A large student enrollment increase would cause the need for at least another elementary school. George Mayne Elementary is at capacity and due to the FEMA Flood Zones, additional portables cannot be placed on the campus for expansion. Any additional students in the George Mayne attendance boundary will cause overcrowding in grades four and five. Kindergarten through third grade class sizes are capped at 24 students to 1 teacher by the State of California. If additional students in kindergarten through third grade and/ or other grades enroll in George Mayne Elementary, the students will likely be offloaded to another site. However, other elementary schools are also impacted. Currently, the Santa Clara Unified School District is planning new schools on the Agnews property in North San Jose to allow more capacity at the existing schools. Due to the existing large enrollment numbers at other nearby schools, these new schools will likely open with already large enrollments.

The SCUSD does not have plans for new school sites in this area, since major development was not anticipated until after 2035, per the City of Santa Clara 2010-2035 General Plan. Land suitable for school construction is very difficult to find in Santa Clara. The potential cost to purchase land and clean up the soil through the Department of Toxic Substances Control and other State oversight agencies will be very expensive and time consuming. Further, this EIR has not studied the air quality, traffic and other environmental impacts of transporting students off site and constructing additional facilities to accommodate these additional students and is therefore inadequate.

The EIR also inadequately addresses the project's impacts to field facilities. The City Place Santa Clara Project is developing land currently being used and designated as Open Space and Parkland. Existing uses of the land is a public golf course (155 acres), seven lighted tennis courts and a seven acre BMX track. The Project is only required to satisfy park requirements for the residential portion of the project, which will reduce the Open Space from approximately 165 acres to 8.27 acres. The residents moving into the development will increase the need for additional field space, which will impact school sites, within the City of Santa Clara. The open space and fields at the schools and parks within Santa Clara are already used to capacity and residents living in multifamily developments without yards will need adequate field space and recreational facilities. The EIR states the impact to neighborhood parks can be reduced from Potentially Significant to Less than Significant if the project applicant pays the park in-lieu fees per City Code. Payment of these fees is inadequate mitigation because it does not identify land for the development of new additional school field space and it is difficult for School Districts to purchase land for Public Use. The developer should incorporate or dedicate more land for schools and school fields into the development project or nearby.

The Statutory Developer Fee amount is designed to only cover one third of the cost for full mitigation and does not adequately cover the land purchase, design and construction cost incurred by the SCUSD for new or expanded school facilities. The

Santa Clara Unified School District is requesting the developers mitigate their impact on the School District by working with the SCUSD to locate and purchase alternative land, construct facilities or find alternate solutions to accommodate the additional students and support services needed by the families attending the schools.

Please contact Michal Healy, mhealy@scusd.net with any questions.

Sincerely,

Mark Allgire, CPA, Assistant Superintendent, Business Services

MA:mh

5750 Almaden Expressway, San Jose, CA 95118-3614 | (408) 265-2600 | www.valleywater.org

Santa Clara Valley Water District

File: 33212
San Tomas Aquino Creek

November 23, 2015

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NOV 23 2015
PLANNING DIVISION

Ms. Debby Fernandez
Associate Planner
City of Santa Clara
Planning Division
1500 Warburton Avenue
City of Santa Clara, CA 95050

Subject: City Place Santa Clara Draft Environmental Impact Report

Dear Ms Fernandez:

Thank you for the opportunity to review and comment on the subject document. The City Place project considers the redevelopment of about 240 acres roughly bounded by Highway 237, Guadalupe River, Tasman Drive and San Tomas Aquino Creek.

The Santa Clara Valley Water District is a special district with jurisdiction throughout Santa Clara County and is the county's primary water resources agency. The District acts as the county's groundwater management agency, principal water resources manager, flood protection agency and is the steward for its watersheds, streams and creeks, and underground aquifers. We offer the following comments for consideration.

Page 1-3: CEQA Process - Our records do not show that the Notice of Preparation for this project was provided to the District for review. Please ensure that the District is included in referral protocol.

Page 2-36: The project includes a new vehicular bridge crossing over San Tomas Aquino Creek on District property. Approval of this crossing is a discretionary action by the District, therefore, the Santa Clara Valley Water District should be included as a responsible agency.

Page 2-17: The project proposes a bridge crossing of San Tomas Aquino Creek. The District, City staff and the developer have been in discussion relative to this bridge design, in particular relative to grades, the number of spans, cross connections for District maintenance access and trail continuation around or under the bridge. San Tomas Aquino Creek is subject to tidal influence in this area and sediment accumulation. Sediment removal is a significant maintenance activity for the District on a frequent and costly basis. This bridge would add another crossing on the creek under which sediment removal cannot be accomplished using top of bank excavating equipment. The bridge increases the number of creek crossing in the reach between Great America Parkway and the southerly end of the Levi Stadium project to eight crossings Cumulative impacts of bridge crossings should be considered.

Page 2-36: Approval for the proposed bridge crossing of San Tomas Aquino Creek will be required from the Water District. Please include the Santa Clara Valley Water District as a responsible agency.

Hydrology and Water Quality

Page 3.10-9: Please note that the City of Santa Clara not the Santa Clara Valley Water District has jurisdiction over the conveyance of stormwater to the creeks.
Figure 3.10-3: The watershed boundary for San Tomas creek conflicts with District mapping of the watershed.

Page 3.10-17: FEMA is in the process of remapping the coastal floodplain. This information should be included in the environmental impact report because the 100 year floodplain would expand in that area if their modeling is adopted. It appears that most of the proposed changes would occur in adjacent off site areas. One good information source about this can be found here: http://www.r9map.org/Pages/ProjectDetailsPage.aspx?choLoco=43&choProj=467.

Page 3.10-18: On this page and several others within the DEIR, there is a statement that the District has not reported any flooding issues due to storm drain capacity in the area. This information is not within the purview of the District and should be sought from the City.

The area on the effective FEMA map zoned "AO" located immediately adjacent to and east of the new stadium is due to a lack of capacity of the storm drain system.

It should be noted that the existing 100 year peak flow capacity of San Tomas Aquino Creek is not the design flow for the creek. The ultimate 1% design flow is 9100 cfs. Because of an upstream restriction and spill the 1% peak flow is not conveyed within the channel. Future modifications, likely an increase in levee height or addition of a floodwall will be needed to contain the design flow.

Page 3.10-35: The document states that the project is located at the downstream end of both San Tomas Aquino Creek and Guadalupe River, which still have capacity for some additional flow. The basis for this conclusion is not substantiated and should not imply that increases in discharge, constriction of the channel or redirection of flow from another watershed can be accommodated.

Page 3.10-37: Impact WQ-7 states that the new bridge will be designed so as to facilitate passage of 100 year flows. The bridge design must also consider erosive action or redirection of flow during more frequent events. Impact WQ-8 does not discuss exposure of people or structures form levee failure.

Groundwater

Pages 3.14-9 & 10: The DEIR and WSA make numerous statements regarding the groundwater basin yield and safe yields. The following statement is appropriate: "*The allowable withdrawal or safe yield of groundwater by the City is dependent on a number of factors...*"

However, the following statement on page 3.14-10, may not be appropriate: "*The projected cumulative 2035 demand level would also be substantially below the basin's estimated 200,000 af./yr. safe yield. Although the current projected water supplies already cover the projected growth in the 2010 UWMP, the remaining available safe yield groundwater supplies coupled with the City's lower than projected current groundwater demands provide room for growth above and beyond 2035 projections.*" Please note that it is not appropriate to make conclusions regarding the safe and sustainable groundwater production volumes by the City based on these values. First, sustainable yields are subject to the hydrology, groundwater storage in a given year, and the specific geographic distribution of groundwater pumping in a localized area. Furthermore, some of the stated values are being reconsidered in the current analysis for the District's upcoming Sustainable Groundwater Management Plan.

Appendix 3.14
Water Supply Assessment

Page 5, Table 1b: This table shows in the absence of future SFPUC supplies the water supply loss is made up by groundwater: 23,048 AF, the highest historical pumping (Page 9, Figure 3). On Page 9, Figure 4, the hydrograph for Index Well 07S01E07R013 shows that groundwater elevations were below (exceeding) the subsidence threshold elevation. Even though the WSA indicates that the basin was not approaching overdraft, sustained pumping at levels which cause groundwater elevations to fall below the subsidence threshold, are of concern and increase the risk of subsidence resuming.

Page 10, Table 2: This table shows projected groundwater use by water retailers in the year 2035 (as shown in their 2010 UWMPs). The last column showing pumping of 114,955 AF seems to be in line with the 1993 to 2013 yearly water retailer combined average pumping of 117,700 AF. Please note, that while the total pumping is in the average range, the geographic distribution of pumping is an important consideration in terms of groundwater sustainability. The second to last column showing 166,400 AF is not even within the peak use over this period. This level of pumping (166,400 AF) is outside of normal pumping and may not be sustainable.

Page 11: The Water District is dedicated to ensuring a reliable supply of healthy, clean drinking water now and in the future. To do this, the quality and quantity of existing water supply sources, including groundwater, must be sustained and protected. Additionally, water conservation and recycled water use are increasingly important components of the County's water supply portfolio. Given the cumulative water demand to meet the needs of projected growth throughout northern Santa Clara County, as documented by ABAG and in each of the local jurisdictions' General Plans, measures should be incorporated to minimize water use. These could include provisions for recycled water, enhanced requirements for water saving devises within new structures, and enhanced limitations to landscaping.

Page 13: As stated, District staff agrees with the WSA that previous UWMP water demands are conservative; however, we caution the use of 2010 water use data as validation of that assumption. Water demand across the county declined significantly during the economic decline late last decade, and is not by itself proof that previous demands were overestimated. Prior to the current drought and with improved economic conditions early this decade, water use partially rebounded from the previous multiyear decline.

Page 16: District staff support and endorse the consideration of installation of dual *plumbing at the project site* for future connection to nonpotable water supplies such as recycled water, and the exclusive use of nonpotable water supplies for all outdoor irrigation purposes. If appropriate, we recommend that the City make this a project requirement. We also recommend using the requirements of the Water Efficient Landscape Ordinance (WELO) a design standard for the project.

Sincerely,

Sue A Tippets

Sue A. Tippets P.E. CFM
Engineering Manager
Community Projects Review Unit

cc: L. Lee, A. Rouhani, Liang Xu, E. Zedler, T. Hemmeter, C. Tulloch. H. Ashktorab, S. Tippets. U. Chatwani, File

CALIFORNIA
Water Boards

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIQUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

**San Francisco Bay Regional Water Quality Control Board**

November 23, 2015
CIWQS ID # 205075

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P.O. Box 3044
Sacramento, CA 95812-3044
State.Clearinghouse@opr.ca.gov

**Subject: City Place Santa Clara Project – Draft Environmental Impact Report (DEIR)**

Dear Ms. Fernandez:

Regional Water Quality Control Board (Water Board) staff has reviewed the portions of the Santa Clara City Place Draft Environmental Impact Report (DEIR) that fall within our regulatory purview. The Water Board is not a land use agency and we do not determine appropriate post-closure land uses over sites that we regulate, including municipal landfills. The Water Board's role in overseeing this Project is to ensure that water quality, human health, and the environment are protected during and after implementation of the Project. Our comments focus on aspects of the proposed Project that have the potential to adversely impact:

1) the containment of waste, landfill leachate, and landfill gases at the Santa Clara Landfill; and
2) the health and safety of future site occupants.

Over the past two years, Water Board staff has had the opportunity to review and comment on numerous Project risk assessment reports, site investigation plans, and design and development documents that preceded the DEIR, and through this collaboration, many of our initial concerns have been addressed to our satisfaction. As noted below, other concerns have not yet been adequately addressed.

**Water Board Staff Comments**

**Issue No. 1: Project (Scheme A) includes Residents on the Landfill**

**Executive Summary, Areas of Controversy (Page ES-2):**

This section summarizes the Project Proponent's responses to the Notice of Preparation (NOP) letters submitted by agencies and individuals. In our August 26, 2014, response to the NOP, we clearly indicated that "our primary concern with the project is the proposal to build residential units above a former municipal landfill, as this is something we have not approved previously at any other landfill in the Bay Area due to potential adverse health impacts to residents that would reside in structures built over waste." Given that this aspect of the project was expressed as *our primary concern*, we believe this should have been identified as an Area of Controversy, specifically under the heading of "Population and Housing."

Our NOP response letter specifically requested that the EIR "include in the range of reasonable alternatives an alternative that evaluates removal of contamination…and/or an alternative that does not propose construction of residential units above the landfill." We are pleased to see that Scheme B of the Project, which considers residential units only on Parcel 5 (which does not overlie the landfill), has been carried forward for further consideration. However, it is not clear what factors will be used to evaluate and ultimately select Scheme A or Scheme B. The analysis in Table 3.1-7 notes that Scheme B is consistent with general plan goals/policies only with the exception of mitigation of the jobs/housing ratio impacts.

Although an alternative to remove all waste (i.e., clean closure of the entire landfill) was considered, it was rejected on economic grounds (Related, 2015, Draft Santa Clara All-Purpose Landfill Clean Closure Scope and Budget Summary, May). It is unclear if clean closure of Parcel 4 only (the only parcel where residential units are proposed over buried waste) has been evaluated and whether this option could be economically feasible.

Also, a "Reduced Intensity Alternative" to the Project was considered, but this alternative considered reductions only in commercial development, and did not reduce the number of future residents on the landfill.

Staff have remaining uncertainties regarding the Project, Scheme A, which proposes residential units over buried waste that continues to produce prodigious amounts of methane, requiring active management. The Regional Board is not prepared to support Scheme A until staff has had the opportunity to review a number of pending documents that will describe in detail the mitigation measures to manage landfill gases. Proposed mitigation measures should be presented in sufficient detail for readers of the CEQA document to evaluate the likelihood that the proposed remedy will actually reduce impacts to a less than significant level. CEQA requires that mitigation measures for each significant environmental effect be adequate, timely, and resolved by the lead agency. Concerns related to the landfill post closure designs, maintenance, and mitigation will need to be detailed and evaluated by Water Board staff. Due to lingering concerns regarding to the physical safety of residents that would reside in structures built over waste, Board staff prefer Scheme B over Scheme A.

**Section 3.12, Population and Housing, Table 3.12-6. Proposed On-Site Residents and Employees—Scheme A**

***On-site Residents: 1,360 Units, 3,270 Residents***

This estimate of the number of residential units and residents envisioned in the Project is 2.5 to 3.5 times higher than the 2 schemes presented in the NOP. While we understand the Project's need to balance job creation with residences, Water Board has repeatedly indicated our concerns with the placement of residents over the landfill. The significant addition of residents only heightens this concern.

**Section 5.5 Alternatives Considered but Rejected, Removal of All Waste in Former Landfill ("Clean Closure" Alternative) (Page 5-15).**

***Approximately 15 percent of the waste would be classified as hazardous waste.***

This indicates an estimated 825,000 tons of hazardous waste may be present in the landfill. Our concern of having residents over municipal solid waste is heightened if hazardous wastes are also present in the landfill.

**Table ES-1, 3.10 Hydrology and Water Quality. Impact WQ-6: Place Housing or Structures within 100-Year Flood Hazard Area.**

***The Project would place housing or structures within a 100-year flood hazard area during large storm events, as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map. WQ-6.1: Incorporate Flood Warnings for the Lick Mill Boulevard Extension and Other Access Roads for Areas Vulnerable to Flooding.***

What would be the relative impact with and without residents?

**Table ES-1, 3.11 Hazards and Hazardous Materials, Impact HAZ-9: Landfill Hazards – Subsurface Fires.**

***The Project is located on a landfill where a subsurface fire resulting from the heating of waste materials could pose a significant risk of loss, injury, or death. HAZ-9.2: Subsurface Fire Prevention and Detection Measures. As with the Project, the Reduced Intensity Alternative would comply with BAAQMD Regulation 8, Rule 34, which requires wellheads for the landfill gas collection and removal system at the Project site to be sampled monthly for methane, oxygen, carbon dioxide, balance gas (primarily nitrogen), temperature, and vacuum pressure. These parameters can be useful for indicating potential subsurface fire events.***

Does BAAQMD Regulation 8, Rule 34 (requiring monthly sampling for methane, oxygen, carbon dioxide, balance gas, temperature, and vacuum pressure) apply to landfills with the proposed land use development, and would there be any additional requirements?

**Table 3.1-7 Comparison of the Project to General Plan Goals and Policies**

**Goals 5.10.4-G3: A reduction in the demand and consumption of water resources**

***Scheme A would result in a total water demand of 1,911 acre-feet per year (afy), which represents an increase of 1,599 afy compared with existing water demand on the Project site (311 afy). Scheme B would result in a total water demand of 1,921 afy, which represents an increase of 1,610 afy compared with existing water demand on the Project site (311 afy).***

Please explain how the replacement of residents with office workers increases the water demand? Wouldn't residents account for a higher per occupancy area water use and wastewater generation than commercial space counterparts? What would be the relative impact of Scheme A versus Scheme B?

**Section 5.5 Alternatives Considered but Rejected, Increased Housing Alternative (Page 5-64).**

All the concerns that are expressed in our other comments are applicable to this alternative.

**Issue No. 2: Uncertainties associated with Landfill Gas System and Geotechnical Issues**

In addition to requirements specified in CCR Title 27, the Regional Board's Updated Waste Discharge Requirements (Order No. R2-2002-0008) includes the following specifications:

> B.5. The Discharger shall assure that the structures, which control leachate, surface drainage, erosion and gas are constructed and maintained to withstand conditions generated during the maximum probable earthquake.
>
> B.10. Landfill gases shall be adequately vented, removed from the landfill, or otherwise controlled to minimize the danger of explosion, adverse health effects, nuisance conditions, or the impairment of beneficial uses of water.
>
> B.11. The Discharger shall maintain all devices or designed features installed in accordance with this Order, such that they continue to operate as intended without interruption.

These specifications applied to the post-closure landfill use at the time (golf course). These specifications cannot be relaxed for the proposed land use (the Project), which is expected to

have greater potential for impacts. As we have noted in our letter on the Revised Draft Post-Closure Land Use Plan (September 18, 2015), future design documents must demonstrate that the Project can and will these specifications. Additional and/or more stringent specifications may be necessary in an updated Waste Discharge Requirements Order based on the proposed land use change.

**Section 5.5 Alternatives Considered but Rejected, Reduced Intensity Alternative, Geology and Soils, Strong Seismic Groundshaking (Page 5-51).**

***The risks to public safety from seismic hazards can be mitigated to the extent required by law with implementation of the proper design and construction methods, which would be within the responsibility of the City and the Project Developer to monitor and enforce through its building permit process. As with the Project, buildings and improvements proposed under the Reduced Intensity Alternative would be constructed in accordance with the latest California Building Code (CBC) standards, as required by the Santa Clara City Code. Structures built under the Reduced Intensity Alternative, as with the Project, would be required to meet the seismic design parameters of the CBC, as enforced by the City Building Official. The CBC, as updated, represents the best available guidance for design and construction to limit seismic risk. Consequently, the Reduced Intensity alternative, as with the Project, would result in less-than-significant impacts with regard to the exposure of people or structures to damage resulting from seismic groundshaking.***

Considerations must be taken for the combined effects of earthquake proximity, unstable soil types underlying the landfill, seismic amplification through the landfill, potentially uneven effects over a large pier/platform, and multi-story structures in assessing peak horizontal acceleration and their effects on the structures, inhabitants, and landfill gas collection infrastructure. A final geotechnical investigation has yet to be performed, therefore the conclusion that the Reduced Intensity Alternative would result in "less-than-significant" impacts seems premature. Logically, the Reduced Intensity Alternative would involve less intense impacts than the project. But a reduced number of residents, especially from over the landfill portion of the site, would further reduce the impacts and should be considered in the evaluation of Scheme A versus Scheme B.

**Issue No. 3: Uncertainties associated with Stormwater Treatment Measures**

**Executive Summary, (Table ES-1, Page ES-68).**

***The following stormwater treatment (or Low Impact Development) measures are examples that will be considered and carefully selected as part of the final design process for the different sections of the proposed development:***

- ***Bioretention Areas (impermeable liner with underdrain—no infiltration into landfill)***

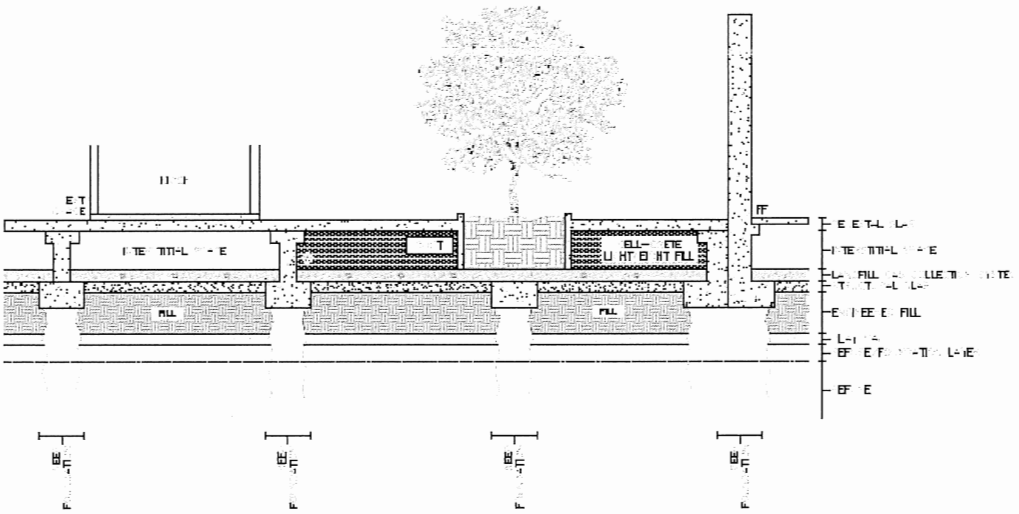
- ***Infiltration Trenches (impermeable liner with underdrain—no infiltration into landfill)***
- ***Pervious Pavements (impermeable liner with underdrain—no infiltration into landfill)***

Water use/irrigation has conjunctive issues with the proposed landfill gas mitigation in the podium. Specifically, there could be an issue on the use of trees/planters, or irrigation and domestic water lines, which could leak or rupture and flood the landfill gas venting lines located at the bottom of the podium layer (between the ground floor slab and the structural slab). In an earthquake, both water and landfill gas lines will be susceptible to rupture. If even a portion of this gets flooded, in may impact the ability to detect or vent methane in that area. Whether this can be monitored, or contingent mitigation can be implemented, is not known.

**Section 2, Project Description, Utilities, Storm Drain (Page 2-28).**

***The following stormwater treatment measures would be considered and carefully selected as part of the final design process for the different sections of the proposed development: bioretention areas, flowthrough planters, tree well and media filters, infiltration trenches, rainwater harvesting and reuse, green roofs, green streets, and pervious pavements.***

Regional Board staff is concerned about the use of irrigated landscape and the potential for infiltration into the landfill or the landfill gas venting system as shown below.



TYPICAL PLAZA SECTION - CITY CENTER
(STRUCTURE ON DEEP FOUNDATIONS)

**From Figure 3.9**

This figure shows an irrigated tree planter directly overlies the landfill gas collection system layer. A pervious planter bottom would result in flooding of the landfill gas venting system. It is

unclear how an impervious bottom would be monitored for potential breaches (or whether the planter could drain properly).

**Section 3.10, Hydrology and Water Quality.**

***All new or recreated impervious surfaces at the Project site must be provided with post-construction water quality treatment consistent with the treatment requirements of the Municipal Regional Permit.***

At sites that require CWA Section 401 Water Quality Certification from the Water Board and/or Waste Discharge Requirements for features such as the proposed new stormwater outfalls, pile driving in San Tomas Aquino Creek for a new bridge, or impacts to other waters of the State at the Project site, the Water Board has authority to approve post-construction stormwater management plans. Acceptable post-construction stormwater plans must provide stormwater runoff treatment that is consistent with the treatment requirements of the National Pollutant Discharge Elimination System (NPDES) Municipal Regional Permit (MRP) for the management of stormwater runoff (Order R2-2009-0074; NPDES Permit No. CAS612008) for all impervious surfaces created or recreated by the Project. In addition to the proposed on-site development components, this treatment requirement applies to the proposed new bridge over San Tomas Aquino Creek, or any other bridges constructed for the Project. Also, once the 40-acre concrete pad has been constructed, it will require post-construction stormwater treatment in conformance with the MRP; this will probably require the construction of interim treatment measures until the surface of the pad is developed with new structures with their own associated post-construction stormwater treatment features.

**Table ES-1, 3.10 Hydrology and Water Quality. Impact WQ-1: Violation of Water Quality Standards or WDRs.** ***The Project could result in a violation of water quality standards or WDRs. WQ-1.1: Design and Implement Stormwater Control Measures.***

Measures considered include bioretention areas (impermeable liner with underdrain—no infiltration into landfill), flow-through planters, tree well and media filters, infiltration trenches (impermeable liner with underdrain—no infiltration into landfill), rainwater harvesting and reuse, green roofs, green streets, pervious pavements. It is unclear how some of these measures will be prevented from infiltration, and how others (with impermeable liners and underdrains) will function within the podium structure.

**Table ES-1, 3.10 Hydrology and Water Quality. Impact WQ-3: Changes to the Existing Drainage Patterns.** ***The Project could substantially alter the existing drainage pattern of the site and could result in substantial erosion, siltation, or flooding on-site or off-site. WQ-3.1:***

***Design New Bridge and Outfall Structures to Avoid Increase in 100-year Flow and Channel Erosion.***

Please explain how new bridge and outfall structures will be designed to avoid increases in flow and erosion.

**Issue No. 4: Questions on Biological Reserves**

**Section 3.8, Biological Resources, Existing Conditions, Vegetated Depressions (Page 3.8-8).**

**The jurisdictional status of the Vegetated Depressions should be assessed.**

Based on the description of the vegetated depressions, it is possible that these depressions may contain wetlands. A wetland delineation should be performed for the vegetated depressions and submitted to the U.S. Army Corps of Engineers for verification. If the depressions meet the three-parameter test for wetlands, but are not subject to Corps jurisdiction because they are considered isolated, they will still be subject to State jurisdiction. If these depressions are jurisdictional wetlands, then the EIR should quantify the acreage of wetlands that would be impacted by the Project and provide proposed mitigation plans for impacts to these wetlands.

**Section 3.8, Biological Resources, Impact BIO-5 and Mitigation Measure BIO-5.2: Substantial Effect on Wetlands and Other Waters.** ***The Project could result in the loss of or damage to wetlands and other waters (page 3.8-19).***

**The DEIR does not quantify the extent of the Project's impacts to jurisdictional wetlands and other waters or propose specific mitigation measures for impacts to wetlands or other waters.**

Text in Impact BIO-5 states:

> *As a result of the Project, some aquatic land cover types would be lost. The retention pond, although not being altered as part of the Project, could be affected during construction activities. Although some drainage ditches and creeks could be avoided, because roadways and bridges may cross over them, for the sake of this analysis it is assumed that drainage ditches internal to the Project site would be removed. The internal golf course and driving range ponds and vegetated depressions would be removed with build-out of the Project. In addition, there would be impacts in San Tomas Aquino Creek from instream work associated with the new bridge footings in the creek. Final impacts on ditches creeks, ponds, and vegetated depressions would be calculated once final design of Project features is complete. If these features are determined to be jurisdictional and if impacts are unavoidable, the Project Developer shall coordinate with DFW, USACE, and the Regional Water Board, as required and appropriate, to develop a compensation plan for the loss of waters of the United States and State per existing regulations. If compensation is required, construction activities (e.g., grading,*

> *excavation) associated with habitat creation or enhancement could temporarily disturb waters of the United States and State. These impacts are considered* ***significant****.*

As the text of the DEIR acknowledges, the extent of the Project's impacts on jurisdictional waters of the U.S. and waters of the State has not been established. Therefore, the full significance of the Project's impacts to jurisdictional waters cannot be assessed on the basis of information provided in the DEIR.

Mitigation Measure BIO-5.2 contains the following text:

> *BIO-5.2: Compensate for Wetland Loss. If impacts on jurisdictional ponds, wetlands, or drainage ditches; San Tomas Aquino Creek; or the Guadalupe River cannot be avoided, the Project Developer shall obtain permits or approvals to develop from USACE, the Regional Water Board, and DFW, as appropriate and required. To ensure that the Project results in no net loss of wetland habitat functions and values, the Project Developer shall compensate for the loss of wetland resources through either on-site restoration/creation following completion of construction and/or off-site protection and enhancement of riparian and wetland habitat prior to activities that would affect the equivalent Project resource (as determined by a qualified wetland biologist). The size and location(s) of the area(s) to be restored/created shall be based on appropriate mitigation ratios, as derived in consultation with DFW, USACE, and the Regional Water Board. Mitigation ratios shall be at least 2:1. The Project Developer shall prepare and implement a mitigation plan, which shall include monitoring requirements and success criteria, in consultation with DFW, USACE, and the Regional Water Board. The mitigation plan shall include measure to avoid and minimize the effects of construction on surrounding native habitats. Monitoring shall occur for a minimum of 5 years, at which time, if the success criteria are met, wetland compensation shall be deemed complete.*

As is evident from the two quoted passages from Section 3.8, above, the DEIR contains insufficient detail on potential Project impacts to jurisdictional waters and no detail with respect to proposed mitigation measures for those impacts. In the absence of any detail about proposed mitigation projects, it is not possible for stakeholders reviewing the DIER to assess the adequacy of the proposed mitigation. Proposed mitigation measures should be presented in sufficient detail for readers of the CEQA document to evaluate the likelihood that the proposed remedy will actually reduce impacts to a less than significant level. CEQA requires that mitigation measures for each significant environmental effect be adequate, timely, and resolved by the lead agency. In an adequate CEQA document, mitigation measures must be feasible and fully enforceable through permit conditions, agreements, or other legally binding instruments (CEQA Guidelines Section 15126.4). Mitigation measures to be identified at some future time are not acceptable. It has been determined by court ruling that such mitigation measures would be

improperly exempted from the process of public and governmental scrutiny that is required under the California Environmental Quality Act.

In its present form the DEIR lacks an adequate discussion of impacts to waters of the State and proposed mitigation measures to support the issuance of Section 401 Water Quality Certification for the Project. Since an EIR should provide both proposed impacts and proposed mitigation measures for public review, the DEIR should be revised to include a more detailed mitigation proposal for public review. Re-circulation of the revised DEIR is necessary to allow for review and comment on the impacts and proposed mitigation. Provision of this information in a Final EIR is inappropriate, since this information would not have been subject to public review before the Final EIR was adopted.

**Other Specific Issues:**

**Section 3.11, Hazards and Hazardous Materials (Page 3.11-25).**

***If methane levels are persistent in areas where earthwork and/or hot work activities are necessary, inert gases (e.g., nitrogen) can be introduced into affected subsurface materials to lower oxygen and methane concentrations. By introducing an inert gas into the affected area, methane and oxygen can be displaced to create insufficient oxygen concentrations to support combustion.***

This could create another potentially dangerous situation - asphyxiation, especially should there be trench workers involved. Also, carbon dioxide is another prevalent landfill gas that should be addressed as part of this issue.

**Section 3.11, Hazards and Hazardous Materials (Page 3.11-29).**

***In addition, the site-wide maximum groundwater concentrations of TCE and vinyl chloride were used to conservatively model potential vapor intrusion impacts.***

***The modeled cleanup goals for TCE and vinyl chloride on the Project site were 59,600 micrograms per liter (µg/L) and 442 µg/L, respectively.***

In the Feasibility Study of Groundwater Remediation Alternatives, 59,600 micrograms per liter (µg/L) and 442 µg/L, for TCE and vinyl chloride, respectively, were established as target values specifically to address the vapor intrusion to indoor air concern, with modeled attenuation factors based on the specific project parameters. While they were proposed as groundwater remediation goals, the modeled concentrations do not address impacts to other receptors, including aquatic habitat, and general groundwater degradation. There may also be concerns on groundwater flow under Parcel 4, considering there is a pond on the golf course over the VOC plume and

insufficient monitoring control in the northwest portion of the parcel to indicate whether groundwater discharging to San Tomas Aquinas Creek. In addition, as documented in Waste Discharge Requirements Order No. R2-2002-0008, only the upper aquifer zone in the northern one-third of the site meets the exception criteria of the State Water Resources Control Board's Sources of Drinking Water Policy. Parcel 4 and the underlying VOC plume do not fall into this area. Therefore, drinking water cleanup standards (MCLs) may apply for deep groundwater. The Regional Board concurred with the report's conclusions regarding remedial options for groundwater at the site, however, groundwater remediation standards have not been established.

**Section 3.11, Hazards and Hazardous Materials (Page 3.11-29).**

***Groundwater monitoring data indicates that reductive dechlorination is naturally occurring in the VOC plume, and it is expected to be a major process for contaminant removal over the long-term (10 to 20 years). Therefore, the Regional Water Board is overseeing the use of monitored natural attenuation at the Project site to ensure vinyl chloride concentrations are maintained below the site-specific cleanup goal.***

Reductive dechlorination in groundwater does not necessarily mean it will affect soil vapor concentrations. In addition, some groundwater samples with rising vinyl chloride trends also have stable or rising DCE and TCE trends (e.g., G-10, G-19), which does not necessarily confirm biodegradation is occurring.

We appreciate the opportunity to comment on the DEIR for this project, and hope our comments are helpful. If you have any questions, please contact me at 510-622-2404 or by email at kroberson@waterboards.ca.gov.

Sincerely,

Keith E. Roberson

Digitally signed by Keith E. Roberson
DN: cn=Keith E. Roberson, o=S.F. Bay RWQCB, ou, email=Keith.Roberson@waterboards.ca.gov, c=US
Date: 2015.11.23 16:38:38 -08'00'

Keith E. Roberson
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City of Santa Clara
Planning Division

December 7, 2015

Debby Fernandez, Associate Planner
City of Santa Clara Planning Division
1500 Warburton Avenue
Santa Clara, CA 95050
dfernandez@santaclaraca.gov

**Re: City Place Santa Clara Draft Environmental Impact Report comments**

Dear Ms. Fernandez,

Thank you for providing the opportunity for the Sierra Club Loma Prieta Chapter Sustainable Land Use Committee to comment on the proposed City Place Project.

The appropriate design of large-scale developments in the Bay Area is a key to the success of the Sustainable Communities Strategy (SCS) set forth in the 2013 Regional Transportation Plan. The Sierra Club is very much in support of the principal objectives of the SCS, which include reducing greenhouse gas (GHG) emissions and particulates from cars and light trucks and the provision of Housing near jobs, as well as the inclusion of affordable housing.

> The Project proposes to convert 240 acres of what is currently recreational open space to a high-density mixed-use development, with over 9 million square feet of combined office, retail, hotel, entertainment, and residential uses (as well as millions of square feet of structured parking facilities).

The City Place Project has a stated vision and goals that appear to make it an appealing plan as it has been presented to the City and the public. However, the specifics in the EIR make it clear that the project, as it is proposed to be implemented, has many significant problems.

**General Plan**

Before addressing issues in the EIR, it should be noted that the proposed development is in direct conflict with policies in the General Plan. Given the magnitude of the impacts on jobs, housing, land use, open space, air quality and other environmental factors, it is clear that the General Plan needs to be revised and updated first, in order for a project of this size to be considered and move forward.

a. Jobs Housing imbalance: The project as proposed would result in approximately 28,720 new jobs and 200 residential units under Scheme B, and 24,760 jobs and 1360 residential units under Scheme A. Santa Clara already has the second worst jobs housing imbalance on the peninsula which the general plan policies seek to improve. This would exacerbate the jobs -housing imbalance. This is in direct conflict with General Plan Policy.

b. Mobility and Transportation : Full build-out of the Project as proposed would result in approximately 28,720 new jobs under Scheme B, and 24,760 jobs under Scheme A without anywhere near a balance of housing on site or on nearby sites zoned for high density housing. This is in conflict with General Plan policy. The potential impacts on regional traffic are of a magnitude that it is clear that regional solutions are required in order for the impacts to be absorbed. It clearly prioritizes the convenience of auto traffic at the

expense of pedestrians, bicyclists and transit. This is in direct contradiction to the policies of the General Plan

c. Will not serve as a City Center for the use of Santa Clara residents: The project site is not included in the General Plan as a focus area. The project site is at the very north edge of Santa Clara, bounded by neighboring communities of San Jose, Alviso and Sunnyvale. It is separated from most of Santa Clara residential communities. Therefore the proposed development is far from most Santa Clara neighborhoods. The project will not serve the majority of residents of the City of Santa Clara.

d. Exacerbate traffic problems: The EIR points out that the area road and freeway network in the area is already at or near capacity and the impacts are of a regional nature. The transportation demands of commercial and retail activity would involve needed upgrades to transit services to handle the increased demand. The project needs to be studied for regional traffic impacts as well as for regional solutions.

Alternatively, as in the case of the City of Mountain View, in order to deal with new traffic generated by proposed development, in North Bayshore, the decision was taken to move forward with a goal of "no net new traffic" and mandatory monitoring to ensure goals are met before new development is authorized. In the case of City Place, if the regional transportation resources are not upgraded, a transportation study may need to examine the need for mandatory goals, for alternative modes of transportation, that would need to be met before any phase of the project should move forward.

e. Parks and Open Space: The loss of over 104 acres of city open space is in direct conflict with general plan policy which states that the already low rate of 2.4 acres per 1000 population shall be maintained or improved as Santa Clara continues to experience growth. The Santa Clara golf course is the largest parcel of available open space for recreational facilities to be developed as funding becomes available. Such a large taking of public open space needs to be done with broad public approval and acceptance. The land provides the potential for improving Santa Clara's active recreational facilities, as well as providing for passive recreational open space as in the very popular Mountain View Shoreline Recreational Area, Palo Alto Baylands and adjacent Sunnyvale Baylands Park. The site has impressive potential for public recreation. The site lies along the Guadalupe River. The Ulistac Natural Area provides an example of passive recreational space and habitat area for wildlife and other natural resources. The city needs to look at the opportunity to create a wide usable linear park and habitat along the river, as many other cites are doing along their waterways, as its contribution to the recreational opportunities in the region rather than relying on open space provided by other cities and the county.

Park space on the golf course land could include both passive and active recreation as well as increased habitat for wildlife and native natural features – hiking trails, soccer fields, ball fields and a surface water system that would provide flood control, resilience for sea level rise and habitat for birds, fish, butterflies and other wildlife as its contribution to the health of the Bay and the bay area.

**3.1 Land-use**

a. Development on Landfill: Many municipalities are looking for some return on their old, closed landfills and are under increasing developmental pressures to use old landfill properties. However, recreational uses appear to be the best options for maintaining environmental protection, ensuring public safety and for providing a successful alternative use of the landfill property. Closed landfill areas, if disturbed, are a potential hazard to public health, ground water and the environment. Construction of structures over old landfills, especially residential housing, continues to raise concerns and is not recommended.

The potential for old landfills to generate dangerous levels of methane gas over many years must never be ignored or overlooked in any landfill use project. Even when engineering controls are added to a project to

manage the gas, problems can still develop. Even with redundant systems, especially given the history of liquefaction experienced in landfill areas, in the event of seismic activity, the large scale movement of soils can potentially overwhelm and fracture landfill gas and leachate removal systems. See fig. 3.9-4. This would be the largest commercial and residential development on a landfill and failures have been experienced on developments constructed on closed landfills.

While California regulations require owners of former landfills and disposal sites to continuously monitor on site structures for landfill gas migration, this too cannot be ensured as a fail-safe condition. Therefore, it is not advisable to place high occupancy structures with enclosed spaces or housing on landfill sites.

b. Seismic liquefaction: Design and construction of structures over old landfills must face the real possibility of the failure of foundations and structures. The site is in the highest seismically active zone in California and landfill areas often experience liquefaction in seismic events. According to the EIR, settlement of up to 8 feet may occur where the refuse layer is thickest, even under existing normal conditions. EIR, p. 3.9-13. With the addition of the Project buildings, roads, etc., further settlement of as much as 14 feet may occur where the refuse layer is thickest. EIR, p. 3.9-22. This could potentially result in settlement of as much as 22 feet. Seismic liquefaction could add unpredictability to these unstable soil conditions.

c. Phased approvals needed because of housing imbalance: The minimal amount of housing in this location, given the large number of jobs being created, makes it important to consider making approvals for the later phases contingent on appropriate amounts of housing being developed elsewhere in Santa Clara, to keep up with jobs creation. The commercial/office portion of the project may need to be scaled back to lessen the jobs housing imbalance.

d. Retail: Including retail land use in this location, relatively far from a great deal of surrounding housing, is guaranteed to generate the greatest amount of drive alone traffic. Given the traffic problems outlined above, retail is the probably the most difficult land use for implementing TDM measures effectively as it has the most unpredictable transportation patterns.

**3.3 Transportation, Traffic and Safety**

The greatest negative environmental impact from the development is traffic generated. Given the location of the project and the lack of jobs/ housing balance, mitigation of the anticipated traffic is very difficult. It is possible for the project to do much more to mitigate traffic impact than what is outlined in the EIR.

> The EIR projects that the development will reduce daily trips from office use by 4% and peak-hour traffic by 10%, for residential use the EIR projects daily trips reduced by 2% and peak traffic by 4%.

These EIR projections are woefully inadequate given the conditions currently prevalent for traffic in the area. In addition, to be effective, traffic reduction goals need to be transparent and public and have continuous monitoring and reporting in order to be effective in meeting goals. With road networks reaching capacity, the time has come for developments to be required to stay within a threshold that is more in line with traffic that can be accommodated on the existing street network. Additional trips need to be accommodated using alternate modes including transit, both public and private, bicycles and walking.

a. No net new trips: It should be noted that other cities are requiring developers to step up to address regional traffic congestion realities. As an example, the city of Mountain View, for the North Bayshore precise plan area, is requiring developers to meet a target of 45% single occupancy vehicles before new development can be approved. This is in recognition of the fact that Freeway 101, in the area, and main access roads are at capacity now and changes to add capacity to freeways will take a decade.

b. Internal circulation: In addition to the external transportation network, for circulation within the project mitigation should require the following:

- Prioritize mobility uses: The mitigations should require that the developer design the developments to give pedestrians first priority, transit second, bicycles third, and motor vehicles last priority when designing all roads, walkways, streets and intersections within the project.
- Require "Complete Streets": Add mitigation that requires all streets within the project to be designed as "complete streets" to reduce collisions and traffic fatalities.
- In the EIR, transportation demand management requirements are relatively weak and inadequate. While the EIR states it requires a TDM, this provision lacks metrics, goals and accountability provisions.
- In addition the EIR allows the staff to exempt the developer from trip reduction requirements under certain conditions and without public notification. This does not encourage transparency and accountability.
- Monitoring: the developers need to provide funding for oversight to ensure that targets are met. If trip reduction goals are not achieved after initial efforts, financial penalties need to be imposed for exceeding thresholds.

c. Parking

- Paid parking: The EIR should provide for mitigation that requires mandatory "unbundled" parking for all residential and paid parking for all commercial employee parking as well as retail parking. Employees should be required to provide "parking cash-out" to employees to encourage not using a car to get to work.

- Congestion pricing: Congestion based pricing should be utilized to encourage use of transit or other means at peak travel times and discourage auto usage. This helps encourage behavior change and mode shift to other modes of travel.

- Transit passes: With the discounted availability of bulk transit passes, the developer should provide free transit passes to all residential development and all employers should be required to provide the same to employees. Ease and convenience of transit encourages transit use and decreases parking requirements. The savings from reduction of expensive parking structures more than covers the cost of transit passes.

- Transit incentives: The use of transit could be greatly increased by requiring the developer to provide bus and shuttle service connecting to site to the Diridon multimodal transit hub as well as the Santa Clara Caltrain station with additional BART service.

d. Pedestrian and bicycle investments
As in the case of some other cities, Santa Clara needs to establish and require clear priority for bicycle access for this development, so that commuting by bicycle is a realistic option. This means looking at a radius of approximately 5 miles to ensure connected and safe bike access to the project area. This could entail providing bike lanes as well as improving access using trails.

**3.4 Air Quality**
Currently, in the south bay, cardiovascular events, chronic lower respiratory disease and lung cancer, are among the top 5 leading causes of death for residents; and scientific studies by reputable organizations including the American Heart Association, World Health Organization, and The International Agency for

Research on Cancer, have established a causal relationship between these diseases, and both short and long term exposure to air pollution.

To protect the health of Santa Clara residents in the area and children in the nearby school, who are already significantly burdened by poor air quality, it is clearly imperative that the City incorporate into the EIR, a more robust transportation demand management plan, if it is serious about a mitigation strategy for air pollution. This transportation demand management plan must prioritize and achieve transit, pedestrian and bicycle travel, safety, and connectivity, above cars, using clearly stated and measurable goals for shifting the mode share, and a pro-active program for meeting these goals. These are all currently missing in the proposed plan and associated EIR.

**3.5 Greenhouse Gas**

a. The proposals for extracting landfill gas will add to the methane and CO2 load in direct opposition to stated policy in the Climate Action Plan. A growing number of local governments are turning to renewable energy as a strategy to reduce GHGs, improve air quality and energy security, boost the local economy, and pave the way to a sustainable energy future. Local governments can achieve energy, environmental, health, and economic benefits by using landfill gas (LFG) recovered from municipal solid waste landfills as a source of renewable energy. As solid waste decomposes in landfills, a gas is emitted that is approximately 50 percent methane (CH4) and 50 percent carbon dioxide (CO2), both of which are GHGs (U.S. EPA, 2011a). LFG energy technologies capture CH4 to prevent it from being emitted to the atmosphere, and can reduce landfill CH4 emissions by between 60 and 90 percent (depending on project design and effectiveness) (U.S. EPA, 2011a)
Mitigation should include accepted state-of-the-art strategies to reduce GHG pollution from landfill to meet Climate Action Plan goals and BAAQMD clean air goals[1].

b. SB 375, the Sustainable Communities and Climate Protection Act of 2008 was intended to reduce GHG emissions by aligning regional long-range transportation plans, investments and housing allocations, with local land use planning to reduce VMT and vehicle trips. The Metropolitan Transportation Commission [MTC] has a target 15% per capita GHG (15 MMTCO2e) emissions reduction for light duty trucks and passenger vehicles from 2005 levels by 2035.

See para in item 3.3 above regarding the importance of requiring a mandatory and robust TDM plan linked to mode share goals, with active monitoring, to address this issue.

**3.8 Biological Resources**

a. Light pollution: We support Santa Clara Valley Audubon in their comments to protect wild birds from development close to the bay. Light pollution has negative impacts on wildlife and ecosystems, human health, and the human wonder at the beauty of the night sky (http://darksky.org/light-pollution/). The potential for significant light pollution at City Place must be mitigated. A project of this size needs to look at impacts on regional light pollution and reduce sky glow, glare, and light trespass especially toward the bay, nearby creeks, and wildlife flight paths. The International Dark-Sky Model Ordinance should be used as a basis for lighting requirements for the Project (http://darksky.org/our-work/public-policy/mlo/). Night lighting in such close proximity to the bay and wetlands also interferes with bird flight patterns and causes birds to be attracted like moths to night lighting, resulting in their death from confusion and exhaustion.

[1] http://www3.epa.gov/statelocalclimate/documents/pdf/landfill_methane_utilization.pdf

b. Bird-Safe Design and Reflective glass: The proposed development is on the Pacific Flyway for bird migration. Millions of birds fly through the area on their way to using San Francisco Bay as a rest stop on their annual migrations. In addition, San Francisco Bay and the wetlands adjacent to the area are home to thousands of local birds. Reflective glass surfaces are confusing and detrimental to wild birds and cause thousands of unnecessary deaths. Audubon Society's guidelines for Bird-Safe Design should be incorporated into the mitigation strategies in the EIR.

c. Burrowing Owl Habitat:
The Project site is located within occupied nesting habitat for the western burrowing owl. The proposed Project site is critical to the survival of the local population and loss of these five parcels is a significant impact to western burrowing owl long-term survivability in Santa Clara County. The EIR does not currently include mitigation measures to offset the Project impacts.
In addition, the EIR fails to acknowledge that a portion of the Project site was recommended by the City Council to serve as a burrowing owl mitigation site.

d. Nitrogen Deposition: Given the proximity to SCVHP area, the nitrogen deposition mitigation seems under calculated. It does not seem possible that a project that generates the amount of traffic projected will have an impact that is less than significant. We believe this needs to be reexamined.

**3.10 Hydrology Water Quality**

a. Groundwater: We agree with the comments submitted by the Committee for Green Foothills on this topic. The greatest concern is the potential for groundwater contamination from landfill leachate when using unproven construction techniques (drilled displacement columns and auger caste-in-place piles). Mitigation should include verification of the techniques – a test pile and test column should be built and impacts studied for several months – so that unknown impacts can be mitigated before large-scale foundation building occurs.

b. Sea Level Rise: There are specific concerns related to sea level rise, coastal flooding, and landfills that are not addressed in the analysis but nonetheless must be considered in relation to the proposed Project. The Adapting to Rising Tides Vulnerability and Risk Assessment Report on sea level rise in Alameda County states that "Contaminated lands are vulnerable to sea level rise and storm events that could flood or cause groundwater intrusion of these sites. Temporary or permanent surface flooding, erosive tidal or wave energy, and elevated groundwater levels could cause the release of hazardous substances with potentially significant consequences on public health and the environment." Such potentially significant risks must be considered in the approval of the Project whether or not they are included in the EIR.

c. Storm water Pollution: Standard storm water protections are not sufficient for the project due to its location on top of a landfill and adjacent to two creeks. Due to the potential for leachate runoff, wider storm water filtration buffers are needed to protect water and habitat resources. In particular, the roadway proposed along San Tomas Aquino Creek does not provide any setback from the waterway – instead, native plantings (including trees for shading) and other natural storm water filtration mechanisms are needed along the waterway to provide habitat corridors and prevent runoff of pollutants into the creek and the San Francisco Bay. The road and trail should be replaced by such habitat. Similar habitat and storm water filtration improvements are needed along Guadalupe River. A project of this size needs to contribute to the public trust resources in the immediate vicinity.

**3.11 Hazards and Hazardous Materials**

Construction Waste: The analysis does not address the production of soil and water spoils generated during foundation construction. Due to the landfill, such spoils are likely to be toxic and therefore mitigation measures are needed to correctly handle and dispose of produced water and soil to prevent harm to

construction workers, nearby residents and office workers; and the Guadalupe River, San Tomas Aquino Creek, and the San Francisco Bay Estuary.

**3.13 Public services and Recreation**

Save open space for park land and recreation: The existing land is currently a publicly owned golf course. Santa Clara is already experiencing a shortage in parks and open space for its population. As it looks forward to a growing population and increased housing, the lack of open land available for parks mandates that it is not advisable to give up this entire site for development. It should be required that the developer provide extensive new recreational facilities as a community benefit and tennis courts be replaced with new tennis courts and added new facilities for residents.

It is also advisable for a significant portion of land to be land banked for future development into usable parks for the residents of Santa Clara in order to meet minimum open space requirements. The National Recreation and Park Association suggests that a park system, at a minimum, be composed of a total of 6.25 to 10.50 acres of developed open space per 1,000 population.
San Francisco, the most densely developed city in our area, provides over 10 acres open space per 1,000 population. Santa Clara currently has a very low ratio of less than 3 acres per thousand. There is no open space left to purchase for parks in Santa Clara. Therefore, giving up the entire amount of the only large tract of public land is not advisable.

**3.14 Utilities**

a. Energy efficiency: In addition to requiring mandatory LEED equivalency, energy generation on-site, using solar, should be made mandatory.

b. Electric car charging: As the electric car supply of California continues to grow in order to meet state targets, it should be anticipated that electric charging stations are increasingly needed as basic services. It should be made mandatory and the percentage should be increased each year.

c. Low Impact Development (LID): This should normally be made a mandatory requirement within the development to preserve Bay water quality given proximity to the bay. Given the constraints of construction over a capped landfill, the storm water system should be 100% collected and recycled.

4. Water Supply: With respect to General Plan General Plan Policy 5.10.4-P4: Require an adequate water supply and water quality for all new development (pg. 3-14.6), the consistency analysis says "there would be certain supply demand deficits when using highly conservative water demand estimates for the Project and cumulative demand. However, there are available water supplies to meet cumulative demand when taking into account supply conditions as well as existing practices during drought years."

The Water Supply Assessment was not made available for review so questions remain about the adequacy of this analysis. Does the assessment provide any evidence that that existing practices adopted during the drought will continue? Are cumulative impacts analyzed? Do such assumptions leave room to conserve during the next drought? Unless these questions are answered, the water supply assessment appears to be inadequate.

Furthermore, it is unfortunate that Urban Water Management Plans will be updated in 2015 because the 2005 and 2010 plans used for this project analysis include overly optimistic supply scenarios. The 2015 plan is likely to project lower supplies and more concerns about the addition water supply required by this project.

Additional mitigations for water supply must be implemented for this project, such as requiring onside water recycling and re-use (as is now required for all construction in the City of San Francisco).

**4.4 Cumulative Impacts**

The EIR inadequately addresses proposed projects in the pipeline in San Jose and Sunnyvale, both adjoining cities. We believe the EIR needs to be revised to include the traffic impacts of adjacent cities.

Cumulative impacts on water supply also must be analyzed and addressed.

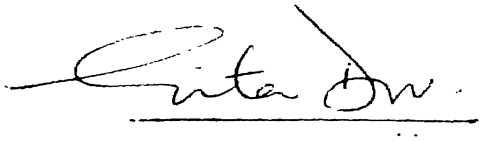
**Alternatives**

Given the unmitigatable impacts of traffic, as outlined in the EIR, the EIR needs to include

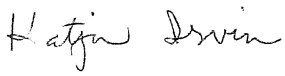
- **a scenario where only phase 1 and 2 are completed and the remaining phases are deleted.**

In that scenario, the remaining open space is developed into usable parks and open space for the residents of Santa Clara and habitat for the health of the wildlife and water quality of the south bay, as a community benefit by the proposed development. Or the land is land-banked for future recreational development.

Respectfully submitted:



Gita Dev
Gladwyn D'Souza
Co-chairs, Sustainable land use Committee
Sierra Club Loma Prieta Chapter



Katja Irvin, AICP
Chair, Water Committee
Sierra Club Loma Prieta Chapter

CC James Eggers, Executive Director, Sierra Club Loma Prieta Chapter
Mike Ferreira, Chair, Conservation Committee, Sierra Club Loma Prieta Chapter

CALIFORNIA
Water Boards

EDMUND G. BROWN JR.
GOVERNOR

MATTHEW RODRIQUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

**State Water Resources Control Board**
Division of Drinking Water

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PLANNING DIVISION

November 13, 2015

Ms. Debby Fernandez
Planning Department
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

**CITY PLACE SANTA CLARA – DRAFT ENVIRONMENTAL IMPACT REPORT (SCH# 2014072078)**

Dear Ms. Fernandez:

The State Water Resources Control Board's (SWRCB) Division of Drinking Water's (Division or DDW) comments on the proposed project are as follows:

The City Place Santa Clara (Project) is a multi-use development proposed for a site formally utilized as a landfill which underwent final closure in 1994. The City of Santa Clara is planning to provide water supply for this project, which will include both potable and recycled water.

Section 64572(f), California Waterworks Standards, Title 22, California Code of Regulations (CCR) specifies that no new water mains be installed within 100 horizontal feet of any sanitary landfill, wastewater disposal pond, or hazardous waste disposal site, or within 25 horizontal feet of the nearest edge of any cesspool, septic tank, sewage leach file, seepage pit, underground hazardous materials storage tan, or groundwater recharge project site. The above-mentioned project appears to be in direct conflict with this requirement.

Section 644551.100 of the California Waterworks Standards allows a water system to propose the use of an alternative to a requirement of the standards, provided that the water system: (1) Demonstrate to the Division that the proposed alternative would provide at least the same level of protection to public health; and (2) Obtain written approval from the Division prior to the implementation of the alternative.

As such, the City would need to demonstrate to the Division that its proposed

alternative(s) to Section 64572(f), Chapter 16, Title 22, CCR will provide at least the same level of protection to public health and obtain written Division approval prior to implementation of the project.

If you have any questions, please call Jose P. Lozano at (510) 620-3459 or myself at (510) 620-3453.

Sincerely yours,

Eric Lacy, P.E.
District Engineer
Santa Clara District
Division of Drinking Water
State Water Resources Control Board

cc: Santa Clara County Environmental Health Department

Office of Planning and Research
State Clearinghouse
P. O. Box 3044
Sacramento, CA 95812-3044

Steven Chang
4946 Calle de Escuela
Santa Clara, CA 95054

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PLANNING DIVISION

Nov 23, 2015

Debby Fernandez, Associate Planner
City of Santa Clara
Planning Division
1500 Warburton Avenue
Santa Clara, CA 95050

This correspondence is in regard to the project "City Place Santa Clara Project" file PLN2014-10440, Draft Environmental Impact Report (DEIR), and public Notice of the DEIR.

I fear that the language in the DEIR and Notice might be too subtle for the people who will vote on the project - the city council I imagine. For example:

"... Significant Unavoidable project-level impacts with regard to air quality, biology, land use, noise, and transportation ..."

Why not use simple English, such as:

"The site is a former garbage dump, riddled with toxic material. When the site is dug up the surrounding neighborhoods will be contaminated with toxic particles and gasses. These have the potential, and will likely cause serious long-term medical problems, especially among women, children, and the elderly. There is no fix."

This way the council can acknowledge that it trading peoples lives for money. And the next statement:

"... Significant Unavoidable cumulative impacts with regard to air quality, greenhouse gasses, land use, transportation, and utilities."

Why not just say that there will be permanent increases in air pollution and traffic jams, that the added wear and tear on the city's infrastructure will be a burden on all residents, and that this is happening on purpose, not by accident.

By the way, is anything being done to avoid conflicts of interest, or the revolving door that always seems to occur between regulators and the businesses they regulate? What good is an EIR if a vote can be rationalized in any direction? Is anything being done to audit the finances of the city employees involved in the project?

Thanks, and have a nice day,

Steven Chang

Steven Chang

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**Santa Clara CityPlace DEIR comments**

Traffic impacts of this project are severe. It seems very difficult to imagine proceeding with approval of this project without a well-defined plan and targets to mitigate traffic. There should be commitments to suspend future phases if targets are not being met.

The large number of traffic impacts that are simply declared "significant and unavoidable" implies a lack of intent and creativity. Traffic during Levi's Stadium events is horrendous and this project will only exacerbate the problem. Perhaps dynamic in pavement lane marking lights or electronic signage to improve traffic flow on Levi's Stadium event days might be considered.

In comparison, Mountain View has created the following studies and documents to mitigate traffic impacts of 2 million square feet of office development proposed by Google and Linked-In in the North Bayshore area. The following reports were created with funding from Google. There don't seem to be any similar reports for this project.

Shoreline Boulevard Corridor Study (http://www.shorelinecorridor.com/)

**North Bayshore Precise Plan**
**(http://www.mountainview.gov/civicax/filebank/blobdload.aspx?BlobID=15038)**

Mountain View North Bayshore Traffic Impact Analysis Report
http://www.mountainview.gov/civicax/filebank/blobdload.aspx?BlobID=14513

1. Santa Clara already has a very low ratio of parks to residents (MFA, Quimby). The DEIR states that *"The Santa Clara Golf & Tennis Club and BMX track are not included in the City's park and recreation facilities inventory and are not considered in the City's parkland per residents ratio".*

*"there is a need for an additional 97 to 115 acres of new parkland and approximately 29 to 30 acres of active sports facilities in the City in order to achieve the City standard." Page: 3.13-10*

DEIR recognizes that *"According to the City's General Plan, opportunities for additional regional open space within the City are limited because of its current build-out condition." p 3.13-13*

Page: 3.13-21 *Project would convert a public golf course, seven lighted tennis courts, and a BMX track into a new mixed-use development. As such, the Project would reduce the recreational facilities within the City and region. Implementation of the Project would also contribute to an increased demand for parkland because the Project would result in approximately 3,270 new permanent residents living on the Project site and 24,760 employees (under Scheme A).*

I'm not sure what the developer or City are committing to with the following three very non-committal statements:

*"Of the total proposed landscaped areas, approximately 74 acres would be devoted to public open space, which would include parks (approximately 26 acres, potentially dedicated to the City and utilized for picnic areas, gardens, trails, and landscaped and furnished quiet park areas), slope landscaped and habitat areas, courtyards, and multi-purposed concourses. In addition to the park and open space dedicated to the City, approximately 5 acres in private open space would be provided within the residential occupied podiums."*

*"The actual parkland and facilities required would be determined during the approval process."*

*"To the extent that the Project Developer is not able to fully satisfy the park requirement using land dedication or on-site private open space credits, the Project Developer would pay park in-lieu fees to satisfy the City's parkland dedication requirement. The City has determined that payment of in-lieu fees represents full and complete mitigation for parkland impacts due to new development."*

Given that the city is almost entirely built-out and that Santa Clara City Code Chapter 17.35 requires dedicated parkland or in lieu fees equivalent to 2.53 acres per 1000 residents, 8.27 acres would be required. The City should insist the project dedicate public parkland rather than accept in-lieu fees for land that doesn't exist. The City should provide density bonuses or other incentives to entice the developer to dedicate land for public uses. Parks in the vicinity of the residents and offices would benefit employees as well while reducing VMT.

Features like public tennis courts, volleyball courts and soccer fields should be provided to replace lost tennis courts and to provide recreation to the workers in the office parks. This will reduce driving to recreation facilities.

2. Please See Table 2-3. Development Comparison by Scheme.
   This table spells out FAR limits but not LCR. Nowhere in the DEIR are lot coverage ratios spelled out. Sunnyvale has a maximum coverage of 35% for commercial development. This is missing in Table 2-3.

3. There is already a 2.8:1 housing imbalance in Santa Clara. This project will add many more jobs than housing, exacerbating the problem. Why not design in more housing? What about some affordable housing for the workers at CityPlace? Santa Clara is in the midst of a Nexus study for affordable housing. Will this project be subject to a future affordable housing ordinance for any of the later phases?

*As shown in Table 3.1-6, full build-out of the Project would worsen the jobs/housing ratio assumed in Plan Bay Area, going from 2.62 to 3.15 in 2030 and from 2.55 to 3.04 in 2040. This represents an increase in the jobs/housing ratio of 13 percent between 2015 (without Project) and 2040 (with Project). p 3.1-12*

4. In addition to the housing imbalance, the DEIR Table 3.5-6 shows that, at full build-out, greenhouse gas emissions will be much higher for scheme B (97,847 MT CO2e) over

scheme A (89,482 MT CO2e). This difference suggests the need for more housing to reduce vehicle trips.

5. There are CEQA traffic mitigation fees described in the document but no specific measures directing where the money will be spent -- amount of fees and uses need to be spelled out.

   *"The Project Developer can pay the North San José fee or a fair-share contribution for the mitigation measure or off-setting mitigation measure based on the amount of Project's percent contribution of the traffic volume growth at the intersection."*

6. Substantial improvements to the Great America Amtrak/ACE station are needed. This project does not commit resources to improving that station except for possibly a sidewalk on Tasman. Fails on Santa Clara policy goal: Policy 5.8.3-P8:

7. The MCP and DEIR acknowledge that a BART station is proposed in Santa Clara near Santa Clara University but there is no proposal to run buses/shuttles to the transit center which already serves Caltrain (perhaps along Lafayette). What support will there be for private company shuttles to the transit center? VTA's letter proposes constructing a new bus transfer center at the Project. The project should commit fair-share funds for improving the Santa Clara (Caltrain) Transit Center to accommodate these buses.

8. The MCP refers to ZipCars and e-bikes but there is only a weak allusion to such with no commitment nor measurable targets:

*"A TDM plan required per Mitigation Measure TRA-1.1 would be developed that* ***could*** *include shared bicycle and automobiles for part-time use by employees and residents to reduce the need for personal vehicles." p 3.1-39*

9. The project should consider unbundling parking from housing to encourage more use of public transit.

10. Firmer targets for the number of Class 1 and Class 2 bicycle parking spots for the housing units need to be established. A target of at least one secure spot per two dwelling units should be the minimum.

11. Looking at Table 3.3-50. Cumulative with-Project Intersection Mitigation Measures:

    Many of these measures are costed out as a percentage of total traffic. Since the entire project takes 15 years to build, what is the time frame to implement and at what point in time is the percentage of traffic calculated to set the payment quantity?

12. The DEIR specifies that a TMA will be formed but the details are not spelled out. Which employers will join the TMA? What are specific targets for the TMA? What are the penalties if goals are not met? Other cities like Mountain View and Palo Alto have

created robust TMAs for large developments.

13. TDM strategy needs to have better defined goals for traffic mitigation. Leaving it up to the discretion of the Director of Planning is not acceptable since so many mitigation measures are declared "significant and unavoidable" in this DEIR. Operational timeframe of the TDM plan or an improved plan with less traffic must be specified. Should be for the life of the project.

*"The Santa Clara Director of Planning and Inspection 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 Santa Clara Director of Planning and Inspection is satisfied that all feasible TDM measures are being implemented if the overall trip reduction objective is not being met."* Table ES-1. Summary of Impacts and Mitigation Measures

14. Mountain View has stipulated on North Bayshore that no new development can occur until the developers can show concrete plans to reduce single occupancy vehicle commute rates of less than 45%. Each phase of this project must be halted or delayed until previous phases have met SOV targets (Mt View has this policy). In addition, there is a fine of $100,000 for missing the 45% target by 1% and a fine of $50,000 for each additional percentage point above 46%.

There are no hard metrics in the City Place DEIR for SOV rates:

*"A TDM plan, as required per Mitigation Measure TRA-1.1, would include incentives for the use of alternative travel modes to reduce the number of single-occupant vehicles. Participation by major employers in programs that would reduce the amount of driving would be encouraged, potentially including efforts that would promote private commuter bus service, carpooling, vanpooling, ridesharing, parking management, subsidized transit passes for employees, secure bicycle facilities, telecommuting, and flexible work schedules." DEIR p 3.1-39*

From Mountain View Website:

*"The Precise Plan has strict transportation improvement requirements, including a vehicle trip cap and single-occupancy vehicle (SOV) trip target. New development must demonstrate how it meets the Plan's vehicle trip cap for all inbound vehicles to the plan area at peak hours <u>and</u> meets a 45 percent SOV target at peak hours."*

15. Need hard goals with numbers and commitments for shared bikes and cars: *"A TDM plan required per Mitigation Measure TRA-1.1 would be developed that could include shared bicycle and automobiles for part-time use by employees and residents to reduce the need for personal vehicles. " p 3.1-39.* This doesn't have any measurable goals/targets.

16. The commitment to 5% of residential parking to be configured with charging stations for Electric vehicles with future capacity of 10% is too low. Also the commitment of 1% of commercial parking for EV charging is also too low considering California mandates for 1.5 million electric vehicles on the road by 2025. Given that there are 13 million

automobiles registered in California and that the Bay Area has a much higher percentage of electric vehicles than the rest of California, the full build-out percentages of 10% and 2% (residential, commercial, respectively) are too low if 11.5% of cars statewide will be electric by 2025. Also the charging rates need to be specified -- Level 1, Level 2 (6.6 kW) or Fast DC.

17. Traffic impacts monitoring must be done by 3rd parties and must be publicly reported. Stiff penalties must be imposed for failing to meet targets. The DEIR suggests that the TMA will be doing traffic counts but only for driveway entrances and exits but not for roadways. This is not adequate.

*"The TMA will assist with the monitoring activities that will be conducted. The monitoring activities shall include traffic counts at all City Place driveways, traffic counts at the driveways to office parking locations" p 3.3-89*

18. Coordination of traffic signals and signal priority for Light Rail is deficient on Tasman. This must be improved. On time rates for Light Rail have dropped from 85% to 70% over the past year.

19. This project should support the proposed direct Light Rail line from Milpitas to Mt View, eliminating the need for a transfer.

20. Why does the MCP state that the Project will make 3000 parking spots available only for NFL events and not for concerts or other events? MCP p 59

*NFL Event Days Parking: Related Santa Clara will provide a total of 3,000 parking spaces to the 49ers, limited to NFL football games only, at Levi's Stadium, estimated to occur 10-12 days per year. MCP p59*

*Some of the proposed parking would be provided for NFL football games at Levi's Stadium, which are estimated to occur 10 to 12 days per year. Approximately 3,000 spaces would be allocated for NFL football games in two formats: approximately 790 spaces within the southern end of the City Center mixed-use core along Tasman Drive (Parcel 5) and approximately 2,210 spaces throughout the balance of the Project site, including on Parcels 1, 2, 3, and 4.* DEIR p2-19

21. Elevations around the perimeter of the development are as low as 5 feet. How will these be affected by sea level rise? The retention basin water level is at 5.7 feet. Mountain View requires new levies and infrastructure for sea level rise and has a minimum 11.5 foot build-to requirement for all new buildings to account for sea level rise.

DEIR States:

*"an EIR is not required to examine the effects of the environment, such as sea level rise, on a project (see Ballona Wetlands Land Trust v. City of Los Angeles, 201 Cal. App. 4th 455). Based on this ruling, an*

*analysis of the effects of flooding associated with sea level rise or other climate-change effects on the Project site is not required under CEQA"*

22. Why not LEEDv4 Gold for both Commercial and Residential? USGBC requires that projects registering after Oct. 2016 must use LEEDv4. I assume later phases of the Project will be LEEDv4. NOTE that the Santa Clara Square development of 1800 residential units is intended to be LEED Gold. I can only assume that the Irvine Company has determined that the market can bear the additional cost of LEED Gold residential.

DEIR: *LEED v2009 Gold for the proposed commercial buildings, and LEED v2009 Silver for the proposed residential buildings.*

23. What will happen to the captured methane when the Ameresco power plant is no longer "economical to operate"? Will the methane be released to the atmosphere and contribute to global warming or will it be flared?

*"The Project would not alter the existing Ameresco Methane Plant on Parcel 1 or the Public Works maintenance facility at the Retention Basin." p 3.2-21*

*"This landfill gas-to-energy (LGTE) plant consists of three FlexEnergy micro-turbines that combust methane gas and other trace contaminants in the landfill gas to generate up to 750 kilowatts (kW) of electricity per hour. Because methane concentrations and landfill gas flows decline over time, the modular turbines will be removed one by one to match landfill gas production until the plant is no longer economical to operate." p 2-5*

24. There is an inadequate response to Impact AES-1: Degradation of Visual Character or Quality. p ES-9 There should be a commitment to plant extra trees to screen the Project buildings from both San Tomas Aquino and Guadalupe trails.

25. It's nice to see that electrical outlets will be provided for landscaping equipment. It would be great to limit leafblowers to being electric and to prohibit landscapers to use leafblowers that use fossil fuels.

26. CityPlace is the ideal place for a Farmers' Market especially since there will be so much housing at Tasman East. Design of the public space should consider some special features to support a vibrant Farmers' Market – places to unload and park trucks and a place for live music performers. Santana Row has a vibrant farmers' market and attracts more people to the area. A farmer's market would enhance the quality of life in the City per the following objective:

*Establish a new and vibrant mixed-use City neighborhood with a well-defined center to serve as a focal point for a pedestrian-friendly "live, work, and play" environment. DEIR P 2-6*

27. The San Tomas and Guadalupe trails are ideal for bicycle commuting but these trails are dark early in the winter. Perhaps providing some lighting on these trails might be considered, especially at underpasses.

28. I'm concerned about the liability to the City of streets that may sink due to settling of the landfill material. Is there any responsibility of the developer to repair sinking streets and sidewalks since more frequent maintenance may be required?

CITY OF SUNNYVALE CALIFORNIA

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NOV 24 2015
PLANNING DIVISION

November 23, 2015

Debby Fernandez, Associate Planner
City of Santa Clara
Planning Division
1500 Warburton Avenue
Santa Clara, CA 95050

Re: Comments to Draft Environmental Impact Report (DEIR) for the City Place Santa Clara Mixed-use Project

Dear Ms. Fernandez:

Thank you for the opportunity to review the DEIR for the proposed 240-acre, 9.16 million gross square feet, mixed-use project at 5155 Stars and Stripes Drive in Santa Clara. The following comments cover issues the City of Sunnyvale would like to be discussed in the DEIR:

**General Questions and Comments:**
The following comments were provided when the City of Sunnyvale commented on the Notice of Preparation. These comments were not specifically addressed in the DEIR.

1. Please provide a discussion of how the proposed project works with the 49er stadium parking and traffic circulation plan, especially during construction of the proposed project.

2. Provide the current Levi Stadium parking plan (as part of the Transportation Management and Operations Plan- TMOP) and envisioned TMOP parking plan at initial and complete project build-out.

**Community Outreach:**
It is our understanding that the City of Santa Clara plans to hold a community outreach meeting that includes Sunnyvale residents. Please provide the City of Sunnyvale with the location, time and date of this meeting at the time that residents are noticed.

**Noise Impacts:**
1. In the project mitigations include the requirement for a project noise coordinator and provide the contact information to the City of Sunnyvale and to Sunnyvale residents located east of Lawrence Expressway and between Hwy 101 and Hwy 237.

2. In the construction traffic control plan direct construction traffic away from Tasman Drive in Sunnyvale due to potential increased noise.

**D. Traffic and Transportation Input for the Notice of Preparation:**
Per page 3.3-17, the study intersections were selected by identifying locations where the project contributed vehicles that would require 2% of the roadway capacity. Per the VTA guidelines, any intersection where the project adds 10 peak hour vehicles per lane to any intersection movement should be analyzed. Depending upon the existing intersection volumes and configuration, the 2% capacity requirement may result in a higher threshold (more than 10 vehicles per lane) for intersections to be considered for evaluation. Consequently locations could have been left out from this study, which otherwise would have qualified for evaluation.

The following intersections are on the City's Major Arterials which connects to routes (Tasman Drive, SR 237) providing direct access to the development site. These intersections should also be evaluated for possible impacts:

- E. Java Drive and Crossman Avenue.
- E. Java Drive and Geneva Drive.
- E. Java Drive and Borregas Avenue.
- W. Java Drive and Bordeaux Drive.
- N. Mathilda Avenue and W. Java Drive.
- N. Fair Oaks Avenue and Caliente Drive.
- N. Fair Oaks Avenue and E. California Avenue.
- N. Fair Oaks and Kifer Road.

The City of Sunnyvale appreciates your consideration of the comments provided. Please contact me at 408 730-7591 or gcaruso@sunnyvale.ca.gov if you have any questions or concerns about items discussed in this letter.

Sincerely,

Gerri Caruso
Principal Planner, Community Development Department

cc: Trudi Ryan, Director of Community Development
Manuel Pineda, Director of Public Works
Andy Miner, Planning Officer
Carol Shariat, Principal Transportation Engineer
Kevin Riley, Santa Clara Director of Planning and Development

## Megan Valenzuela

**From:** Pilar Lorenzana-Campo <pilar@siliconvalleyathome.org>
**Sent:** Tuesday, December 08, 2015 2:36 PM
**To:** Mayor and Council
**Cc:** Kevin Riley; Manager
**Subject:** City Place Santa Clara Draft Environmental Impact Report (SCH#2014072078, CEQ2014-01180 and PLN2014-10440)
**Attachments:** SV@Home Coalition_CityPlace_20151208.pdf

Dear Mayor Matthews, Vice-Mayor Davis, and Councilmembers Kolstad, Marsalli, Caserta, Gillmor, and O'Neill:

Good afternoon. I respectfully submit the attached letter regarding the City Place Project on behalf of our members and our partners. We are concerned about the potential for the project to exacerbate the housing and affordable housing crisis within the City and the remainder of the region if sufficient residential development is not planned to house the new workers.

In summary, we request that the City:

1. Approve the maximum number of residential units possible in the City Place development based on the number allowed by State regulatory agencies.
2. Expedite approvals and necessary rezoning for nearby parcels for residential use to ensure that homes are available for workers employed by City Place.
3. Negotiate with residential developers to set aside a minimum of 20% of units built as affordable to reflect that not all jobs created by City Place will provide wages that enable payment of market rents.

Thank you for considering our feedback. We appreciate the opportunity to weigh in on this issue.

Best,

Pilar Lorenzana-Campo
Policy Director
**SV@Home**
95 South Market Street, Suite 300, San Jose, CA 95113
pilar@svathome.org c. (408) 215-8925

http://svathome.org

sv@home

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Planning Division

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**Transmitted via email:** MayorAndCouncil@santaclaraca.gov

December 8, 2015

Honorable Mayor Matthews and Members of the City Council
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

Dear Mayor Matthews, Vice-Mayor Davis, and Councilmembers Kolstad, Marsalli, Caserta, Gillmor, and O'Neill:

**Re: City Place Santa Clara Draft Environmental Impact Report (SCH#2014072078, CEQ2014-01180 and PLN2014-10440)**

SV@Home is the voice of affordable housing in Silicon Valley, representing a broad range of interests, from leading employers who are driving the Bay Area economy to labor and service organizations, to nonprofit and for-profit developers who provide housing and services to those most in need.

On behalf of our members and the undersigned partner organizations, we write to voice our concerns about the potential for the City Place project to exacerbate the housing and affordable housing crisis within the City and the remainder of the region if sufficient residential development is not planned to house the new workers.

**The City of Santa Clara has the second-highest jobs-housing imbalance in Santa Clara County, at 2.8:1.** And while the project also includes the approval of between 200 to 1,360 new residential units, these homes are not nearly enough to satisfy additional demand for housing being generated by development being proposed. The project proposes to create between 7.8 to 8.9 million additional square feet of commercial, retail, and hotel uses could create as many as 30,000 new jobs, many of which will likely pay lower wages.

As projects like City Place are considered, new housing development must be a part of the plan. We understand that the City Place site is constrained by State regulatory agencies, and that only limited residential use has been approved (1,400 units). However, we also understand that there are other developments being considered, which have the potential for up to 20,000 new units, including a nearby 48-acre site that is being rezoned for high density residential development and that could accommodate 3,000 to 4,000 units. It is critical that this and other nearby developments move forward quickly. And it is of vital importance that the City require developers to include a minimum of 20% of the units in these projects at

affordable rents to ensure that there are housing options for all jobs created, including hotel workers and retail staff.

We are very happy that the City has recognized the need to increase the development of affordable housing by agreeing to program "boomerang" dollars to affordable housing, by participating in the regional impact fee nexus study, and by approving affordable housing developments like the one proposed for the former BAREC site. We are also encouraged that the City is looking at other ways to fund affordable housing development.

It will take all of these actions and more to respond to the need for housing and to avoid exacerbating an already crazy housing market and resulting transportation and environmental challenges.

In summary, we request that the City:

1. Approve the maximum number of residential units possible in the City Place development based on the number allowed by State regulatory agencies.
2. Expedite approvals and necessary rezoning for nearby parcels for residential use to ensure that homes are available for workers employed by City Place.
3. Negotiate with residential developers to set aside a minimum of 20% of units built as affordable to reflect that not all jobs created by City Place will provide wages that enable payment of market rents.

Thank you for your consideration.

Sincerely,

Pilar Lorenzana-Campo
Policy Director, SV@Home

Charisse Ma Lebron, Working Partnerships
Poncho Guevarra, Sacred Heart
Kevin Zwick and Julie Quinn, Housing Trust Silicon Valley
Wendy Ho, United Way
Chris Lepe, TransForm

Cc:

Julio Fuentes and Ruth Shikada, Manager@santaclaraca.gov
Kevin Riley, KRiley@santaclaraca.gov

SANTA CLARA
Valley Transportation Authority

RECEIVED
NOV 23 2015
PLANNING DIVISION

November 23, 2015

Mr. Julio J. Fuentes, City Manager
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050

Subject: City Place Santa Clara Draft Environmental Impact Report (DEIR)

Dear Mr. Fuentes:

Thank you for the opportunity to review and comment on the Draft Environmental Impact Report (DEIR) for the City Place Santa Clara Project (Project). The Santa Clara Valley Transportation Authority (VTA) extends our appreciation to the City of Santa Clara staff and consultants, and the Project Developer, Related Santa Clara, for their efforts in ongoing engagement and coordination with VTA throughout the last several months.

VTA supports the proposed land use intensification on this important City-owned site, strategically located on the regional transportation network near VTA's Great America and Lick Mill Light Rail Stations and the ACE/Capitol Corridor Great America Station. VTA supports the Project objectives to transform the site into a transit-oriented, mixed-use "City Center" that encourages walking, bicycling, and transit use. The synergy of the Project with Levi's Stadium and nearby development projects offers an extraordinary opportunity to leverage these combined investments to provide world-class transportation options to an emerging activity center that are accessible, seamless, safe, and efficient. However, for this area to fulfill that potential, it will be important for City Place to be designed in a way that supports and does not hamper the efficient operation of nearby transit services.

VTA has prepared a number of comments on the DEIR, which are included in the attached memorandum. VTA's key areas of concern are summarized below.

**A. Concern: Project Significant Impacts on Transit Travel Times**

**VTA Request: Fully mitigate the impact by implementing Transit Signal Pre-emption for VTA light rail vehicles along Tasman Drive, installing the supporting infrastructure, and committing resources to monitor and maintain traffic signals during the 15-year Project construction period to ensure Transit Signal Pre-emption is operating properly.**

The DEIR discloses impacts to transit operations, specifically, increased travel times for light rail and buses due to increased traffic congestion. The DEIR states that there are no feasible mitigation measures to address this impact. However, VTA believes that a range of feasible mitigation measures exist to avoid the impact and should be implemented.

In response to county-wide concerns regarding transit travel times, VTA has invested $90 million in system-wide speed and reliability improvements over the past two years through the Light Rail Efficiency program. In spite of the existing Transit Signal Priority[1] historically provided along Tasman Drive, light rail speeds and on-time performance in the vicinity of the Project have significantly degraded for extended periods on both event days and non-event days due to problems with signal maintenance, resulting in loss of ridership. VTA emphasizes that it will be vital for the proposed Project to enhance, and not diminish, the speed and efficiency of nearby transit services.

VTA requests that the City require the Project Developer to implement the following Mitigation Measures (in order of priority):

1. **Implement Transit Signal Pre-emption for light rail within the City of Santa Clara.**
   VTA requests that the City implement Transit Signal Pre-emption for VTA light rail vehicles along Tasman Drive (between Patrick Henry Drive and Lick Mill Boulevard) to avoid the impact of the anticipated light rail delay. The operating specifications would be established through a cooperative agreement between the City and VTA. VTA requests that the Project Developer fund the construction of the infrastructure needed for Transit Signal Pre-Emption (such as gates and fencing). Implementing Transit Signal Pre-emption would demonstrate the Project's transit orientation by increasing preference for light rail vehicles, reinforce VTA and the City's shared goals to increase ridership, and reduce auto trips.

2. **Commit resources to monitor and maintain traffic signals to ensure Transit Signal Pre-emption is operating properly.**
   VTA requests that the Project Developer commit resources toward monitoring and maintenance of the traffic signals along Tasman Drive within the City of Santa Clara during the 15-year Project construction period, to ensure that Transit Signal Pre-emption is operating properly. This would be comparable to VTA's arrangements with cities when VTA is implementing projects that may have an effect on city streets and traffic signals.

3. **Construct an elevated pedestrian walkway across Tasman Drive at Centennial Boulevard.**
   VTA requests that the Project Developer construct an elevated pedestrian walkway across Tasman Drive at Centennial Boulevard as part of the Project. VTA's number one priority is the safety of the travelling public. A pedestrian overcrossing would ensure the safety of visitors to City Place as well as Levi's Stadium, and minimize delay to light rail vehicles.

Another mitigation option would be to grade separate VTA light rail through this corridor which would achieve the objectives of the three measures listed above.

---

[1] The existing Transit Signal Priority for light rail vehicles along Tasman Drive in the vicinity of the Project provides traffic signal management by modifying signal operations to better accommodate light rail vehicles (e.g. by extending green lights).

**B. Concern: Proposed new intersection/crossing of light rail at Tasman Dr. and Avenue C**

**VTA Request: Modify the proposed intersection to prohibit new crossing of light rail and preserve light rail safety, speed, and reliability.**

The DEIR describes a Project roadway "variant" that would add a new signalized intersection at Tasman Drive and Avenue C to enable additional vehicular access into the Project site; however, the variant would also create a new crossing of VTA light rail tracks. VTA strongly opposes the introduction of a new signalized intersection at any time, due to safety concerns (limited sight distances for light rail vehicles) and the potential for exacerbated delay to light rail travel times. VTA believes a non-signalized intersection with only right-in, right-out movements would be an acceptable option allowing for added vehicular access while preserving light rail safety, speed, and reliability.

**C. Concern: Freeway Impacts and Voluntary Contributions to Regional Improvements**

**VTA Request: Allocate at least $60 million in contributions toward regional roadway system improvements that would lessen or offset these impacts.**

The DEIR identifies that 246 freeway segments will be significantly impacted by Project-related congestion and states the Project Developer will provide a voluntary contribution toward Valley Transportation Plan (VTP) Express Lane projects and freeway ramp metering and operations as Mitigation Measure TRA-3.1. VTA commends the City for directing the Project Developer to support planned projects that would improve the operation of the regional transportation system. Based on a review of projects in the Valley Transportation Plan (VTP 2040) that would lessen or offset the identified freeway segment impacts and due to the large number of impacted freeway segments, VTA requests that the Project Developer allocate at least $60 Million in contributions toward regional freeway improvement projects along SR 237, US 101, and two interchanges.

**D. Concern: ACE/Capitol Corridor Great America Station integration with the Project**

**VTA Request: Require the construction of near-term Transit Center improvements, and the funding of a Station Master Plan, to integrate the Project with adjacent transit.**

In recent months, the City, the Project Developer and VTA have discussed opportunities to improve the ACE/Capitol Corridor Great American Station along with the proposed development. The Project Developer has shared concepts for a near-term Transit Center at this location, which would provide improved bus/shuttle access, additional bus/shuttle bays, improved passenger waiting facilities and improved pedestrian/bicycle access. However, these concepts are not acknowledged in the DEIR. VTA requests that the City require the Project

Developer to construct the near-term Transit Center as part of Phase 1 of the Project. VTA also requests that the Project Developer fund a Station Master Plan, in coordination with the City, VTA, ACE and Capitol Corridor to advance the design of a future integrated, intermodal Great America Station that brings together ACE, Capitol Corridor, VTA light rail, buses, and public/private shuttles. These actions would demonstrate the Project's commitment to true transit orientation, enhance regional and local access to the site, and help create a convenient, accessible, and seamless transit connection between all transit modes and the new development.

**E. Concern: Pedestrian Facilities / Access to Transit**

**VTA Request: Provide exceptional pedestrian accommodations on all Project roadways, and complete the Tasman Drive sidewalk leading to the Lick Mill Light Rail Station.**

Given increased pedestrian volumes associated with the Project, VTA recommends that the City work with the Project Developer to provide exceptional pedestrian accommodations on all Project roadways, particularly on Tasman Drive, Great America Parkway and Lafayette Street. The DEIR identifies impacts to pedestrians along Tasman Drive due to the lack of a continuous sidewalk between the Project site and the VTA Lick Mill Light Rail Station on the north side of Tasman Drive. The DEIR states that mitigation measures for the impact cannot be guaranteed because the Project Developer does not control all the necessary property. VTA requests that the City include a requirement in the Development Agreement that the Project Developer close the Tasman Drive sidewalk gap, including securing the necessary easement east of the Tasman Drive overcrossing.

**F. Concern: Multimodal Improvement Plan**

**VTA Request: Commit to prepare a Multimodal Improvement Plan to comprehensively address the impacts of the Project on the regional transportation system.**

VTA requests that the City prepare an area-wide Multimodal Improvement Plan to address the Project's impacts on Congestion Management Program (CMP) transportation facilities, which serve the broader area and region. The California CMP statute requires Member Agencies to prepare Multimodal Improvement Plans for CMP facilities located within their jurisdictions that exceed, or are expected to exceed, the CMP traffic Level of Service (LOS) standard. The City Place DEIR discloses that the Project will cause numerous CMP facilities to exceed the CMP LOS standard, which triggers this requirement. The preparation of a Multimodal Improvement Plan can be an opportunity to implement multimodal (non-automotive) transportation improvements as offsetting measures, when mitigations to meet the LOS standard are either infeasible or undesirable. The Multimodal Improvement Plan contains a list of actions to help offset the vehicular LOS impacts, along with an implementation plan with specific responsibilities and a schedule. These offsetting measures can include improvements to transit,

bicycle, and/or pedestrian facilities, as well as Transportation Demand Management (TDM) Programs.

VTA looks forward to working with the City of Santa Clara and the Project Developer to help advance this important Project. VTA encourages the City to work with our regional agencies to designate the Project area as a Priority Development Area (PDA), which would assist in leveraging grant funding opportunities for sustainable transportation solutions. Please do not hesitate to contact John Ristow, Director of Planning and Program Development, at (408) 321-5713 if you have any questions or to discuss how we can work together with you in this process.

Sincerely,

Nuria Fernandez
General Manager/CEO

cc: Debby Fernandez, Rajeev Batra, Kevin Riley, Ruth Shikada, City of Santa Clara
Mayor Jamie Matthews and Councilmember Teresa O'Neill, City of Santa Clara

**MEMORANDUM**

TO: Debby Fernandez, Associate Planner
City of Santa Clara Planning Division

FROM: Melissa Cerezo and Robert Swierk
VTA Planning and Program Development Division

DATE: November 23, 2015

SUBJECT: City Place Santa Clara Draft Environmental Impact Report (DEIR)

The Santa Clara Valley Transportation Authority (VTA) has reviewed the Draft Environmental Impact Report (DEIR) for City Place Santa Clara Project. We have a number of comments on the document, which are included below.

Project Location and Land Use/Transportation Integration

VTA supports policies and plans that target growth around the established cores, transportation corridors, and station areas in the County, as described in VTA's *Community Design & Transportation* (CDT) Program and CDT Manual. The CDT Program was developed through an extensive community outreach strategy in partnership with VTA Member Agencies, and has been endorsed by all 15 Santa Clara County cities and the County. Intensification of land uses in these areas can promote alternative transportation modes, and reduce vehicle miles traveled and greenhouse gases. The proposed Project offers an unmatched opportunity to develop a live-work-play activity center for Santa Clara that embraces multimodal transportation options.

VTA encourages the City to work with our regional agencies, the Association of Bay Area Governments (ABAG) and Metropolitan Transportation Commission (MTC), to designate the Project area as a Priority Development Area (PDA), which would assist in leveraging grant funding opportunities for sustainable transportation solutions.

Consistency with VTA Congestion Management Program

As noted in DEIR Section 3.3 - Regulatory Setting, VTA, as the Congestion Management Agency for Santa Clara County, establishes the *Transportation Impact Analysis (TIA) Guidelines* which provide local jurisdictions with a uniform program for evaluating the transportation impacts of land use decisions on the designated Congestion Management Program (CMP) system. The DEIR states that "The 2009 VTA Transportation Impact Analysis Guidelines are the basis of the transportation impact analysis for this Project" (DEIR p. 3.3-7). However, it appears that the City of Santa Clara did not prepare a consolidated TIA Report to meet CMP requirements, but rather spread the analysis throughout the body of the DEIR as well as several Appendices. The 2009 VTA *TIA Guidelines* state in several places that the Lead Agency is responsible for submitting a TIA Report (also referred to as a TIA) to VTA for review. For example, Item 4 in Section 3.1 states: "The Lead Agency is responsible for preparing and submitting the TIA Report that meets all the requirements included in these guidelines to VTA within the time frame outlined in Section 1.4…" (VTA TIA Guidelines, 2009, p. 15).

In order to demonstrate compliance with CMP requirements, VTA requests that the City provide a reference table that states where each item in the "Typical TIA Table of Contents" (VTA TIA Guidelines, 2009, p. 17) is located in the City Place DEIR and Appendices. This reference table should cover both the main chapters (e.g., Existing Conditions, Background Conditions) and the topics listed in bullet points in the "Typical TIA Table of Contents."

Trip Generation and Trip Reduction Assumptions

Appendix 3.3-J of the DEIR notes that the trip generation estimates for Parcels 4 and 5 relied on the Fehr & Peers MXD+ trip generation tool, which takes into account development density, scale, design, accessibility, transit proximity, demographics and mix of uses. The use of MXD+ results in considerably lower trip generation estimates than the use of the Institute of Transportation Engineers (ITE) Trip Generation Manual. Appendix 3.3-J also states that an additional peak hour trip reduction (from the MXD+ estimates) of five percent was applied for Parcel 2, portions of Parcel 4, and Parcel 5 to account for likely transit usage. VTA requests that the City clarify how the transit reduction was applied to the MXD+ estimates to avoid double-counting the reduction. In addition, VTA notes that per the VTA *TIA Guidelines*, "a development qualifies as being located near transit if the project entrance… and greatest density of the project are within approximately 2,000-foot walking distance of the specified transit facility" (VTA TIA Guidelines, 2009, p. 35). VTA notes that much of Parcel 2 is likely to be beyond 2,000-foot walking distance of either the ACE/Capitol Corridor Great America Station or the nearby light rail stations, due to the barriers presented the Union Pacific railroad tracks and the grade differences along Lafayette Street. This emphasizes the importance of improving pedestrian accommodations in the Project area (see related comments below).

Transportation Demand Management Program

VTA commends the City and Project Developer for proposing a TDM program including vehicle trip reduction targets, the formation of a Transportation Management Association (TMA), monitoring, reporting, and remedial action if the trip reduction target is not being met. VTA has the following recommendations regarding the TDM mitigation measure:

- The DEIR should specify that trip monitoring will be conducted by the City or a third party. The DEIR currently does not specify who will conduct the monitoring but only states that "The TMA will assist with the monitoring activities that will be conducted."
- The City should clearly state in the EIR Mitigation Monitoring and Reporting Program the estimated trip generation with standard ITE trip generation rates; the trip generation with built-in TDM reductions included in the MXD+ Trip Generation estimates (but without the TDM mitigation measure); and the vehicle trip thresholds (with the TDM mitigation measure). For the office component the assumptions about employee density should be clearly stated. This will help ensure that the TDM mitigation measure is practical and enforceable over time.
- The DEIR states that the TDM reduction targets will be applied to create thresholds for each phase of development as City Place builds out ("Interim Phases," p. 3.3-86). VTA recommends including a table in the DEIR specifying the TDM reduction targets for each phase of development.

- In addition to the overall vehicle trip thresholds for the development, VTA recommends that the City establish vehicle trip thresholds for each gateway into the Project and mode share targets, similar to the framework of the North Bayshore Precise Plan in the City of Mountain View.
- The DEIR notes that "No thresholds are established for retail uses because it is difficult to enforce trip reductions for retail customers." However, VTA notes that the proposed build-out of the site with up to 1.7 million square feet of retail uses is likely to generate a large number of retail employees traveling to and from the site, in addition to retail customers. VTA recommends that the City set vehicle trip reduction targets for retail employees and apply TDM strategies similar to those identified for office uses.
- The description of TDM Measures and Strategies in the DEIR should include a reference to parking management strategies and incentives to reduce trips, such as shared parking, reduced parking ratios, unbundled parking, parking pricing, and parking cashout. This would improve Project consistency with City General Plan policies, such as 5.8.3-P9 (Require new development to incorporate reduced on-site parking… in order to encourage transit use and increase access to transit services) and 5.8.6-P4 (Encourage shared, consolidated, and/or reduced parking in mixed-use centers and within 0.25 mile of transit centers and stops.)
- VTA also recommends that the TDM program include providing transit fare incentives such as free or discounted transit passes, on a continuing basis.

Intersection Mitigation Measures and Secondary Impacts

The DEIR identifies several mitigation measures for intersections impacts that were not previously identified in another TIA or planning document, and that involve increases to automobile capacity and will likely require changes to Right-of-Way (Table 3.3-20):

- Great America Parkway/Tasman Drive (CMP)
- Agnew Road-De La Cruz Boulevard/Montague Expressway (CMP)
- Great America Parkway/SR 237 WB Ramps (CMP)
- Great America Parkway/SR 237 EB Ramps (CMP)
- Great America Parkway/Yerba Buena
- Great America Parkway/Old Mountain View-Alviso Rd
- Gold Street/Gold Street Connector
- Great America Parkway/Gold Street Connector

The secondary impact analysis of mitigation measures included in the DEIR (p. 3.3-241 to p. 3.3-244) did not include an analysis of secondary impacts on bicyclists and pedestrians. However, the 2009 VTA *TIA Guidelines* require a TIA to "Disclose whether mitigations for traffic LOS would likely increase pedestrian or bicycle delay at intersections due to longer signal cycles, revised phasing, existing inadequate detection" (2009 TIA Guidelines, p. 46, Item 9) and disclose various effects of automobile mitigation measures on bicycling and walking (same page, Item 8). This analysis was not included in the secondary impact analysis in the DEIR.

VTA requests that the transportation analysis be amended to include the analysis of secondary impacts of all proposed intersection mitigation measures on bicycles and pedestrians. In the

event that the analysis finds that widening these intersections will degrade conditions for pedestrians and bicyclists, VTA recommends that the City work with the Project Developer to identify offsetting multimodal improvements in lieu of auto capacity expansions at these locations. Other alternatives should be explored to reduce the length of pedestrian and bicycle crossings and reduce conflicts, such as bulb outs, special signal phasing or timings, or grade separations.

CMP Intersection Impacts and Multimodal Improvement Plan

The DEIR indicates that there are 18 CMP Intersections that would be impacted per CMP LOS standards and would remain Significant and Unavoidable Impacts after all feasible mitigation measures are applied. VTA requests that the City prepare an area-wide Multimodal Improvement Plan to address the Project's impacts on CMP transportation facilities, which serve the broader area and region. The California CMP statute requires Member Agencies to prepare Multimodal Improvement Plans for CMP facilities located within their jurisdictions that exceed, or are expected to exceed, the CMP traffic.

The preparation of a Multimodal Improvement Plan can be an opportunity to implement multimodal (non-automotive) transportation improvements as offsetting measures, when mitigations to meet the LOS standard are either infeasible or undesirable. The Multimodal Improvement Plan contains a list of actions to help offset the vehicular LOS impacts, and an implementation plan with specific responsibilities and a schedule. These off-setting improvements can include improvements to transit, bicycle, and/or pedestrian facilities, as well as Transportation Demand Management (TDM) Programs. VTA can assist the City in identifying off-setting improvements and would be happy to discuss alternatives to physical improvements at CMP intersections in the City of Santa Clara. For further information on Multimodal Improvement Plans (previously "Deficiency Plans"), please see VTA's Deficiency Plan Requirements located online at: http://www.vta.org/cmp/technical-guidelines.

Freeway Impacts and Voluntary Contributions to Regional Improvements

The DEIR identifies 246 freeway segment impacts and states the Project Developer will provide a voluntary contribution toward Valley Transportation Plan (VTP) Express Lane projects and freeway ramp metering as Mitigation Measure TRA-3.1. VTA commends the City for directing the Project Developer toward supporting planned projects that would improve the operation of the regional transportation system.

Based on a review of projects in the Valley Transportation Plan (VTP 2040) that would lessen or off-set the identified freeway segment impacts and due to the large number of impacted freeway segments, VTA requests that the Project Developer allocate at least $60 Million in contributions toward the following projects:

| | |
|---|---|
| SR 237 Express Lanes Phase 2 Construction | $18 million |
| US 101/SR 87 Two-Lane Exit Construction | $ 2 million |
| US 101/SR85 Express Lanes Phase 3 Design SR 237 | $10 million |
| SR 237 Express Lanes Extension to US 101 (through Design) | $ 5 million |
| SR 237/Great America/Lafayette Interchange Improvements (through Design) | $14 million |
| Various Traffic Operations System and Ramp Metering (through Construction) | $ 6 million |
| US 101/De La Cruz/Trimble Interchange Improvement Design | $ 5 million |

VTA also requests that the City include VTA staff in discussions regarding the amount and uses of the voluntary contributions.

In coordination with VTA and Caltrans, the City and Project Developer should consider evaluating other interchange types at SR 237/Great America Parkway-Lafayette Street interchange that would improve access to SR 237 and increase mobility for bicyclists and pedestrians.

ACE/Capitol Corridor Great America Station Integration with Project

In recent months, the City, the Project Developer and VTA have discussed opportunities to improve the ACE/Capitol Corridor Great American Station along with the proposed development. In a meeting held on October 6, 2015, the Project Developer described concepts for a "Transit Center" next to the Station, located in the general vicinity of Stars & Stripes Drive and Avenue C. VTA was provided with a concept diagram "Great America Station Area Plan" (see attached ***Exhibit A***) which provide improved bus/shuttle access, additional bus/shuttle bays, improved passenger waiting facilities and improved pedestrian/bicycle access. However, these concepts are not acknowledged in the DEIR.

VTA requests that the City require the Project Developer to construct the near-term Transit Center as part of Phase 1 of the Project. VTA also requests that the Project Developer fund a Station Master Plan, in coordination with the City, VTA, ACE and Capitol Corridor to advance the design of a future integrated, intermodal Great America Station that brings together ACE, Capitol Corridor, VTA light rail, buses, and public/private shuttles. The actions would demonstrate the Project's commitment to true transit orientation, enhance regional and local access to the site, and help create a convenient, accessible, and seamless transit connection between all transit modes and the new development. These improvements, which would be identified in the Development Agreement, could be included as part of the City's Multimodal Improvement Plan.

Transit – Existing Conditions and Plans – Light Rail

The DEIR states that VTA has no specific plans to increase bus and light rail service in the City Place area during commute hours (p. 3.3-31). This statement is incorrect and should be corrected in the EIR. VTA is in the process of developing a service plan for a direct light rail service between the Milpitas BART station (anticipated to open in fall 2017) and Mountain View, which would increase the frequency of trains along Tasman Drive near City Place. These service enhancements were first outlined in VTA's Light Rail Systems Analysis (completed in May 2010) and are being refined and advanced in VTA's current Light Rail Enhancements project. The EIR should assume two lines of service along Tasman going through Santa Clara. Both lines would operate with 15 minute frequencies during peak periods.

Transit – Existing Conditions and Plans - Bus and Shuttles

Several statements about existing bus and shuttle service in the DEIR are either out-of-date or incomplete, and should be corrected:

- ACE shuttles: The DEIR (p. 3.3-35) states that ACE operates eight shuttle routes from Great America Station. The EIR should note that three of these shuttles (the Grey, Red and Yellow shuttle routes) have two shuttles for each ACE trip, and the shuttle vendor also stages a supervisor shuttle during train arrival and departure times. Therefore a total of 12 shuttles are staged in the shuttle area for each ACE train trip.
- Local VTA Bus Routes: The VTA Line 57 now operates at 30 to 60 minute headways on Sundays, not 60 minutes as shown on page 3.3-32.
- VTA Service to Levi's Stadium figure (p. 3.3-222): The EIR should reflect that VTA no longer operates Line 254 from Eastridge for Levi's Stadium events.

Transit Operations - Impacts to Transit Travel Times

The DEIR discloses impacts to transit operations, specifically, increased travel times for light rail and buses due to increased traffic congestion. The DEIR states that there are no feasible mitigation measures to address this impact. However, VTA believes that a range of feasible mitigation measures exist to avoid the impact and should be implemented.

In response to county-wide concerns regarding transit travel times, VTA has invested $90 million in system-wide speed and reliability improvements over the past two years through the Light Rail Efficiency program. In spite of the existing Transit Signal Priority[1] historically provided along Tasman Drive, light rail speeds and on-time performance in the vicinity of the Project have significantly degraded for extended periods on both event days and non-event days due to problems with signal maintenance, resulting in loss of ridership. VTA emphasizes that it will be vital for the proposed Project to enhance, and not diminish, the speed and efficiency of nearby transit services.

VTA requests that the City require the Project Developer to implement the following Mitigation Measures (in order of priority):

[1] The existing Transit Signal Priority for light rail vehicles along Tasman Drive in the vicinity of the Project provides traffic signal management by modifying signal operations to better accommodate light rail vehicles (e.g. by extending green lights).

1. **Implement Transit Signal Pre-emption for light rail within the City of Santa Clara.**
   VTA requests that the City implement Transit Signal Pre-emption for VTA light rail vehicles along Tasman Drive (between Patrick Henry Drive and Lick Mill Boulevard) to avoid the impact of the anticipated light rail delay. The operating specifications would be established through a cooperative agreement between the City and VTA. VTA requests that the Project Developer fund the construction of the infrastructure needed for Transit Signal Pre-Emption (such as gates and fencing). Implementing Transit Signal Pre-emption would demonstrate the Project's transit orientation by increasing preference for light rail vehicles, reinforce VTA and the City's shared goals to increase ridership, and reduce auto trips.

2. **Commit resources to monitor and maintain traffic signals to ensure Transit Signal Pre-emption is operating properly.**
   VTA requests that the Project Developer commit resources toward monitoring and maintenance of the traffic signals along Tasman Drive within the City of Santa Clara during the 15-year Project construction period, to ensure that Transit Signal Pre-emption is operating properly. This would be comparable to VTA's arrangements with cities when VTA is implementing projects that may have an effect on city streets and traffic signals.

3. **Construct an elevated pedestrian walkway across Tasman Drive at Centennial Boulevard.**
   VTA requests that the Project Developer construct an elevated pedestrian walkway across Tasman Drive at Centennial Boulevard as part of the Project. VTA's number one priority is the safety of the travelling public. A pedestrian overcrossing would ensure the safety of visitors to City Place as well as Levi's Stadium, and minimize delay to light rail vehicles.

Another mitigation option would be to grade separate VTA light rail through this corridor which would achieve the objectives of the three measures listed above.

The measures to address the significant impact on transit travel times should be identified clearly in the Mitigation Monitoring and Reporting Program (MMRP) in the Final EIR. The MMRP should clearly identify the responsible party, timing and source of funding for each measure.

VTA believes that a commitment to fund the maintenance and monitoring of signal operations and Transit Signal Pre-emption during the 15-year Project construction period is vital, based on our past experience with unforeseen changes to traffic signal coordination or transit signal priority which have harmed light rail operations. There are established precedents for including a monitoring requirement as part of a mitigation measure in an EIR; for instance, in the 2011 Final Second Supplemental EIR for the BART Silicon Valley Phase 1 – Berryessa Extension project (in Mitigation Measure NV-3), VTA as the Lead Agency committed to conduct noise testing during the project startup phase, to inform the need for additional noise mitigation if required.

Transit Operations – Proposed New Intersection/crossing of light rail at Tasman Drive and Avenue C

The DEIR describes a Project roadway "variant" which would add a new signalized intersection at Tasman Drive and Avenue C to enable additional vehicular access into the Project site; however, the Project variant would also create a new crossing of VTA light rail tracks. VTA strongly opposes the new signalized intersection due to safety concerns (limited sight distances for light rail vehicles) and the potential for exacerbated delay to light rail travel times. VTA believes a non-signalized intersection (e.g. right-in, right-out) would be an acceptable option allowing for added vehicular access while preserving light rail safety, speed, and reliability. In addition, VTA notes that any new crossing of the light rail tracks would need approval by VTA and the CPUC. Therefore both of these agencies should be added to the list of "Approvals by Responsible Agencies" required prior to development of the Project, listed on pages 2-36 to 2-37 of the DEIR.

Transit Operations – Proposed Bus and Shuttle Service

Appendix 3.3-I of the DEIR contains a Conceptual Bus Circulation Diagram illustrating potential internal circulation and VTA/ACE shuttle bus stops and routes. VTA recommends that the City require the Project Developer to work with VTA and ACE to determine the appropriate future bus stops and routes. VTA requests that the Project Developer include enhanced bus and shuttle stops throughout the Project site as part of the Project. With regard to the design of future bus stops within the Project area, VTA recommends using the standards specified in the VTA Transit Passenger Environment Plan to ensure that bus stops/shelters are designed to be safe, attractive and include amenities that encourage the use of transit. The Project Developer has stated that a shuttle will be provided through the Project site. VTA requests that the City require the Project Developer to provide or fund shuttle operations in perpetuity.

Pedestrian and Bicycle Accommodations – Existing Conditions and Plans

VTA has several comments regarding the documentation of existing conditions and plans in the DEIR:

- The assessment of pedestrian facilities in Existing Conditions only includes the presence/absence of sidewalks and crosswalks. VTA recommends also disclosing sidewalk widths and presence of continuous barriers such as street trees. Resources on pedestrian quality of service, such as the Highway Capacity Manual 2010 Pedestrian Level of Service methodology, indicate that such accommodations improve perceptions of comfort and safety on a roadway.
- VTA recommends showing access points to existing and proposed bicycle paths in Figure 2-9, Existing and Proposed Bicycle Network, and Figure 3.3-7, Existing Bicycle Facilities in the Focused Study Area.
- The description of VTA's Complete Streets Program (p. 3.3-8) should note that VTA, in collaboration with the cities of Santa Clara, San Jose, Sunnyvale and Milpitas, will soon be starting a Complete Streets Corridor Study for the entire length of Tasman Drive that will develop conceptual designs for improvements for bicyclists, pedestrians and transit passengers.

- The description of VTA's Countywide Bicycle Plan (p. 3.3-8) should note that VTA is in the process of updating the plan, with an anticipated completion date of late 2017.
- The description of users of the San Francisco Bay Trail (p. 3.3-36) should acknowledge that the section of the trail near City Place is used by a considerable number of commuters. Recent surveys on the nearby Guadalupe River Trail show that roughly 50% of trail users are commuters.

Pedestrian Facilities / Access to Transit

Given increased pedestrian volumes associated with the Project, VTA recommends that the City work with the Project Developer to provide exceptional pedestrian accommodations on all Project roadways, particularly on arterial roadways such as Tasman Drive, Great America Parkway and Lafayette Street.

VTA's Pedestrian Technical Guidelines (PTG), part of the implementation framework of the VTA Community Design and Transportation (CDT) Program, provide recommended typologies for various street types. For Community Streets (Arterials), the PTG recommends a minimum total width of the pedestrian realm of 15 feet to account for wide sidewalks, a buffer strip between pedestrians and automobiles with landscaping elements such as closely planted trees, shrubs, or light posts, and appropriate transition zones between the street, pedestrians and buildings (see attached ***Exhibit B***). As noted above, resources on pedestrian quality of service indicate that such accommodations improve pedestrian perceptions of comfort and safety on a roadway. VTA recommends that the City require the Project Developer to provide sidewalks consistent with VTA PTG recommendations on the Project's arterial road frontages.

The DEIR identifies impacts to pedestrians along Tasman Drive due to the lack of a continuous sidewalk between the Project site and the VTA Lick Mill Light Rail Station on the north side of Tasman Drive. The DEIR states that mitigation measures for the impact cannot be guaranteed because the Project Developer does not control all the necessary property (page ES-21). VTA requests that the City include a requirement in the Development Agreement that the Project Developer close the Tasman Drive sidewalk gap, including securing the necessary easement east of the Tasman Drive overcrossing.

During Levi's Stadium event days, VTA has observed unsafe conditions where pedestrians are overflowing into the gutter pans/roadway shoulders and nearby landscaped buffer on Tasman Drive, because the existing sidewalk widths (5 feet) are inadequate. VTA believes that the proposed City Place Project will exacerbate this situation as it will generate additional pedestrians. The Project should provide wider sidewalks to address this issue, as noted above. VTA recommends including additional pedestrian mitigation measures, such as closing existing sidewalk gaps on other Project frontages such as Lafayette Street.

As noted in the "Transit Operations – Impacts to Transit Travel Times" section of this letter, a pedestrian overcrossing of Tasman Drive between City Place and Levi's Stadium would improve

safety by reducing conflicts between pedestrians, light rail trains, and other vehicles at the intersection of Tasman Drive and Centennial Boulevard.

Pedestrian and Bicycle Accommodations – Within Project Site

Figure 2-10, Existing and Proposed Pedestrian Network, shows a fairly connected network of sidewalks and pedestrian paseos within the Project site. However, there are some notable gaps in pedestrian connectivity which will lead to unnecessarily long and indirect walking routes to transit stations and trails. For example, there are missing connections between Avenue B and Avenue C, and between 3rd Street and the San Tomas Aquino Trail, due to the presence of large parking structures; public pathways should be provided to make these connections. Similarly, the proposed "urban interchange" of City Place Parkway and Lafayette, and on the 2nd Street crossing over Lafayette, will need exceptional accommodations (e.g., wide sidewalks, tree buffers, buffered bicycle lanes) to encourage pedestrians and bicyclists to overcome these barriers. Furthermore, several interior roadways have three and four-lane cross-sections. VTA recommend using two-lane cross sections whenever possible. This improves pedestrian and bicyclist safety by reducing speeds, reducing crossing widths, and reducing conflict points.

Slip Ramp from Tasman Drive to Stars & Stripes

As shown in the DEIR, the proposed slip ramp from eastbound Tasman Drive to the ACE/Capitol Corridor Great America Station would involve a narrow angle turn from Tasman Drive, rather than a squared-off turn; this is likely to encourage high-speed vehicular movements. While a sidewalk would be provided on the ramp it would likely be five feet wide with no buffer between pedestrians and cars; this would create an uninviting route for pedestrians accessing the station. The design of this slip ramp, as shown in the DEIR, may be inconsistent with City General Plan policies, including:

- General Plan Policy 5.8.2-P1: Require that new and retrofitted roadways implement "full-service street" standards, including minimal vehicular travel lane widths, pedestrian amenities, adequate sidewalks, street trees, bicycle facilities, transit facilities, lighting, and signage, where feasible.
- General Plan Policy 5.8.4-P13: Promote bicycle and pedestrian safety through "best practices" or design guidelines for sidewalks, bicycle facilities, landscape strips, and other buffers as well as crosswalk design and placement.

Close attention to should be paid to the design of the slip ramp. VTA recommends modifying the ramp design to slow vehicular turns; reduce conflicts with bicyclists and pedestrians through special crossing treatments or grade separation; and provide a wide sidewalk, a buffer between pedestrians and vehicles, and a bicycle lane.

Vehicular Access and Connectivity

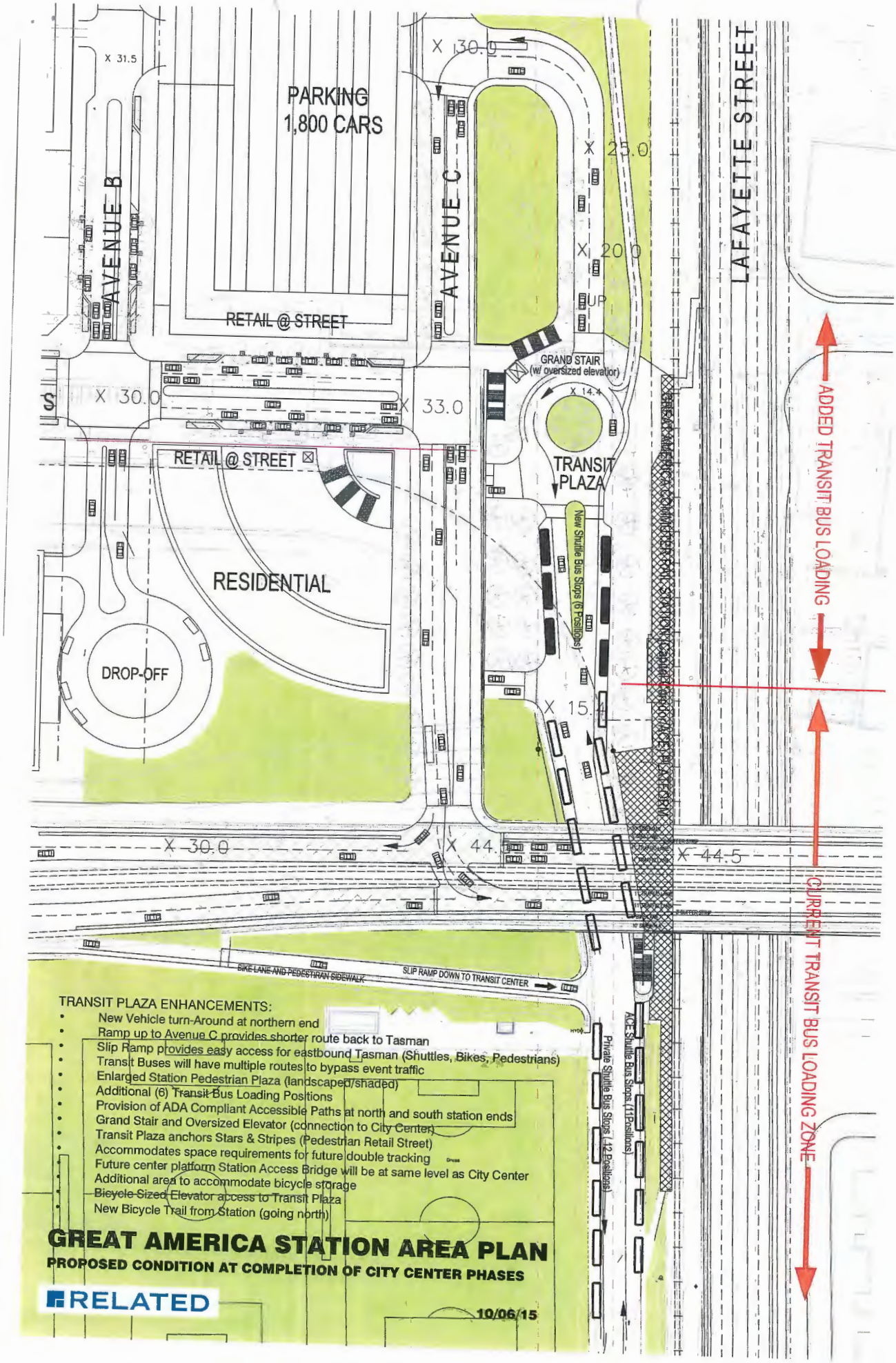
The Project proposes the construction of an extension of Lick Mill Boulevard north of Tasman Drive, connecting to Great America Way and Lafayette Street. The Project also proposes the addition of an "urban interchange" of City Place Parkway with Lafayette, and a new east-west overcrossing of Lafayette at 2nd Street. VTA supports these improvements, and recommends that the City condition the Project Developer to build these new roadway connections concurrently

with Phases 1-3 of the development, rather than leaving these improvements to later phases. In addition, VTA recommends that the City and Project Developer explore other ways to improve east-west connectivity through the Project site and to take advantage of access from Lafayette Street. This would help distribute auto traffic accessing the development and minimize transit delay and auto congestion on Tasman Drive.

Construction Impacts and Roadway Design

The DEIR notes that construction traffic would result in short-term increases in traffic volumes and temporary road closures requiring detours for vehicles accessing the Great America ACE/Capitol Corridor Station (p. ES-24). Mitigation Measure TRA-18.1, Construction Management, states that prior to the issuance of each building permit, the Project Developer and construction contractor shall meet with the City's Public Works Department to develop acceptable detour routes for emergency vehicles and for shuttles to the Great America ACE/Capitol Corridor Station. VTA requests that the City modify the EIR text to note that VTA, ACE and Capitol Corridor shall be consulted prior to road closures or detours affecting the station. In addition, VTA requests that the City consult with VTA during the Transportation Design Review process for Parcels 1, 2 and 3 referenced on page ES-18 to ensure that access for public transit vehicles and shuttles as well as connectivity to the bicycle and pedestrian network is preserved and enhanced.

VTA requests that during any construction related to the City Place Project that construction or contractor vehicles be prohibited from using any part of the shuttle area on Stars & Stripes (which runs from the Tasman Drive overpass south to the cul-de-sac) between the hours of 6:00 a.m. – 9:30 a.m. and from 3:30 p.m. – 7:00 p.m. These are the operating windows for the ACE commuter trains at Great America Station. During those hours, it is very congested in that area with 25 shuttle vehicles, 250 passenger vehicles, and 1,600 pedestrians trying to access or leave the station. This request is based on the VTA/ACE experience during Levi's Stadium construction, when there were many occasions where construction trucks parked overnight on Stars & Stripes where the shuttles normally parked. Frequently construction trucks were entering or leaving the area during peak shuttle operating times which made things difficult as well as unsafe for shuttles and train passengers.




TRANSIT PLAZA ENHANCEMENTS:

- New Vehicle turn-Around at northern end
- Ramp up to Avenue C provides shorter route back to Tasman
- Slip Ramp provides easy access for eastbound Tasman (Shuttles, Bikes, Pedestrians)
- Transit Buses will have multiple routes to bypass event traffic
- Enlarged Station Pedestrian Plaza (landscaped/shaded)
- Additional (6) Transit Bus Loading Positions
- Provision of ADA Compliant Accessible Paths at north and south station ends
- Grand Stair and Oversized Elevator (connection to City Center)
- Transit Plaza anchors Stars & Stripes (Pedestrian Retail Street)
- Accommodates space requirements for future double tracking
- Future center platform Station Access Bridge will be at same level as City Center
- Additional area to accommodate bicycle storage
- Bicycle Sized Elevator access to Transit Plaza
- New Bicycle Trail from Station (going north)

# GREAT AMERICA STATION AREA PLAN

**PROPOSED CONDITION AT COMPLETION OF CITY CENTER PHASES**

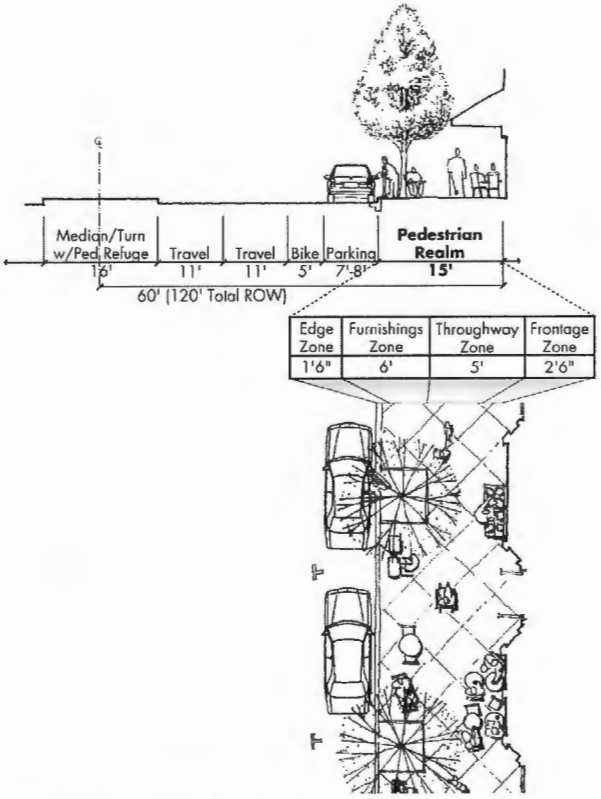
RELATED

10/06/15

## C. Corridor Street Types

### *Community Streets*

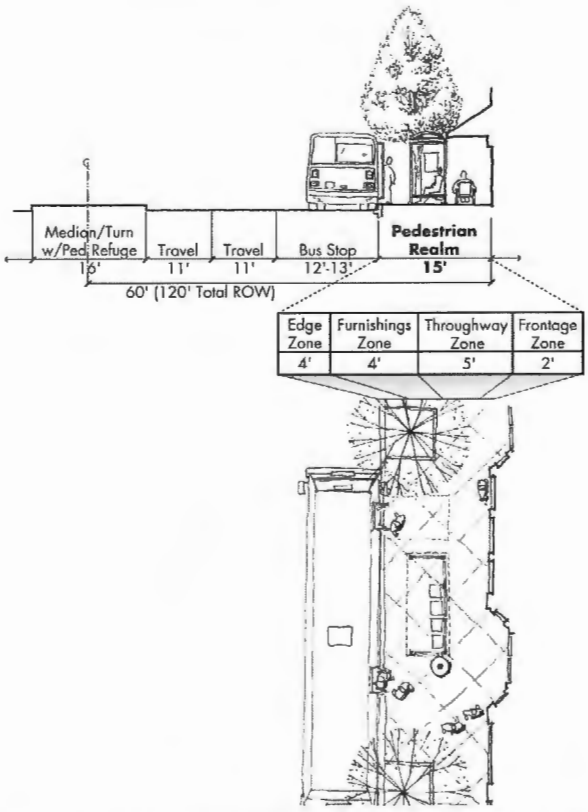
Community Streets are arterials that connect neighborhoods with major destinations such as downtowns, retail areas, and entertainment centers. They serve double-duty, both moving traffic and providing often-visited public space. Community Streets are generally 2 to 4 lanes and balance multi-modal functions, on-street parking, local access and a high level of street connectivity. The Community Street is potentially an important gathering place for the neighborhoods through which it runs and therefore requires a generous pedestrian realm to accommodate amenities. Medians providing pedestrian refuge are important on Community Streets due to the higher traffic speed and volume. The pedestrian realm should be increased proportionally to the speed of the traffic. The "Traffic Context Factor" (TCF) reccomends a one foot increase in the pedestrian realm for every 5 mph increment increase over 30 mph.




*Figures 2.23: Pedestrian Realm for Community Streets*

Table 2.5: Community Streets

| | | Corridor Streets |
|---|---|---|
| | | Community Street |
| Operational Characteristics | Volume (vehicles per day) | 7000 - 15,000 + |
| | Typical Speed (mph) | 25 - 40 |
| | Adjacent Land Uses | Mixed Use or Residential |
| Design Parameters | Number of Lanes | 3-4 |
| | Overall R.O.W. Width | 120′ + |
| | Lane Width | 11′ |
| | On-street Parking | yes |
| | Pedestrian Realm Width | 15′ min + TCF |




*Figures 2.24: Pedestrian Realm for Community Streets (transit configuration)*

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NOV 24 2015
PLANNING DIVISION

Westfield

November 20, 2015

VIA E-MAIL AND US MAIL
dfernandez@santaclaraca.gov

City of Santa Clara Planning Division
Debby Fernandez, Associate Planner
1500 Warburton Avenue
Santa Clara, CA 95050

Re: Draft Environmental Impact Report for City Place Santa Clara
State Clearing House No. 2014072078
Planning/CEQA File No. PLN2014-10440/CEQ2014-01180

Dear Ms. Fernandez,

Westfield thanks the City of Santa Clara ("City") for the opportunity to comment on the Draft Environmental Impact Report ("EIR") for the proposed City Place Santa Clara project ("Project") near Levi's Stadium. Westfield operates Valley Fair, which straddles the San Jose and Santa Clara city boundary at the south end of the City and serves as the largest regional mall within the Santa Clara area. Westfield also operates other regional malls in the Santa Clara area, including Westfield Oakridge in south San Jose. In operating and maintaining these regional malls, Westfield has been a good member of the Santa Clara community and has enjoyed providing high-quality retail, dining, and entertainment experiences to residents and visitors in the City and the broader region.

After reviewing the Draft EIR for the Project, Westfield identified some areas that have not been adequately addressed according to the requirements of the California Environmental Quality Act ("CEQA"). First, the Project's Draft EIR does not evaluate a reasonable range of alternatives that could avoid or substantially lessen the Project's significant effects. Under the state's CEQA Guidelines, an EIR must consider a "reasonable range of potentially feasible alternatives that will foster informed decisionmaking and public participation." (CEQA Guidelines, § 15126.6(a).)

The Draft EIR evaluated only four alternatives to the Project. (Draft EIR, pp. 5-5 to 5-11.) Two of those alternatives were "No Project" alternatives—the No Project Alternative 1 (which assumes existing conditions at the Project site would not change) and the No Project Alternative 2 (which assumes a modest amount of development on the Project site that would reasonably be expected to occur in the foreseeable future in accordance with the City's General Plan). The third alternative—the Reduced Intensity Alternative—proposes to reduce the total amount of floor area by 30 percent by reducing the amount of office uses down from 5.72 million to 3.02 million gross square feet. All

other proposed uses under the third alternative would remain the same as the uses under the Project's proposed Scheme A, including approximately 1.5 million gross square feet of retail and entertainment uses. The fourth alternative—the Increased Housing Alternative—proposes to replace 320,000 gross square feet of office space with residential space, adding 320 additional residential units. Like the third alternative, all other proposed uses under the fourth alternative would remain the same as the uses under the Project's proposed Scheme A, including the approximately 1.5 million gross square feet of retail and entertainment uses.

Considering the Project's proposed scale of 9.16 million gross square feet, the Draft EIR did not consider enough alternatives to the Project to provide the public and the decisionmakers with an informed analysis to consider how the Project's impacts could be avoided or substantially lessened. The Draft EIR also should have considered an alternative with a reduced intensity of retail and entertainment uses. Retail and entertainment uses comprise the second largest use under the Project's proposed Scheme A and Scheme B, second only to the proposed square footage of office uses. Scheme A proposes approximately 1.5 million gross square feet of retail and entertainment uses, and Scheme B proposes approximately 1.7 million gross square feet of retail and entertainment uses. Yet none of the alternatives analyzed considered a reduced amount of retail and entertainment space.

Additionally, the Draft EIR concludes the Project's impacts related to consistency with land use goals and policies will be less than significant because the Project will be generally consistent with the City's General Plan. (Draft EIR, p. 3.1-19.) Yet, the Draft EIR acknowledges the Project will be inconsistent with certain policies in the City's General Plan and Housing Element related to the City's balance between jobs and available housing, specifically those policies to: (i) maintain the City's jobs/housing balance; (ii) encourage development patterns that reduce vehicle miles traveled and air pollution; (iii) and (iii) work towards the mitigation of jobs/housing ratio impacts created by developments with significant employment. (Draft EIR, p. 3.1-13.)

The importance of shaping the Project to be consistent with those policies is underscored by the characteristics of the Project as described in the Draft EIR. The Draft EIR explains that the Project's growth is not anticipated in the City's plans and that the Project's likely increase in housing demands would create upward pressure for additional housing units in the City, the region, and perhaps outside of the region. Without adequate housing supply in the City or in nearby Silicon Valley cities to accommodate the Project's job growth, employees commuting to the Project could cause substantial traffic, air quality, and greenhouse gas impacts. (*Id.*) The Project's proposed Scheme A will generate approximately 24,760 new net employees on the Project Site, but will provide only 1,360 new units of housing. (Draft EIR, pp. 2-7, 3.12-10.) The Project's proposed Scheme B will generate approximately 28,720 new net employees, but will provide only 200 new units of housing. (Draft EIR, pp. 2-7, 3.13-16.) Given the Project's generated uses, the Project will contribute to the imbalance of jobs and available housing in the City.

Westfield appreciates its long-standing relationship with the City, and looks forward to working with the City on these issues that are important to Westfield and the broader community. Please do not hesitate to contact me at 408-236-3612 if you have any questions or would like to discuss this matter further.

Sincerely,

Scot Vallee
VP Development -Westfield LLC
2855 Stevens Creek Blvd
Santa Clara, CA 95050