

Organizations

Comment Letter O1—Organizacion Comunidad De Alviso (letter dated November 18, 2015)

Letter O1

Subject: FW: Comments for City Place Santa Clara

From: esp_ikclaw@yahoo.com [mailto:esp_ikclaw@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.

O1.1 | 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.

O1.2 | 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.

O1.3 | 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](#).

O1.4 | 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.

O1.5 | 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

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Response to Comment Letter O1—Organizacion Comunidad De Alviso (letter dated November 18, 2015)

O1.1 *The commenter requests a summary of impacts on the Alviso community.* All impacts to the Alviso community are evaluated throughout the Draft EIR in separate sections, as applicable. Regardless, as requested by the commenter, the impacts are summarized in this response. Alviso is a neighborhood located in San José, approximately 0.33 mile to the north of the Project site. Although relatively close in distance, the Project site is currently separated from the Alviso neighborhood by SR 237 and located in a different city. Therefore, the Project is not expected to result in direct impacts on the Alviso neighborhood related to land use, cultural resources, biological resources, geology, hydrology, hazards, population/housing, or utilities.

It is currently anticipated that construction traffic would not use streets within the Alviso neighborhood. Although construction waste would be taken to the Zanker Material Processing facility, approximately 0.5 mile east of the Alviso neighborhood, the construction traffic route would avoid this area. As explained on page 2-33 in Chapter 2, *Project Description*, it is likely trucks will leave the Project site via East Tasman Drive, making a left turn onto Vista Montana (a new street), and left again onto North 1st Street in San José. North 1st Street would be followed to a right turn onto Nortech Parkway, continuing to Disk Drive and Grand Avenue, which would be followed to 675 Los Esteros Road. After passing under the SR 237 overpass, the area is primarily scattered business parks until the Grand Avenue intersection, which is on the outskirts of Alviso. Therefore, the Project would not result in additional construction traffic, or the potential for accidental releases of construction material during transport, in the Alviso neighborhood.

As discussed on page 3.13-4 in Section 3.13, *Public Services and Recreation*, the Santa Clara Unified School District (SCUSD) provides public education services to students in Santa Clara and all of the Alviso neighborhood. The Project site would be served by George Mayne Elementary School, which is in the Alviso neighborhood. George Mayne Elementary School is currently over capacity, and therefore, the Project could affect public services in the Alviso neighborhood. Refer to Response O1.3, below, for a further discussion.

Visual impacts as a result of the Project on the Alviso neighborhood are discussed on page 3.2-14 in Section 3.2, *Aesthetics*. As stated, a mobile home park in San José is located to the north of the Project site, across SR 237, in the Alviso neighborhood. As seen from the relatively flat Alviso neighborhood, views of the Project site are most prominent from this location. However, the views from the mobile home park, facing south and toward the Project site, are limited because of extremely dense perimeter landscaping that visually screens the mobile home park from the adjacent surface parking lot in a nearby office complex. Therefore, as further explained on page 3.2-23 of the Draft EIR, it is not expected that the proposed buildings would be visible from this residential neighborhood.

As discussed in more detail in Responses O1.2, O1.4, and O1.5, below, operation of the Project would also not result in a significant increase in traffic in the Alviso neighborhood. Please refer to Response O1.6, below, for a discussion of noise and air emissions from vehicular traffic.

O1.2 *The commenter requests that the following intersections be evaluated for potential Project impacts: Gold Street at North Taylor Street; Liberty Street at North First Street; Grand Boulevard at North First Street; Grand Boulevard at Wilson Way; and Grand Boulevard-Los Esteros Road at Spreckles Avenue.* The study intersections were selected by identifying locations where the

Project would contribute vehicles that would require at least 2 percent of roadway capacity for major intersecting streets. This approach is similar to that of the guidelines provided by VTA, which suggest that an intersection should be evaluated if a project contributes 10 peak-hour trips per lane (see VTA's 2009 Transportation Impact Analysis Guidelines). The list was finalized in consultation with City of Santa Clara staff members. The analysis includes Gold Street/Taylor Street (intersection # 108) and Liberty Street/North First Street (intersection #109) listed by the commenter. The other three intersections on Grand Boulevard were considered but did not meet the criteria for further analysis.

The commenter also notes existing congestion on Great America Parkway and SR 237 eastbound ramp during the commute peak hours and discussion of potential cut through vehicles via First Street and Zanker Road. The commenter expresses concerns about vehicle speeds at the intersection of Grand Boulevard and Wilson Way. Potential impacts on intersections, freeway segments, transit, and bicycle and pedestrian facilities were evaluated using the standards, methods, and significance criteria of the agencies that control them (e.g., Santa Clara County and the Cities of Santa Clara, Sunnyvale, and San José). Locations with significant impacts were identified using adopted criteria. Measures to mitigate the significant impacts were identified where such measures are available and feasible. Locations without feasible mitigation measures (and those where the City of Santa Clara cannot ensure that mitigation measures will be implemented) are designated as significant and unavoidable. Mitigation measures were identified for the intersections at SR 237 and the Great America Parkway interchange and local street improvements at Liberty Street and Taylor Street. These improvements are intended to add vehicle capacity to the street system. The Project is not anticipated to add a substantial amount of traffic at the intersection of Grand Boulevard and Wilson Way.

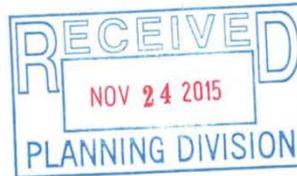
- 01.3 *The commenter suggests that the SCUSD should be notified about the Project because George Mayne Elementary School would be affected by additional traffic on 1st Street.* As discussed in more detail above, the Project would not result in additional construction traffic or significant operational traffic that could affect George Mayne Elementary School in the Alviso neighborhood. However, as part of the Draft EIR preparation process, the City has coordinated with the SCUSD to assess the potential school facilities impacts of the Project.¹ As shown in Table 3.13-1 of the Draft EIR (pages 3.13-5 and 3.13-6), George Mayne Elementary School, which would serve the Project site, was over capacity by 46 students in 2014. As stated on page 3.13-19 of the Draft EIR, the Project (under Scheme A) would generate approximately 141 elementary school students, based on generation rates provided by the SCUSD. The SCUSD currently has four closed schools that could be used to serve new development throughout the City and increase capacity. The Project would be subject to Senate Bill 50 (SB 50) School Impact Fees. Section 65996 of the State Government Code states that the payment of school impact fees that may be required by any State or local agency, as established by SB 50, is deemed to constitute full and complete mitigation for school impacts from development, including impacts on George Mayne Elementary School. Please refer to Letter A4 from the SCUSD for comments on the Draft EIR related to schools.
- 01.4 *The commenter notes the potential for delay to emergency response to the Alviso community due to traffic congestion from the Project.* Emergency response to Alviso is under the jurisdiction of the City of San José, not the City of Santa Clara. The City of San José maintains a fire station in Alviso

¹ Correspondence with Michal Healy, bond program consultant with the Santa Clara Unified School District, March 10 and June 23, 2015.

to respond to fire and medical emergencies. There is the potential for reduced emergency response times within Alviso due to delay from concentrated vehicle congestion. However, emergency fire and police responders can use signal preemption and street shoulders to by-pass congestion. Police patrols can also be modified as needed to address local congestion.

- 01.5 *The commenter asks for clarification on Project responsibility for street maintenance as well as traffic noise and pollution generated in Alviso.* Because the Alviso neighborhood is located in the City of San José, that city would be responsible for the maintenance of streets. Impacts from traffic noise on off-site land uses are discussed in Impact NOI-1c, starting on page 3.6-21 of the Draft EIR. The analysis indicated that significant noise impacts could occur along eight roadway segments, none of which are located within the Alviso community. The closest segment that could result in traffic noise increases as a result of the Project is Great America Parkway between SR 237 and Yerba Buena Way/Great America Way, which is approximately 0.5 mile southwest of the Alviso community. The effect of existing noise from traffic on SR 237 and trains traveling on the UPRR tracks was considered when analyzing the impacts from Project noise on receptors along these segments. Because noise from SR 237 and UPRR currently exists in the Alviso neighborhood, and the closest roadway segment that could be affected by traffic noise from the Project is located 0.5 mile to the southwest, it is not expected that the Project would result in significant traffic noise increases in the Alviso neighborhood.

Air pollution emissions from operation of the Project are analyzed under Impact AQ-3, starting on page 3.4-29 of the Draft EIR. As described on page 3.4-32, ROG, NO_x, PM₁₀, and PM_{2.5} emissions would exceed BAAQMD's mass emissions threshold of 54 pounds per day for ROG and NO_x and 82 pounds per day for PM₁₀ and PM_{2.5}. The impacts of these air emissions would be significant and unavoidable. However, these emissions would be regional and would not have an impact specific to the Alviso community. As explained above, traffic generated by the Project in this area would not be significant, and therefore, emissions specific to this area are not expected to be more significant than emissions in other parts of the region.

Comment Letter O2—Westfield, Scot Vallee (letter dated November 20, 2015)**Letter O2**

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.

O2.1

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

O2.1
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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.

O2.2

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.)

O2.3

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.

O2.3
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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,

A handwritten signature in blue ink that reads "Scot Vallee". The signature is fluid and cursive, with the first name "Scot" written in a more compact, stylized manner and the last name "Vallee" written in a more extended, flowing script.

Scot Vallee
VP Development - Westfield LLC
2855 Stevens Creek Blvd
Santa Clara, CA 95050

Response to Comment Letter O2—Westfield, Scot Vallee (letter dated November 20, 2015)

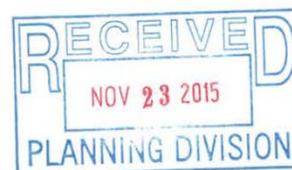
- 02.1 *The commenter states that the range of alternatives analyzed in the Draft EIR is not adequate and requests an alternative with fewer retail and entertainment uses. Please refer to Master Response 5 for a discussion regarding Project alternatives.*
- 02.2 *The commenter reiterates the Draft EIR conclusions regarding consistency with the General Plan land use goals and policies and regarding the jobs/housing balance policies. Please refer to Master Response 1 for an analysis of the jobs/housing imbalance as a result of the Project.*
- 02.3 *The commenter expresses concern about the Project creating an imbalance between jobs and available housing as well as associated traffic, air quality, and greenhouse gas impacts. Please refer to Master Response 1 for an analysis of the jobs/housing imbalance as a result of the Project.*

Comment Letter O3—Committee for Green Foothills, Alice Kaufman (letter dated November 23, 2015)

Letter O3



COMMITTEE FOR
GREEN FOOTHILLS



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).

O3.1

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.

O3.2

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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GREEN FOOTHILLS

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- O3.2
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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.
- O3.3

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.
- O3.4

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.
- O3.5

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

O3.5
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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.

O3.6

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

O3.7

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

O3.7
Cont.

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

O3.8

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

O3.9

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.

Committee for Green Foothills
November 23, 2015
Page 5 of 6

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).

O3.9
Cont.

O3.10

Committee for Green Foothills
November 23, 2015
Page 6 of 6

O3.10
Cont.

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

Response to Comment Letter O3—Committee for Green Foothills, Alice Kaufman (letter dated November 23, 2015)

- 03.1 *The commenter expresses general concern about the Project.* This comment is related to the public discourse on the merits of the Project and whether it is viewed as an asset to the City. However, this does not specifically address the adequacy of the EIR analysis or the Project's compliance with CEQA. The Draft EIR was prepared to fulfill the City's obligation under CEQA to identify the significant and potentially significant environmental impacts of the Project, regardless of the Project's merits. Please refer to the below responses, which address the specific concerns of the commenter.
- 03.2 *The commenter expresses support for the Reduced Intensity Alternative as the preferred alternative.* Please refer to Master Response 5 for a discussion regarding Project alternatives.
- 03.3 *The commenter expresses general concern about the Project.* Please refer to the below responses, which address the specific concerns of the commenter. As stated by the commenter, letters were also received from the Santa Clara Valley Audubon Society, the Sierra Club Loma Prieta Chapter, and the Santa Clara Valley Habitat Agency. These letters, and responses, are included in this document as Letters O4, O6, and A5, respectively.
- 03.4 *The commenters expresses concern regarding the jobs/housing imbalance, traffic, air quality, biological resources and the inadequacy of the proposed mitigation measure.* Please refer to Master Response 1 for an analysis of the jobs/housing imbalance as a result of the Project.
- 03.5 *The commenter states that the Project would have emissions many times the applicable thresholds, project's size makes purchasing NO_x offsets economically infeasible and that the project should mitigate or reduce its size to reduce Project-related impacts.* The commenter correctly notes that the Project's criteria pollutant emissions would exceed the relevant BAAQMD threshold. A range of mitigation measures for this impact are identified in the Draft EIR to the extent feasible; however, NO_x offsets were found not to be feasible due to the cost burden. The BAAQMD submitted comments on the Draft EIR that also noted this exceedance, and recommended a set of additional mitigation measures, which are being incorporated into the Project to the extent feasible. Please refer to the responses to the BAAQMD in Letter A15.

It should be noted that BAAQMD did not suggest that the purchase of NO_x offsets either constituted a feasible mitigation measure or mandated a reduction in the size of the Project. While the Project's NO_x emissions would exceed thresholds, the Project would result in VMT reductions in excess of those of typical of land use development given the proximity to transit and due to the mixed-use and walkable nature of the Project. In fact, given the mixed-use and efficient nature of project design, Project emissions would be below BAAQMD's efficiency metric for GHGs for 2020. This demonstrates that while the Project would exceed the mass emission threshold or NO_x, the Project would result in an efficient use of the Project site relative to the residents and jobs it creates.

With regard to reducing the Project's size to reduce these impacts, please refer to Master Response 5, which discusses the Reduced Intensity Alternative.

- 03.6 *The commenter inquires whether differential settlement could exceed the ability of the proposed measures to mitigate its effects. The commenter further states that the Draft EIR should specify measures to be taken if settlement-related issues occur during Project operation.* The Draft EIR

identifies potential settlement as a significant impact stating (page 3.9-22) that given the heterogeneous nature of refuse, it is likely that this settlement would be uneven, creating lateral forces on buildings, utilities, and other improvements that could threaten their structural integrity. Settlement and the associated potential for damage to infrastructure and Project improvements is a significant impact. The Draft EIR goes on to state (page 3.9-24) that monitoring of the site would be necessary to determine where settlement is occurring. Repair or replacement of utilities, pavement, and building entries may be required in areas where settlement is greater than predicted or the design remedies are not as effective as predicted. The amount of settlement would likely be greatest during the first years following development, as new and increased loads are applied to the Project site ground surface, tapering off as secondary compaction of the refuse layer completes over the next 20 to 50 years.

The mitigation measures required by the Draft EIR are adaptive, including Mitigation Measure GEO-2.2 (pages 3.9-28 to 3.9-29), which specifies that the final geotechnical report shall include measures to address anticipated settlement: specifications of methods to address differential settlement between improvements supported by a combination of structural slab foundations and those that are supported by other deep foundation systems or unsupported areas.

If additional geotechnical investigation determines that more settlement may occur with the existing foundation specifications and or pile designs than was identified in the preliminary geotechnical report, the designs will be modified (e.g., piles will be drilled deeper or into stiffer materials) to ensure that the magnitude of settlement is within acceptable limits. This is the purpose of additional geotechnical evaluation, so that final design can be modified as necessary to address the geology-related hazards at the Project site.

Furthermore, Mitigation Measure GEO-2.5 (on page 3.9-29 of the Draft EIR), the Site Operation, Monitoring, and Maintenance Plan, shall establish procedures for inspecting structures and improvements as well as evaluating the effects of settlement. This mitigation measure would also establish a mechanism for funding and implementing the Plan's activities throughout the life of the Project.

03.7 *The commenter requests test results from other projects where these piles were used and notes that no liner is present in some areas and that VOCs have been identified in groundwater.* Drilled displacement column (DDC) and auger cast-in-place piles (ACIP) are a proven ground improvement technology used at contaminated soil and landfill projects that have been used at numerous agency-regulated sites, including contaminated and sensitive groundwater sites as well as former landfills. Since the cement grout is injected under pressure into the borings, it infiltrates into the surrounding soil or waste, filling voids and creating a highly irregular boring wall which effectively forces any infiltration to occur through the surrounding material and not along the boring wall-formation interface. Examples of projects where this type of boring technology has been successfully used include:

- The "237 at First Street Development Project" located on North First Street and SR 237 in San José. The former Syntax Court Disposal Site, the property was subject to Title 27 requirements. A VOC plume extended through northern portions of the site. With

RWQCB approval, DDC piles were successfully installed through the former landfill. Further information on the Project site is available on GeoTracker.²

- DDC piles were installed at the 1677 South Bascom Avenue property located over a former landfill area in Campbell. The resultant cemented sand columns had a 28-day strength of 1,000 pounds per square inch (psi) and permeability of 1×10^{-7} centimeters per second (cm/sec) that is considered impermeable to leachate and ground water flow.
 - DDC piles were installed as part of ground improvement during construction of a parking structure at Amalfi Loop in Milpitas. Groundwater at the site was impacted from an off-site VOC plume located to the east of the site. Further information on the plume is available on GeoTracker.³

With regard to the presence of VOCs in groundwater, in its letter dated 23 July 2015, the RWQCB concurred with the Feasibility Study of Groundwater Remediation Alternatives dated 21 July 2015. The Feasibility Study set forth the proposed groundwater remedial goals for the Project: 1) maintain or reduce vinyl chloride concentrations in groundwater at or below 442 $\mu\text{g/L}$; 2) demonstrate long-term stability or decreasing trend in TCE and vinyl chloride concentrations at wells G-10, G-18, and G-19. Since the Project would have essentially no effect on other receptors that could be affected by the existing groundwater contamination, including aquatic habitat, the effect of the Project on other receptors (including aquatic habitat) is less than significant.

Langan submitted a final technical memorandum on July 23, 2015, regarding the potential presence of drums of hazardous waste buried at Parcel 4 of the closed Santa Clara All Purpose Landfill. The RWQCB sent a letter concurring with this memorandum on July 27, 2015. The RWQCB had identified the potential disposal of drums during its review of the Solid Waste Assessment Test (SWAT) report for the landfill, dated June 28, 1988. The SWAT states that Ford Aerospace and Communications Corporation disposed of approximately 108 drums of solvents, organics, inorganics, heavy metals, acids, and bases in “the general area of the All Purpose Landfill.” No basis for the statement was provided in the SWAT report. The Environmental Protection Agency (EPA) Notification of Hazardous Waste Site Form filed by Ford Aerospace and Communications Corporation (included as an attachment to the SWAT) contains a statement that the dumping occurred in an open field between Highway 237 and Highway 101 in Santa Clara between 1960 and 1970. The area between Highway 237 and Highway 101 was primarily open fields and areas in use for agricultural purposes. The distance between Highway 237 and Highway 101 in this general area is approximately 2.25 miles. Based on the ambiguous description of the disposal location in the SWAT (“the general area of the All Purpose Landfill”), there is no certainty that the drums were disposed at the All Purpose Landfill. Additionally, in an April 2015 interview with Mr. Rick Mauck, the Department Head and Director with the City of Santa Clara from 1982 until 2009 in charge of administering public works and solid waste programs, Mr. Mauck indicated that this type of waste would not have been accepted at the landfill as the landfill was not permitted for the disposal of hazardous materials. Mr. Mauck also indicated that, to his knowledge, there were no records or confirmation that such drums were disposed of at the landfill other than the vague reference in the 1988 SWAT to disposal “in the general area of...” the landfill, and an EPA Notification Form about dumping in an open field within what appears to be a large 2,500 acre area between Highway 237 and Highway 101.

² Available at: http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T10000007316

³ <http://geotracker.waterboards.ca.gov/map/?CMD=runreport&myaddress=amalfi+loop+milpitasresponse>.

03.8 *The commenter states that due to presence of methane gas within the landfill, the Draft EIR should include additional mitigation measures to ensure the safety of workers and residents and suggests that a plan should be developed to reduce landfill gas levels. As described on page 3.11-3 of the Draft EIR, the Project would be subject to the requirements of Occupational Health and Safety Administration (OSHA) and California Division of Occupational Safety and Health (Cal/OSHA) for protecting worker health and safety. Applicable regulations include requirements for protective clothing, training, and limits on exposure to hazardous materials (including oxygen-deficient atmospheres). The Draft EIR further emphasizes worker safety, particularly as it relates to worker exposure to hazardous materials and oxygen-deficient atmospheres in Mitigation Measure HAZ-2.1 (starting on page 3.11-24), which includes, but is not limited to during excavation activities, excavation areas shall be monitored using a hand-held instrument calibrated to measure combustible gases (including methane), hydrogen sulfide, oxygen, and VOCs (underline added for emphasis). A Site-specific Health and Safety Plan (HASP) would be prepared and implemented during the construction period. The HASP would be prepared by a Certified Industrial Hygienist and would include an Air Monitoring Program. The Air Monitoring Program will detail specific areas to be monitored (e.g., worker breathing zone) and compounds to be monitored (e.g., methane, carbon dioxide, oxygen).*

As described in the Draft EIR, compliance with existing regulations and Draft EIR mitigation measures would reduce the potential health and safety impacts to workers related to oxygen-deficient atmospheres to a less-than-significant level.

Residents of the completed Project would be protected from exposure to methane gas in numerous ways as described in Mitigation Measures HAZ-4.1 through HAZ-4.6 which require the replacement of the landfill gas collection system, installation of landfill gas protection systems, landfill gas monitoring, building restrictions, and hazards disclosure. The Closure Plan and Post-Closure Maintenance Plan and the Post Closure Land Use Plan will include detailed descriptions of the landfill gas collection system, which will reduce landfill gas levels over time. Evacuations for any methane-related incidents would be very similar to evacuations related to a common building fire. No additional mitigation measures are necessary to protect workers or residents.

In addition, the commenter states that the entity that is financially responsible for upgrading the landfill gas collection system should be specified. Under the Disposition and Development Agreement (DDA) to be entered into by the City and the Project Developer (which will be considered by the City Council for approval in conjunction with its consideration of certification of the Final EIR), the City would continue to own the Project site in perpetuity and execute one or more long-term ground leases with the Project Developer or its assignees, which, in turn, would ultimately enter into subleases with building occupants. With respect to the Landfill area, the area to be ground leased by the City to the Project Developer generally would comprise the airspace above the Landfill, with the City continuing to own and operate the Landfill.

The DDA would require the City and the Project Developer to enter into a Landfill Operation and Maintenance Agreement that is consistent with an attached Memorandum of Understanding as to Landfill Operation and Maintenance. This Memorandum of Understanding (among other things) provides that the City would continue to be responsible for the Landfill protection systems, including the Landfill cap and cover, the enhanced Landfill gas collection system, and the leachate collection and treatment system.

The Project Developer would assume initial responsibility for ownership and operation of the new building protection systems, which will be designed to mitigate the potential building occupants' exposure to methane and other compounds from the subsurface, including vapor barrier membranes, passive vapor collection and venting systems, and contingent active blower system. Ultimately, responsibility for the building protection systems would be transferred to an association of building owners and tenants, subject to approval by the City and the regulatory agencies. The revised Post-Closure Maintenance Plan and the revised Corrective Action Plans (which require approval from the regulatory agencies) would set forth the specific long-term operation as well as measures and responsibilities and the financial assurance mechanisms. Therefore, the commenter's concern about having an appropriate entity with sufficient funds to monitor, maintain, and generally administer the landfill has been addressed.

03.9 *The commenter requests additional details regarding the proposed usable public open space and private open space. As stated on pages 2-19 and 2-20 of the Draft EIR, approximately 74.1 acres are expected to be devoted to useable public open space, plus approximately 5.3 acres in private open space. Public open space would include approximately 31.9 acres of slope/habitat areas, 26.1 acres of park areas, 3.9 acres of pedestrian concourses, 3.4 acres of courtyards, and 8.8 acres at the Retention Basin.*

The approximately 74.1 acres of useable public open space would include the sloped perimeter of the parcels. With the exception of the eastern edge of Parcel 4 and the sloped areas between Parcels 3 and 4, sloped areas would not be used for recreation and would emphasize natural edges with transitions to the built environment. Park areas would favor plantings over hardscape and may include multi-use trails, seating, sports courts, fitness areas such as a par course or fitness steps, a children's play area, a family picnic area, and an outdoor gathering or performance area. Sizes and uses of the different types of park areas and features would be defined with the submission of Development Area Plans. In addition to the retention of the connection to the San Tomas Aquino/Saratoga Creek Trail, connections to the Guadalupe River Trail are planned.

The proposed courtyards would fall under the broader classification of shared outdoor spaces as defined in the proposed Master Community Plan. Shared outdoors spaces are a component of a network of specialized open spaces that enrich the public realm by offering various places to congregate and recreate. The degree of "publicness" of the courtyards would vary in accordance with the location and accessibility of each courtyard, which would be largely dependent upon the nature of the surrounding buildings and whether the courtyard is located at grade or at podium level.

In response to this comment, additional information about the proposed open spaces has been added to Chapter 2, *Project Description*. In addition a new figure depicting the proposed open space network has been added, as included in Chapter 5 of this document, *Revisions to the Draft EIR*. The following description of landscaping and open space has been added before the first full paragraph on page 2-20 of the Draft EIR:

As depicted in Figure 2-11, the Project would include the following parks and open space program elements within the City Center:

- City Center East Neighborhood Park—A public park located along the east side of Parcel 4 that would include:

- A north-south multi-use trail (biking, jogging, and walking) that incorporates side buffers and amenities and could include landscaping, seating, fitness areas, sports courts, gardens, and/or an extended transit station platform (should the train station platform expand northward from its current location). The trail would connect the transit station to the proposed east-west multi-use trail that connects the Guadalupe River and San Tomas Aquino Creek trail systems. The width of multi-use trail and the adjacent buffer areas would be a minimum of 30 feet.
- A level or terraced park area that could be programmed with sports courts; fitness and/or play areas, such as a par course; and/or other active recreational uses. The minimum area for this park would be 1 acre, but the design goal is approximately 3 acres, excluding sloped areas that are not usable (i.e., not usable for proposed active recreational purposes).
- City Center North Neighborhood Park—A public park along the north side of Parcel 4 (physically located on the south part of Parcel 3) that would include:
 - An east-west multi-use trail (biking, jogging, and walking) that includes side buffers and amenities and could include landscaping, seating, fitness areas, sports courts, and gardens. This trail would comprise a segment of the proposed east-west multi-use trail that connects the Guadalupe River and San Tomas Aquino Creek trail systems. The width of multi-use trail and the adjacent buffer would average 30 feet.
 - A turfed fitness and/or play area, such as a par course, fitness steps, and/or other active recreational uses. The minimum area for this park would be 1 acre, but the design goal is approximately 2 acres, excluding sloped areas that are not usable (i.e., not usable for proposed active recreational purposes).
- City Center West Neighborhood Park—A public park along the west side of Parcel 4 that would include:
 - A children's play area, including a physical play structure(s) (type and design age specified at the time of the Development Area Plan applications).
 - A family picnic area.
 - An option for an outdoor gathering or performance area.
 - A minimum area for these uses shall be 1 acre.

The residential buildings within the City Center would include private open spaces that would qualify toward the City's parkland dedication requirement. The anticipated elements within these private open space areas would include a minimum of four of the following uses:

- Landscaped and furnished park-like quiet areas.
- Recreation community gardens.
- Family picnic areas.

- Game, fitness, or sports court areas.
- Accessible swimming pool with adjacent deck and/or lawn areas.
- Recreation center buildings and grounds.

The commenter suggests opportunities to enhance the proposed open space and park areas. As discussed above, in addition to the retention of the connection to the San Tomas Aquino Creek Trail, connections to the Guadalupe River Trail are planned.

03.10 *The commenter expresses support for a reduced or no housing alternative. Please refer to Master Response 5 for a discussion regarding Project alternatives.*

**Comment Letter O4—Santa Clara Valley Audubon Society, Shani Kleinhaus
(letter dated November 23, 2015) Refer to Appendix 4.1 for attachments
to letter**

Letter O4



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.

O4.1 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

O4.2 **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.
- O4.2
Cont. 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.
- O4.3 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.
- O4.4 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

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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.”

O4.4
Cont.

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

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O4.4 Cont. 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.”

O4.5 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

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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.”

O4.5
Cont.

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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O4.5
Cont.

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.

O4.6

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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O4.6
Cont. 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.

O4.7 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.

O4.8 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.

O4.9 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.

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- 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.
- O4.9
Cont. 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.
- O4.10 **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, Ph.D.,
Environmental Advocate

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Response to Comment Letter O4—Santa Clara Valley Audubon Society, Shani Kleinhaus (letter dated November 23, 2015)

- 04.1 *The commenter expresses concern for the Project and requests recirculation of the Draft EIR due to the conclusions regarding burrowing owls, bird collisions, loss of open space, and loss of trees. The warrants for recirculation of the Draft EIR, as stated in CEQA Guidelines Section 15088.5, have not been met. Specifically, in no instance do the changes to the Draft EIR, as summarized in Section 5 of this document, constitute: 1) a significant new environmental impact; 2) a substantial increase in the severity of an environmental impact; 3) a feasible project alternative or mitigation measure considerably different from others analyzed; or 4) a case that the Draft EIR is inadequate. As such, although the Draft EIR has been revised in this document to amplify or clarify its analysis, none of these changes are significant enough to warrant recirculation.*

The below responses address the issues of bird collisions, loss of open space, and loss of trees in more detail. Please refer to Master Response 4 for further discussions of the proposed western burrowing owl mitigation for the Project.

- 04.2 *The commenter states that the Draft EIR should find that impacts to burrowing owl habitat are significant, requiring mitigation. Please refer to Master Response 4 for further discussion of the proposed western burrowing owl mitigation for the Project.*
- 04.3 *The commenter states that the Draft EIR should analyze whether the loss of lands due to the Project would undermine the goals set by the Santa Clara Valley Habitat Conservation Plan (Plan) and what it would take to mitigate that loss, utilizing the science based approach of the Plan. Please refer to Master Response 4 for further discussion of the proposed western burrowing owl mitigation for the Project.*
- 04.4 *The commenter states that lost burrowing owl habitat should be mitigated at a 1:1 ratio, preferably at the Project site or in close proximity to the existing, local burrowing owl areas such as at the Regional Wastewater Facility. Please refer to Master Response 4 for further discussion of the proposed western burrowing owl mitigation for the Project.*
- 04.5 *The commenter suggests that 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. Please refer to Master Response 4 for further discussion of the proposed western burrowing owl mitigation for the Project.*
- 04.6 *The commenter attaches the City of San José's Bird-Friendly Building Design Guidelines, and requests that the EIR incorporate additional mitigation measures based on these guidelines and similar ones adopted by the City of Sunnyvale. The commenter also notes that the Sunnyvale Guidelines include measures for sites built close to water, noting that the Project is located near a retention pond and the Guadalupe River. The commenter also requests that monitoring be required to determine the actual impact of the Project on bird mortality. In response to these requests, Mitigation Measure BIO-1.2 on page 3.8-15 of the Draft EIR has been revised to require the specific bird safety guidelines adopted with each Development Area Plan to be based on the six "bird-friendly principles" applied by the City of San José. The revised measure also requires enhanced protective measures for buildings within 300 feet of the retention pond or of the Guadalupe River, and a monitoring program.*

BIO-1.2: Implement Bird-Safe Design Standards into Project Buildings and Lighting Design. Each Development Area Plan (DAP) approved by the City. The Project Developer or its contractor shall include ~~prepare and implement~~ a set of specific standards for minimizing hazards to birds, ~~to be implemented by the Project Developer. in the Development Area Plan submitted for approval by the City.~~ The development of the specific bird safety standards for each Development Area Plan shall be tailored to the specific potential hazards to birds in that development area, taking into account the specific locations, types and heights of buildings, lighting, and landscaping. In addition, the DAP shall require enhanced protective measures for buildings within 300 feet of the retention pond, the Guadalupe River, and San Tomas Aquino Creek, such as siting buildings in relation to existing landscape features to reduce conflicts with existing features that may serve as attractive bird habitat; minimizing the reflection of existing vegetation on building facades; or using soil berms, furniture, landscaping, or architectural features to prevent reflection of water in glazed building facades.

These specific bird safety standards in each DAP shall be based on the following bird-friendly building principles, include the following measures to minimize hazards to birds to the extent applicable to the particular development area:

- *Reduce mirrors and large areas of ~~transparent or~~ reflective glass.*
- *Avoid transparent glass skyways, walkways, or entryways, free-standing glass walls, and minimize transparent building corners, or utilize glazing treatments to mitigate the hazard.*
- *Minimize funneling of open space toward a building façade.*
- *Strategically place landscaping to reduce reflection and views of foliage inside or through glass.*
- *Reduce potential light and glare by implementing Mitigation Measures AES-2.1 (requiring low-profile, low-intensity lighting directed downward), AES-2.2 (requiring shielded fixtures for outdoor lighting), and AES-2.3 (requiring low-emissivity reflective coating on exterior glass surfaces).*
- *~~Locate water features and other bird habitat away from building exteriors to reduce reflection.~~*
- *~~Reduce or eliminate the visibility of landscaped areas behind glass.~~*
- *To the extent consistent with the normal and expected operations of the office, hotel, retail, food/beverage, entertainment and residential uses of the Project uses planned for the particular development area, take appropriate measures to avoid use of unnecessary lighting at night, especially during bird migration season (February–May and August–November) through the installation of motion-sensor lighting, automatic light shut-off mechanisms, ~~downward-facing exterior light fixtures~~, or other effective measures to the extent ~~possible~~ feasible.*

- The specific bird safety standards shall also provide for a monitoring program and placing signs around the buildings with phone numbers for authorized bird conservation organizations.

The commenter also requests that the City submit the proposed bird safety standards for public review. Because the standards will be part of each Development Area Plan, they will be made available to the public for comment in connection with the City's consideration of the Development Area Plans.

- 04.7 *The commenter requests revised mitigation for trees to be removed at the Project site. As explained on pages 3.1-23 (Land Use and Planning), 3.2-19 and 3.2-20 (Aesthetics), and 3.8-20 (Biological Resources) of the Draft EIR, no mitigation is required for the removal of trees at the Project site. The Project would adhere to the City of Santa Clara General Plan, Policy 5.3.1-P10, which requires developments to replace trees at a ratio of 2:1 (replaced/lost) of 24-inch box specimen trees. Although this General Plan policy is not specified in the City Code, the City applies this policy as a requirement.*

The Project would require the removal of all existing trees at the Project site. Currently, there are approximately 1,405 trees at the Project site, 951 of which are protected. The Project would be required to replace the trees at a 2:1 ratio. Therefore, the Project would plant approximately 2,810 trees, either at the Project site or off-site. Based on initial surveys, the Project Developer is planning to plant all of the replacement trees at the Project site, but because of the Project design and site constraints, this may not be feasible. The Project Developer may need to plant some of the replacement trees off-site. The replacement trees for the Project site would not be implemented on a parcel-by-parcel basis. In addition, up to 234 trees (153 of which are protected) could be removed at Tasman East for the Lick Mill Boulevard extension and road widening; up to 104 trees (79 of which are protected) could be removed at the Convention Center for the potential Fire Station 10 and the roadway over San Tomas Aquino Creek to Parcel 4. These trees would also be replaced at a 2:1 ratio on- or off-site.

As explained on page 3.2-3 of the Draft EIR, the Project would include a rezoning of the existing parcels comprising the Project site to Planned Development Master Community Zoning District (PD-MC) and, therefore, would be subject to the design guidelines and development standards outlined in the applicable Master Community Plan approved by the City Council. Preparation of a Development Area Plan would occur after, or concurrent with, preparation of the Master Community Plan, and would be submitted to the City for approval. Landscaping plans, tree requirements, and locations of the proposed trees would be included in the Master Community Plan and Development Area Plan and fully vetted by the City at that time.

It is important to note that Mitigation Measure IM-BIO-1, as the commenter cites, on page 3.3-252 of the Draft EIR does not apply to the development of the Project. The development of the Project at Parcels 1-5 and the off-site locations would be required to adhere to Policy 5.3.1-P10 of the General Plan. Mitigation Measure IM-BIO-1 applies to the secondary impact analysis of the transportation mitigation measures, particularly those transportation mitigation measures that would be implemented in other jurisdictions. Therefore, it would apply to those transportation mitigation measures as and when they are implemented.

- 04.8 *The commenter notes that the removal of trees should be analyzed for visual impacts, as well as impacts to climate change.* The visual impact of tree removal is analyzed in Section 3.2,

Aesthetics, on pages 3.2-18 through 3.2-20 of the Draft EIR. As explained, during the construction stage, all of the existing 1,405 trees (951 of which are protected) at the Project site would be removed, plus 234 trees (153 of which are protected) for the Lick Mill Boulevard extension in Tasman East and the 104 trees (79 of which are protected) for the Great America Parkway access point through the Convention Center and the construction of Fire Station 10 at the Option 2 location. Tree removal during construction would be perceptible from adjacent locations. However, principal viewer groups that could be affected by tree removal mainly include motorists along the adjacent streets. While the surrounding streets are highly traveled, the view duration of the Project site for the motorists is fleeting due to the speeds permitted and the fact that the drivers on these streets typically direct their attention to the road ahead, rather than to views. Accordingly, motorists are not considered sensitive viewers. The closest residential neighborhood in Santa Clara is approximately 0.25 mile south/southeast of the Project site and separated by the Tasman Drive overcrossing and the Tasman East office/industrial park. This neighborhood would be considered to have moderate sensitivity; however, most views are not direct due to the intervening structures, roadways (particularly the overcrossing), and mature vegetation. Tree removal at the Project site would also be visible from the neighborhood in San José to the east of the Guadalupe River; however, due to distance, this would not be a major feature in the overall landscape.

Construction and tree removal at the easternmost portions of Parcels 1 and 2 would be visible from the Guadalupe River Trail, which includes sensitive viewer groups. Because of the duration of construction (approximately 7 years), visual elements that are typical of a construction site would be present over an extended period of time. Therefore, construction impacts on the visual character of the Project site as seen from the Guadalupe River Trail are considered significant. As a result, the Draft EIR includes Mitigation Measure AES-1.2, which requires early implementation of Master Community Plan Landscaping Plan for Parcels 1 and 2. This mitigation measure requires that the existing golf course trees along the eastern edge of Parcel 2 are retained (leaving the view from the Guadalupe River trail unchanged) until such time as development on the eastern portion of Parcel 2 would necessitate their removal. The Project Developer would implement the Landscaping Plan, as presented in the Master Community Plan, at the earliest feasible period, given the constraints and pacing of the development. Implementation of Mitigation Measure AES-1.2 would reduce visual impacts during construction to less than significant.

As explained above in Response 04.7, it is unknown at this time where the replacement trees for Parcels 1-5 would be located and what tree species could be planted. Landscaping plans, tree requirements, and locations of the proposed trees would be included in the Master Community Plan and Development Area Plan and fully vetted by the City at that time. It is assumed that at full maturity, the replacement trees would be of similar size and species as those to be removed. Since the Project Developer would be required to plant double the amount of trees than existing, as required by Policy 5.3.1-P10 of the General Plan, it is expected that the Project would offset, or even improve, existing conditions in the long-term. Therefore, the replacement trees are expected to provide similar habitat and carbon sequestration functions as the existing trees.

The Project site is currently a human-degraded habitat of reduced quality for many nesting birds due to its developed condition and the surrounding urban environment. As described on Page 3.8-7 of the Draft EIR, tree nesting bird species occurring in the Project site include western scrub jay (*Aphelocoma californica*), mourning dove (*Zenaida macroura*), northern

mockingbird (*Mimus polyglottos*), and house finch (*Carpodacus mexicanus*). These birds are generalist species, which can utilize a wide variety of habitats, thrive under many different conditions, and are resilient to disturbance. Therefore, regardless of the type of trees planted on the Project site, an increase in trees will provide increased habitat quality (i.e. more nesting opportunities) for tree nesting bird species that use the Project site.

- 04.9 *The commenter requests clarification about the type of recreational space that would be provided on the slopes and in the retention basin as well as which species of plants and animals would benefit from the proposed habitat areas.* With the exception of the eastern edge of Parcel 4 and the sloped areas between Parcels 3 and 4, the sloped areas would not be used for recreation, but would emphasize natural edges with transitions to the built environment. The retention basin area would be maintained as-is without any landscape or recreational enhancements. It is anticipated that the proposed habitat areas would benefit species that can adapt to urbanized areas and are more resilient to disturbance. Wildlife species associated with urban/suburban areas include western scrub jay (*Aphelocoma californica*), northern mockingbird (*Mimus polyglottos*), house finch (*Carpodacus mexicanus*), rock dove (*Columba livia*), raccoon (*Procyon lotor*), opossum (*Didelphis virginiana*), striped skunk (*Mephitis mephitis*), western fence lizard (*Sceloporus occidentalis*), gopher snake (*Pituophis melanoleucus*), and Cooper's hawk (*Accipiter cooperii*)

The commenter states that the proposed park components would not meet the existing need for open space and recreation, which would increase as a result of the Project. As stated on page 3.13-20 of the Draft EIR, the Project would provide on-site amenities such as entertainment facilities and large, shared open spaces throughout the Project site. The proposed amenities would reduce the likelihood of residents and employees utilizing or overburdening existing City facilities because outdoor areas would be available to employees and residents closer to the existing open space areas. Of the total proposed landscaped areas, approximately 74 acres are expected to 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 of private open space would be provided within the residential occupied podiums.

As stated on page 3.13-19 of the Draft EIR, the Project would reduce the recreational facilities within the City and region. However, the City inventory totals do not include the existing Santa Clara Golf & Tennis Club facility or the Santa Clara P.A.L. BMX site.⁴ Therefore, neither the existing Santa Clara Golf & Tennis Club facility nor the Santa Clara P.A.L. BMX site is considered in the City's parkland-per-resident ratio. The Project is not required to provide parkland to meet the existing need for open space and recreation. Rather, the Project is required to dedicate parkland and/or pay park in-lieu fees to satisfy the City's parkland dedication requirement for new residential development. As stated on page 3.13-3 of the Draft EIR, for residential developments not involving a subdivision, such as the Project, the Mitigation Fee Act authorizes the City to collect parkland dedication and/or fee in-lieu of dedication at a ratio of 2.53 acres per

⁴ City of Santa Clara. 2010. *City of Santa Clara 2010–2035 General Plan*. Adopted: November 16, 2010. Last amended: December 9, 2014. Available: <<http://santaclaraca.gov/index.aspx?page=1263>>. Accessed: February 18, 2016.

1,000 residents. As stated on page 3.13-21 of the Draft EIR, the Project would be required to dedicate 8.27 acres of parkland, in accordance with the Mitigation Fee Act. 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. Therefore, the new permanent residents and employees generated by the Project would result in a less-than-significant impact related to parks.

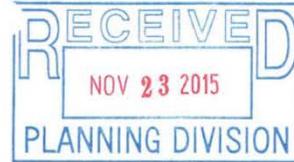
The comment states that the actual parkland and facilities should be determined in the Draft EIR rather than during the approval process. Pursuant to Santa Clara City Code Chapter 17.35 (the Mitigation Fee Act), the Project Developer will be required to provide a parkland dedication based on the number of dwelling units and anticipated occupants of the new residences at the Project site. As the final number of residences will not be determined until the relevant regulatory agencies approve or disapprove the Project, it is not feasible at this time to determine how much parkland will be required. Chapter 17.35 was enacted to address the need to procure additional parkland for future residents. For developments that are unable to provide the requisite parkland on-site, there is an in-lieu fee system that allows the City to purchase additional property outside of a project's boundaries. However, for the Project, it is expected that all required parkland will be provided on the Project site and there will be no need to purchase additional parkland off-site.

The commenter suggests the analysis of a new alternative that includes a total of 190 acres of public parks, open space, active recreation, and burrowing owl habitat. Please refer to Master Response 5 for a discussion regarding Project alternatives. In addition, please refer to Master Response 4 for further discussion of the proposed western burrowing owl mitigation for the Project.

- 04.10 *The commenter requests the inclusion and analysis of a Nature-Oriented Alternative.* Please refer to Master Response 5 for a discussion regarding Project alternatives.

Comment Letter O5—Friends of Caltrain, Adina Levin (letter dated November 23, 2015)

Letter O5



November 23, 2015

Debby Fernandez, Associate Planner
City of Santa Clara Planning Division
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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.

05.1 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.

O5.1
Cont.

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%.

O5.2 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 and meets a 45 percent SOV target at peak hours."*

[Shoreline Boulevard Corridor Study \(http://www.shorelinecorridor.com/\)](http://www.shorelinecorridor.com/)

[North Bayshore Precise Plan](http://www.mountainview.gov/civicax/filebank/blobdload.aspx?BlobID=15038)

[\(http://www.mountainview.gov/civicax/filebank/blobdload.aspx?BlobID=15038\)](http://www.mountainview.gov/civicax/filebank/blobdload.aspx?BlobID=15038)

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%.

- O5.2
Cont.
- 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 this project could be much stronger with specific metrics, firm trip and mode share goals, reporting and accountability provisions.

Vehicle parking and transportation impacts

- O5.3
- 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.
- O5.4
- 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

05.5 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.

05.6 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.

05.7 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.

05.8 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.

05.9 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

05.10 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.

05.11 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.

05.12 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
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Response to Comment Letter O5—Friends of Caltrain, Adina Levin (letter dated November 23, 2015)

- 05.1 *The commenter expresses concern regarding the imbalance of jobs and affordable housing as well as associated transportation and social impacts. The commenter also suggests that the Project include sufficient housing to avoid worsening the jobs/housing imbalance. Please refer to Master Response 1 for an analysis of the jobs/housing imbalance as a result of the Project and Master Response 5 for a discussion of Alternatives.*
- 05.2 *The commenter suggests that the TDM mitigation measure could be stronger with specific metrics, firm trip and mode share goals, reporting, and accountability provisions. Please refer to the Transportation Demand Management (TDM) Master Response (Master Response 2) regarding the trip reduction goals, a discussion on mode split goals, an outline of the reporting process (to be further described in the TDM plan) and accountability for the Project.*
- 05.3 *The commenter suggests that paid parking be included in the list of TDM measures and that since less parking would be needed in the future when autonomous vehicles are present, some parking areas can be provided in a landscaped reserve. The Project would be built over time and, therefore, can be responsive to changing travel behaviors and the effect of new technologies such as decreased parking due to autonomous vehicles. The parking ratios are based on City code requirements but reduced for shared parking and temporal adjustments resulting from the mix of uses. As the Project is anticipated to be built over a 15-plus year period, future phases may be built with lower parking ratios to reflect changes in transportation modality. The Master Community Plan recognizes that shared parking and other circumstances could result in less parking needed than is currently specified and requires that such issues be reviewed as development progresses to minimize parking and encourage transit. Please refer to the Transportation Demand Management (TDM) Master Response (Master Response 2) regarding parking strategies in the TDM Plan.*
- 05.4 *The commenter suggests the inclusion of unbundled parking for the residential units and Residential Permit Parking Programs in adjacent neighborhoods if it causes overflow parking. Please refer to the Transportation Demand Management (TDM) Master Response (Master Response 2). Parking strategies such as unbundled parking have been added to the list of options for office and residential land uses.*
- 05.5 *The commenter requests that the voluntary contribution for regional transportation improvements used to partially mitigate freeway impacts include funding for transit, bicycle, and pedestrian improvements. The Draft EIR identifies pedestrian, bicycle, and transit improvements as off-setting mitigation measures for intersection impacts, particularly in North San José. Additional pedestrian, bicycle, and transit improvements could be incorporated into a Deficiency Plan/Multimodal Improvement Plan that will be prepared to address Project impacts to CMP facilities. Please refer to Master Response 3 regarding the development of a Deficiency Plan/Multimodal Improvement Plan.*
- 05.6 *The commenter notes that investment in the Great America rail facilities and in connections via bus and shuttle would increase transit ridership to the VTA light rail and Great America stations near the site. Shuttle bus connections to the nearby rail stations would likely be measures in the TDM Plan. Additionally, these types of improvements could be included in a Station Area Master Plan that could be incorporated into a Deficiency Plan/Multimodal Improvement Plan to address*

- Project impacts to CMP facilities. Please refer to Master Response 3 regarding the development of a Deficiency Plan/Multimodal Improvement Plan.
- 05.7 *The commenter lists potential pedestrian connections to the Great America station, adding a sidewalk on the north side Tasman Drive sidewalk between Centennial Boulevard and Calle del Sol, and consolidation of the VTA light rail and Great America stations to improve transfer between these modes of travel. See response to A9.7 and O5.6.*
- 05.8 *The commenter requests that the Project Developer contribute to improvements to light rail speed in the area including signal priority/traffic light coordination between light rail and vehicle use. See response to A12a.2. Signal priority/traffic light coordination is a funded improvement that the City of Santa Clara is currently implementing.*
- 05.9 *The commenter suggests that the Project Developer pay a fair share to the light rail connection between the site and the BART station in Milpitas. In addition, the commenter suggests that the Project Developer provide shuttle connections to the Santa Clara Caltrain (and future BART) station and work with ACE/Capitol Corridor to provide a rail connection to the Diridon multimodal transit hub in downtown San José. Shuttle connections to the Santa Clara Station will be among the options considered in the TDM Plan. In addition, the types of transit improvements described by the commenter are potential off-setting improvements that could be incorporated into a Deficiency Plan/Multimodal Improvement Plan that will be prepared to address Project impacts to CMP facilities. Please refer to Master Response 3 regarding the development of a Deficiency Plan/Multimodal Improvement Plan.*
- 05.10 *The commenter notes that the on-site pedestrian and bicycle facilities should connect to the adjacent facilities. On-site pedestrian and bicycle facilities would connect to adjacent facilities as shown on Figures 3.3-27 and 3.3-28. The design of the connections would be prepared with future Project design phases and would be approved by City in accordance with the Master Community Plan standards and procedures.*
- 05.11 *The commenter suggests that the development include fair share contribution to pedestrian facilities connecting to nearby existing and potentially future residential areas such as Tasman East and Rivermark. Widening the sidewalk on the north side of Tasman Drive on the Lafayette Street overpass is a required mitigation measure for the Project. Please refer to Master Response 3 regarding the development of a Deficiency Plan/Multimodal Improvement Plan.*
- 05.12 *The commenter suggests that the City and Project Developer partner to develop a low-stress bicycle network within 5 miles of the Project site and identifies specific improvements. As depicted on Figure 3.3-28 in the Draft EIR, the Project includes extensive bike improvements including new bike lanes, trails, trail connections, and bike parking. There are also additional off-site bike improvements identified as offsetting mitigation for transportation impacts on North 1st Street and Brokaw Road in San José (See Tables 3.3-20 and 3.3-50 of the Draft EIR). In addition, as indicated on page 3.3-37 of the Draft EIR, the City of Santa Clara and Santa Clara County have identified several bicycle infrastructure improvements near the Project site. One of the cited improvements, improved access to the Guadalupe River Trail, is included as part of the Project. The comment identifies a number of additional improvement projects. Many are located several miles away from the Project site and are outside the direct control of the Project Developer. They would require significant additional planning, design, and environmental review such that the feasibility of these projects cannot now be determined. Please refer to*

Master Response 3 regarding the development of a Deficiency Plan/Multimodal Improvement Plan that may include regional bicycle improvements.

- 05.13 *The commenter requests substantial transit and active transportation improvements be included as mitigation or in the development agreement.* Please refer to Master Response 3 regarding the development of a Deficiency Plan/Multimodal Improvement Plan.

Comment Letter O6—Sierra Club, Gita Dev and Gladwyn D’Souza (letter dated December 7, 2015)



Loma Prieta Chapter serving San Mateo, Santa Clara & San Benito Counties

December 7, 2015

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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.

O6.1 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

O6.2 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.

O6.3 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

- O6.3 | expense of pedestrians, bicyclists and transit. This is in direct contradiction to the policies of the General
Cont. | Plan
- O6.4 | 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.
- O6.5 | 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.
- O6.5 | 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.
- O6.6 | 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 cities 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.
- O6.6 | 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**
- O6.7 | 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.
- O6.7 | 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

06.7
Cont. 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.

06.8 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.

06.9 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.

06.10 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.

06.11 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.

06.12 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

O6.19
Cont. 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

O6.20 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 goals¹.

O6.21 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

O6.22 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

- O6.23 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.
- O6.24 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.
- O6.25 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

- O6.26 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 cast-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.
- O6.27 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.
- O6.28 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

- O6.29 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

O6.29 | construction workers, nearby residents and office workers; and the Guadalupe River, San Tomas Aquino
Cont. | 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.

O6.30 | 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

O6.31 | a. Energy efficiency: In addition to requiring mandatory LEED equivalency, energy generation on-site, using solar, should be made mandatory.

O6.32 | 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.

O6.33 | 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.

O6.34 | 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.

O6.34 | Additional mitigations for water supply must be implemented for this project, such as requiring onsite
Cont. | water recycling and re-use (as is now required for all construction in the City of San Francisco).

4.4 Cumulative Impacts

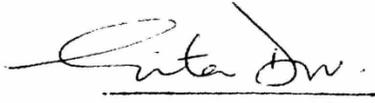
O6.35 | The EIR inadequately addresses proposed projects in the pipeline in San Jose and Sunnyvale, both
| adjoining cities. We believe the EIR needs to be revised to include the traffic impacts of adjacent cities.

O6.36 | Cumulative impacts on water supply also must be analyzed and addressed.

Alternatives

O6.37 | 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



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Response to Comment Letter O6—Sierra Club, Gita Dev and Gladwyn D’Souza (letter dated December 7, 2015)

- O6.1 *The commenter expresses general concern of the Project.* This comment is related to the public discourse on the merits of the Project and whether it is viewed as an asset to the City. However, this does not address the adequacy of the EIR analysis or the Project’s compliance with CEQA. The Draft EIR was prepared to fulfill the City’s obligation under CEQA to identify the significant and potentially significant environmental impacts of the Project, regardless of the Project’s merits. Responses regarding specific concerns are provided below.
- O6.2 *The commenter questions whether the Project is consistent with the Santa Clara General Plan and whether the General Plan will be revised and updated.* As explained on page 3.1-17 of the Draft EIR, the Project site is currently designated for Parks/Open Space (Parcels 1–4) and Regional Commercial (Parcel 5) land uses, and the existing General Plan would maintain these designations for the Project site through Phase III (2025–2035) of the General Plan. The Project would include office buildings, retail and entertainment facilities, residential units, hotel rooms, and open spaces. Therefore, the Project would not be consistent with the existing land use designation. The inconsistency with land use designations does not, by itself, constitute a significant environmental impact because the land use designations were not enacted to mitigate or lessen environmental effects as a primary objective. In order to accommodate high intensity, urban-oriented development, a new General Plan land use classification (Urban Center/Entertainment District) is proposed within the Mixed-Use Designations category. The language on page 3.1-18 of the Draft EIR, which is proposed to be incorporated into the General Plan, outlines the allowed uses for the recommended Urban Center/Entertainment District land use classification. Therefore, the General Plan would be revised and updated to include this new land use classification.

Please refer to Master Response 1 for an analysis of General Plan consistency and the jobs/housing imbalance as a result of the Project.

- O6.3 *The commenter questions General Plan consistency with regards to the jobs/housing imbalance and mobility and transportation.* As explained in the Draft EIR, the ultimate finding of General Plan consistency does not require that a project be entirely consistent with each individual General Plan policy, including policies regarding the jobs/housing imbalance and mobility and transportation. Please refer to Master Response 1 for an analysis of General Plan consistency and the jobs/housing imbalance as a result of the Project.

While the Project would result in an overall increase of vehicle miles traveled because of the imbalance between the number of projected on-site employees and residents (as discussed in Section 3.3, *Transportation/Traffic*), the Project site is situated in close proximity to regional public transportation. As explained on page 3.1-14 of the Draft EIR, Plan Bay Area calls for new development to be placed near active transit corridors. Parcel 5 and a portion of Parcel 4 are within an identified Priority Development Area (PDA), and the Project contemplates dense mixed-use development within 0.5 mile of the Tasman Corridor and the Great America train station. In that respect, the Project furthers the general objectives of Plan Bay Area. As explained on pages 3.1-21 and 3.1-31 of the Draft EIR, the Project site is within walking distance of regional transit. VTA operates three local, one limited-stop, and two express bus routes at the Old Ironsides/Great America stop located south of the Project site. VTA operates several light-rail stops along Tasman Drive, south of the Project site, including Champion Station, Lick Mill

Station, and Great America Station. Amtrak, Capitol Corridor, and ACE operate in the UPRR right-of way and provide service to the Project area at the heavy-rail Great America Station. The new roadways, bicycle paths, and sidewalks proposed throughout the site would connect to existing transit options that are currently within walking distance of the site. Construction of minor arterials, collector roads, and local streets with sidewalks and bike paths that connect to existing major arterials would allow greater access to the Project site and greater access to different modes of transit. Therefore, the Project does not, as the commenter asserts, prioritize auto travel at the expense of pedestrians, bicyclists, and transit.

The Project is not envisioned in the General Plan but is, nevertheless, largely consistent with surrounding uses including Levi's Stadium, the Hyatt Regency Hotel, the Convention Center, Great America Amusement Park, and the Santa Clara Gateway office complex adjacent to the site. Overall, due to the adjacency of public transit, and compatibility with surrounding uses, the Project would be largely consistent with the General Plan.

- 06.4 *The commenter asserts that the Project site would not serve as a City Center for the use of Santa Clara residents.* This comment does not address the adequacy of the Draft EIR or the Project's compliance with CEQA. The Draft EIR analyzes whether the Project as a whole would impact the environment and surrounding areas, but does not consider impacts that would not have a substantial physical impact on the environment. The Project objectives, as detailed on page 2-6 (*Project Description*) of the Draft EIR, outline that the intent of the Project is, among other things, to establish a mixed-use City neighborhood with a well-defined center. The 240-acre Project site is underutilized compared to the existing surrounding land uses. There are no other comparable large areas of land within the City where the Project could be developed and still meet the basic Project objectives.

Furthermore, the Project site is well served by existing transit. The Santa Clara Valley Transportation Authority (VTA) operates several light rail stops along Tasman Drive to the south of the Project site, including the Champion Station, Lick Mill Station, and Great America Station. Amtrak, Capital Corridor, and Altamont Corridor Express (ACE) operate in the Union Pacific Railroad (UPRR) right-of-way and provide service to the Project area at the Great America Station located at Lafayette Street and Tasman Drive. Bicycle and pedestrian access is also provided from the San Tomas Aquino Creek Trail via a bridge over the creek to the west of the Project site. In addition, the Project would include linkages from Parcels 1 and 2 that would directly connect the Project site to the Guadalupe River Trail, which is located to the east of the Project site. The site is in an appropriate location for the Project and, through the variety of transit options, is accessible to residents of Santa Clara and other adjacent jurisdictions.

- 06.5 *The commenter describes the Existing transportation condition and the need for vehicle and transit transportation improvements to address existing congestion and future demand. The commenter also describes an approach to reduce vehicle trips for the North Bayshore area in Mountain View.* Please refer to the Transportation Demand Management (TDM) Master Response (Master Response 2) regarding the trip reduction goals for the Project and information regarding the transportation performance measures for the North Bayshore area. Please note that the City of Mountain View is not taking a "no net new vehicle trips" approach as stated in the comment, which would mean that the amount of traffic entering the area would not change from existing volumes even with new development. Master Response 2 clarifies the approach taken by the City of Mountain View.

06.6 *The commenter states that the loss of open space at the Project site conflicts with the General Plan policy to maintain or improve the current parks per population ratio of 2.4 acres per 1,000 residents. As stated on page 3.13-19 of the Draft EIR, the Project would reduce the recreational facilities within the City and region. However, the City inventory totals do not include the existing Santa Clara Golf & Tennis Club facility or the Santa Clara P.A.L. BMX site. Therefore, neither the existing Santa Clara Golf & Tennis Club facility nor the Santa Clara P.A.L. BMX site are considered in the City's parkland-per-resident ratio, and the elimination of those recreational facilities due to implementation of the Project would not, as the commenter asserts, impact the current parks per population ratio within the City.*

The commenter expresses support for the Project site to continue as a golf course for both passive and active recreation, as well as increased habitat for wildlife. The Draft EIR considers this scenario in Chapter 5, Alternatives, as a No Project Alternative. Please refer to Master Response 5 for a discussion regarding Project alternatives.

06.7 *The commenter states that it is not advisable to place high occupancy structures with enclosed spaces or housing on landfill sites because seismic activity may cause large-scale movements and methane gas problems could develop. The Draft EIR considers potential impacts to high occupancy structures from both seismic activity (Draft EIR starting on page 3.9-30) and methane gas (Draft EIR starting on page 3.11-26). With regard to the commenter's concern about structures with enclosed spaces or housing on a former landfill, the Draft EIR requires implementation of Mitigation Measure HAZ-4.5, which states that the Project shall prohibit the construction of enclosed basements located over refuse on Parcels 1, 2, 3, and 4 to minimize the risk of landfill gas accumulation. Over the landfill area, the Project shall also limit residential construction to only Parcel 4 areas located over open-air podium level garages or over at least one level of enclosed commercial space to mitigate vapor intrusion effects by increasing the free flow and exchange of air beneath the residences (Draft EIR page 3.11-32). Further, as described in the Draft EIR (page 3.9-31), the Project site buildings and improvements would be constructed in accordance with the current CBC, as required by the Santa Clara Municipal Code. The Preliminary Geotechnical Investigation (Parcels 1-4) has established design parameters as appropriate to protect Project structures in accordance with the seismic requirements in the CBC. These site-specific design parameters are based on the ground shaking produced by the Maximum Considered Earthquake, as predicted in USGS models. The design parameters are intended to ensure that buildings retain structural integrity during the most severe ground shaking that would be expected at the site. In addition, all elements of the landfill gas collection system would be accessible and if damaged by seismic activity (or in any other way) would promptly be repaired in accordance with the Closure Plan and Post-Closure Maintenance Plan and the Post Closure Land Use Plan (27 CCR 21180). Because the design of structures would take into account the presence of methane gas in the subsurface and potential seismic activity, and there are required provisions for maintenance and repair of any damaged methane collections systems, potential impacts related to seismic activity on structures are less than significant.*

06.8 *The commenter states that seismic liquefaction could add unpredictability to the site's unstable soil conditions, exacerbating the potential problems associated with expected settlements. The Draft EIR identified liquefaction as a hazard of concern at the Project site, stating that (on page 3.9-25) placement of new structures, including residential and commercial buildings, in areas that are subject to liquefaction could expose people to injury or death and could result in substantial*

damage to physical improvements (e.g., buildings, infrastructure, roadways). Liquefaction and the associated potential for injuries to occupants and damage to infrastructure and Project improvements constitute a significant impact under CEQA. The Draft EIR also requires mitigation (Mitigation Measure GEO-2.2) of the significant liquefaction impact, providing that in those areas not supported by the structural slab foundation (which would effectively mitigate the liquefaction hazard), other measures shall be developed to mitigate the liquefaction hazard, such as shallow footings constructed over ground improvement. Foundations for structures are required to be designed to completely mitigate settlement hazards associated with liquefaction (i.e., no liquefaction-induced settlement damage shall be accepted for the final design). Implementation of this mitigation measure would reduce the liquefaction impact to a less-than-significant level.

- 06.9 *The commenter asserts that phased approvals will be needed due to the job/housing imbalance.* Please refer to Master Response 1 for an analysis of the City's overall jobs/housing imbalance in the context of the Project, and Master Response 5 for a discussion of Alternatives.
- 06.10 *The commenter notes the challenges of implementing retail TDM measures.* Comment noted. Please refer to the TDM Plan Master Response (Master Response 2).
- 06.11 *The commenter states that the Project should be required to achieve a greater vehicle trip reduction.* Please refer to the TDM Plan Master Response (Master Response 2) regarding the trip reduction goals for the Project.
- 06.12 *The commenter describes transportation performance measures for the North Bayshore area in Mountain View, California.* Please refer to the TDM Plan Master Response (Master Response 2) regarding the trip reduction goals for the Project and information regarding the transportation performance measures for the North Bayshore area.
- 06.13 *The commenter provides recommendations for the internal street network to emphasize pedestrian use and requests additional detail about the TDM Plan.* Please see Figures 3.3-27 and 3.3-28 in the Draft EIR for the planned on-site pedestrian and bicycle facilities. Additional information regarding the design of the internal streets is provided in the Master Community Plan. Also refer to the TDM Plan Master Response (Master Response 2) regarding the requirements of the TDM Plan, including monitoring.
- 06.14 *The commenter requests that the City require unbundled parking for all residential, paid parking for all commercial employee parking as well as retail parking with employers providing "parking cash out" to employees who do not drive to work.* Please refer to the TDM Plan Master Response (Master Response 2) regarding the potential TDM measures.
- 06.15 *The commenter requests the use of congestion based pricing to encourage greater transit use.* Please refer to the TDM Plan Master Response (Master Response 2) regarding congestion pricing.
- 06.16 *The commenter requests that the developer provide free transit passes to residents and employees of the Project.* Please refer to the TDM Plan Master Response (Master Response 2) regarding potential TDM measures, including financial incentives such as free or subsidized transit passes.
- 06.17 *The commenter suggests requiring the Project Developer to provide enhanced transit service connecting the project site to the Diridon multimodal transit hub and the Santa Clara Caltrain (future BART) station and the BART.* Shuttle connections to the Santa Clara station will likely be

measures in the TDM Plan. In addition, the types of transit improvements described by the commenter are potential off-setting improvements that could be incorporated into a Deficiency Plan/Multimodal Improvement Plan that will be prepared to address Project impacts to CMP facilities. Please refer to Master Response 3 regarding the development of a Deficiency Plan/Multimodal Improvement Plan.

- 06.18 *The commenter suggests improving bicycle facilities within five miles of the project site to encourage bicycle usage.* Please refer to Master Response 3 regarding the development of a Deficiency Plan/Multimodal Improvement Plan that may include regional bicycle improvements.
- 06.19 *The commenter states that to protect the health of Santa Clara residents, the City should incorporate a more robust TDM Plan.* Please refer to the TDM Plan Master Response (Master Response 2) regarding potential TDM measures. In addition, refer to Response 06.21, below.
- 06.20 *The commenter states that extracting landfill gas will add to the methane and CO₂ load in direct opposition to stated policy in the Climate Action Plan and the City should instead recover landfill gas for renewable energy generation.* The Landfill closed in 1993 and the landfill gas collection and removal system currently transports the landfill gas to a landfill gas-to-energy (LGTE) plant. The LGTE system was commissioned in 2009 and currently generates up to 750 kilowatts of power. It will continue to generate power until methane concentrations are too low to power the turbines. Moreover, the landfill gas system is separate from the Project and will continue to operate with Project implementation. The current system generates electricity consistent with goals for renewable energy generation defined in the CAP and statewide. The LGTE system will continue to operate and the Project would not cause the methane and CO₂ load to increase related to the landfill. Therefore, no significant increases in methane and CO₂ emissions from landfill gas would result from Project implementation.
- 06.21 *The commenter discusses the importance of a mandatory and robust TDM and cites the per capita GHG reductions required of MTC by 2035.* The transportation analysis in the Draft EIR includes mitigation to reduce transportation emissions (Mitigation Measure TRA-1.1). Please refer to the TDM Plan Master Response (Master Response 2) regarding the trip reduction goals for the Project. The TDM reduction goals go beyond the trip generation assumptions, which take into account the lower peak hour trip rates and transit reductions inherent to the project given its location. Beyond the measures required to be part of the TDM, Mitigation Measure GHG-1.2 includes measures that would further reduce GHG emissions.

Regarding SB 375, as described in Section 3.1, *Land Use and Planning*, Plan Bay Area calls for new development to be placed near active transit corridors. Parcel 5 and a portion of Parcel 4 are within an identified PDA, and the Project contemplates dense mixed-use development within 0.5 mile of the Tasman Corridor and the Great America train station. In that respect, the Project furthers the general objectives of Plan Bay Area. However, as described in Section 3.1, *Land Use and Planning*, the land use and population projections in Plan Bay Area did not assume build-out of the Project site with commercial and residential uses but instead assumed that this land would remain in recreational use; in this respect, the Project is not consistent with Plan Bay Area. As described in Section 3.1, *Land Use and Planning*, of the Draft EIR, Plan Bay Area is not legally applicable to local land use planning and projects and, therefore, not a legally enforceable land use plan. As explained in Section 3.5, *Greenhouse Gas Emissions*, the project's GHG emissions are fully disclosed, significance determined, and feasible mitigation applied.

06.22 *The commenter expresses concern that light pollution from the proposed buildings, which are close to the bay and to wildlife flight paths, can be detrimental to wildlife and recommends that the International Dark-Sky Model Ordinance should be used as a basis for lighting requirements for the Project.* The Draft EIR acknowledges that lighting can be detrimental to wildlife, especially because of the Project's proximity to the Bay. As stated on page 3.8-16 of the Draft EIR, injury or death to birds could result from collisions with buildings due to transparent or reflective glass and from improper lighting at the Project site, which could misdirect or confuse birds during flight. The potential for these types of impacts could be heightened by the Project being located near areas where birds are present. The Draft EIR includes measures to reduce the amount of light pollution from the Project in order to minimize hazards to birds including Mitigation Measures AES-2.1 and AES-2.2 (page 3.2-28) which require lighting to be designed to minimize light and glare. In addition, Mitigation Measure BIO-1.2 (page 3.8-15) outlines the bird-safe design features that must be integrated into the Project. These measures are generally consistent with the requirements of many San Francisco Bay Area cities' bird-safe design standards, including San José.

The Project area is located within a highly urbanized landscape where the existing light pollution already impacts wildlife flight paths. Given the urban context of the Project site and the mitigation measures noted above, the Draft EIR adequately addresses increased light pollution from the Project. In addition, the Master Community Plan for the Project has a provision (in Section 7.6) expressly referencing the International Dark Sky Model Ordinance, as follows:

IDA (International Dark-Sky Association) is a recognized authority on light pollution. The IDA and the IES (Illuminating Engineering Society) together have compiled a guide for environmentally responsible outdoor lighting for use in North America. Communities can take the Model Lighting Ordinance (MLO) adopt it and adapt it to their specific needs. Though Santa Clara has no ordinance in place to address outdoor lighting, the project is mindful of the concerns and lighting solutions set forth in the MLO. The MLO recommends limits for the amount of light in five different zones of lighting intensity, ranging from LZ0-LZ4. The California Energy Commission has designated City Place and the surrounding areas as LZ3, a moderately high ambient lighting zone. This area requires moderate lighting levels, given that this is what users are adapted to in the surrounding areas. The MLO also makes use of the "BUG" rating system (Backlight-Uplight-Glare), as a classification of outdoor lighting fixtures to ensure that only well-shielded fixtures meeting these standards are used. City Place recognizes these tools and will use them to aid in creating an outdoor lighting environment that is mindful of light pollution and sensitive to these concerns and the environment.

06.23 *The commenter suggests that the Audubon Society's guidelines for Bird-Safe Design should be incorporated into the mitigation strategies in the EIR.* In response to this comment, Mitigation Measure BIO-1.2 on page 3.8-15 has been revised to require the specific bird safety guidelines adopted with each Development Area Plan to be based on the six "bird-friendly principles" applied by the City of San José. The revised measure also requires enhanced protective measures for buildings within 300 feet of the retention pond or of the Guadalupe River, and a monitoring program.

BIO-1.2: Implement Bird-Safe Design Standards into Project Buildings and Lighting Design. Each Development Area Plan (DAP) approved by the City ~~The Project~~

~~Developer or its contractor shall include prepare and implement~~ a set of specific standards for minimizing hazards to birds, ~~to be implemented by the Project Developer or its contractor in the Development Area Plan submitted for approval by the City.~~ The development of the specific bird safety standards for each Development Area Plan shall be tailored to the specific potential hazards to birds in that development area, taking into account the specific locations, types and heights of buildings, lighting, and landscaping. In addition, the DAP shall require enhanced protective measures for buildings within 300 feet of the retention pond, the Guadalupe River, and San Tomas Aquino Creek, such as siting buildings in relation to existing landscape features to reduce conflicts with existing features that may serve as attractive bird habitat; minimizing the reflection of existing vegetation on building facades; or using soil berms, furniture, landscaping, or architectural features to prevent reflection of water in glazed building facades.

These specific bird safety standards in each DAP shall be based on the following bird-friendly building principles, include the following measures to minimize hazards to birds to the extent applicable to the particular development area:

- Reduce mirrors and large areas of transparent or reflective glass.
- Avoid transparent glass skyways, walkways, or entryways, free-standing glass walls, and minimize transparent building corners, or utilize glazing treatments to mitigate the hazard.
 - Minimize funneling of open space toward a building façade.
 - Strategically place landscaping to reduce reflection and views of foliage inside or through glass.
 - Reduce potential light and glare by implementing Mitigation Measures AES-2.1 (requiring low-profile, low-intensity lighting directed downward), AES-2.2 (requiring shielded fixtures for outdoor lighting), and AES-2.3 (requiring low-emissivity reflective coating on exterior glass surfaces).
 - ~~Locate water features and other bird habitat away from building exteriors to reduce reflection.~~
 - ~~Reduce or eliminate the visibility of landscaped areas behind glass.~~
 - To the extent consistent with the normal and expected operations of the office, hotel, retail, food/beverage, entertainment and residential uses of the Project uses planned for the particular development area, take appropriate measures to avoid use of unnecessary lighting at night, especially during bird migration season (February–May and August–November) through the installation of motion-sensor lighting, automatic light shut-off mechanisms, downward-facing exterior light fixtures, or other effective measures to the extent possible feasible.

- The specific bird safety standards shall also provide for a monitoring program and placing signs around the buildings with phone numbers for authorized bird conservation organizations.

06.24 *The commenter asserts that the Draft EIR does not currently include mitigation measures to offset Project impacts on burrowing owl and fails to acknowledge that a portion of the Project site was recommended by the City Council to serve as a burrowing owl mitigation site. Please refer to Master Response 4 for further discussion of the proposed western burrowing owl mitigation for the Project.*

06.25 *The commenter suggests that the nitrogen deposition mitigation seems under calculated and needs to be reexamined. As explained in the Draft EIR, Section 3.8, Biological Resources, on page 3.8-23 to page 3.8-26, the relative impact of nitrogen emissions on nitrogen deposition in sensitive grassland areas depends on the proximity of the emissions to the sensitive grasslands and the direction relative to prevailing wind patterns. In general, the further a source of emissions is from a receptor point, the greater the dispersion and the lower the deposition. The prevailing wind direction from the Project site is to the southeast. The sensitive grassland areas that are a concern for nitrogen deposition downwind of the Project site are in the eastern and western grassland slopes south of San José. The Project site is located in an area that is approximately 14 miles northwest and upwind from the nearest large area of sensitive grassland habitat (Metcalf Critical Habitat for the Bay Checkerspot butterfly also referred to as Coyote Ridge) and further away from other critical habitat south of San José. The average new development location within the SCVHP is much closer to sensitive grassland habitat than the Project site. While mobile emissions associated with trips to and from the Project would include some trips that proceed southeasterly in areas closer to sensitive grassland habitat, the trip generation would be in a radial pattern and would include many trips that head north and west toward locations further away from sensitive grassland habitat south of San José. Thus, it is a reasonable approach to assume the average location of mobile emissions is at and in the immediate vicinity of the project site.*

As explained in the Draft EIR, Section 3.8, ICF used the same air quality model used to support development of the SCVHP and analyzed the difference in nitrogen deposition from emissions in the vicinity of City Place compared with the average deposition from emissions in the SCVHP as a whole. Taking into account the Project's emissions profile, the result of the analysis is that nitrogen emissions in the vicinity of the Project would have 38 percent of the effect on deposition in the Coyote Ridge habitat area as average nitrogen emissions in the SCVHP.

The text on page 3.8-24 to 3.8-26 in the Draft EIR states that the result of the calculations was 39 percent but the actual number as shown in DEIR Appendix 3.4 (*Air Quality*) is 38 percent. The text in has been updated to reflect the correct calculation results. The commenter provides no evidence as to why the analytical approach used in the Draft EIR does not reasonably assess the differences in the effect of emissions in the vicinity of the project site to the average effect of emissions in the SCVHP and thus no further revisions are warranted.

In response to this comment, the following revisions are made to the text on page 3.8-24:

The Community Multiscale Air Quality (CMAQ) modeling system was used for the Santa Clara Valley HCP/NCCP analysis to compare the effect of nitrogen emissions from the Project to the average effect of equivalent emissions from within the HCP/NCCP area.

Nitrogen deposition per unit of emissions in the vicinity of the Coyote Ridge habitat area was estimated for nitrogen emissions originating from the vicinity of the Project to the average nitrogen deposition per unit of emissions in the Coyote Ridge habitat area from the HCP/NCCP area for 2035. The year 2035 was chosen since the Project's build-out year will be approximately 2030 or later. The analysis reviewed mobile and non-mobile emission sources separately, since the Project's emissions are predominantly mobile with lesser area and point sources. The comparison indicated that mobile and non-mobile emissions in the area containing the City Place project would result in 34 percent and ~~60~~ ~~75~~ percent, respectively, of the nitrogen deposition per unit of emissions compared to the average nitrogen deposition per unit of mobile and non-mobile emissions in the HCP/NCCP area. Taking into account the Project's emissions profile (the Project's mobile NOx emissions are approximately 87 percent of its total NOx emissions), the Project would result in ~~38~~ ~~39~~ percent of the average nitrogen deposition of an equivalent amount of emissions in the HCP/NCCP area. Thus, while nitrogen emissions from the Project would contribute to cumulative nitrogen deposition, on a per-unit of emissions basis, Project emissions would have a lesser effect on nitrogen deposition than average development in the HCP/NCCP area. The calculations for this analysis are presented in Appendix 3.4 (Air Quality).

The following revisions are made to Mitigation Measure BIO-C.1 on page 3.8-25 and 3.8-26:

BIO-C.1: Make a Fair-Share Nitrogen Deposition Fee Contribution to the Santa Clara Habitat Agency's Voluntary Fee Payment Program. Consistent with its voluntary commitment to contribute a nitrogen deposition fee through the fee program of the Santa Clara Habitat Agency, the Project Developer shall make a pro-rated per-vehicle-trip nitrogen deposition fee contribution, which will be based on the amount charged by the Santa Clara Valley Habitat Agency under its Voluntary Fee Payments Policy (<http://scv-habitatagency.org/DocumentCenter/View/345>). Specifically, the per-vehicle trip fee shall be adjusted as set forth below to take into account the different dispersion characteristics of the Project vs. the average dispersion characteristics for development in the HCP/NCCP area.

The Project is located farther from serpentine grassland habitat than average development within the Santa Clara Valley HCP/NCCP area. Thus, the required fair-share contribution shall be figured as ~~39~~ ~~38~~ percent (based on the ICF analysis) of the established fee of the habitat agency for the year in which the building permits are issued for the Project. The fee may be paid up front or in installments in proportion to mitigated vehicle trip generation for the phase of the Project for which the building permits are issued. For fiscal year 2015–2016, the adopted HCP/NCCP nitrogen deposition fee was \$4.20 per new vehicle trip. Using Scheme B's estimated trip generation (140,730 trips/day), taking into account the trip reduction effect of Mitigation Measure TRA-1.1 (reduction to 137,910 trips/day), and the ~~38~~ ~~39~~ percent adjustment factor, if all fees were paid in 2015, the estimated total would be ~~\$220,104~~ ~~\$225,897~~.

06.26 *The commenter states that there is the potential for groundwater contamination from landfill leachate using DDC and ACIP foundation systems and that mitigation should include verification of the techniques.* Drilled displacement column (DDC) and auger cast-in-place piles (ACIP) are a

proven ground improvement technology used at contaminated soil and landfill projects that have been used at numerous agency-regulated sites, including contaminated and sensitive groundwater sites as well as former landfills. Since the cement grout is injected under pressure into the borings, it infiltrates into the surrounding soil or waste, filling voids and creating a highly irregular boring wall which effectively forces any infiltration to occur through the surrounding material and not along the boring wall-formation interface. Examples of projects where this type of boring technology has been successfully used include:

- The “237 at First Street Development Project” located on North First Street and SR 237 in San José. The former Syntax Court Disposal Site, the property was subject to Title 27 requirements. A VOC plume extended through northern portions of the site. With RWQCB approval, DDC piles were successfully installed through the former landfill. Further information on the Project site is available on GeoTracker.⁵
- DDC piles were installed at the 1677 South Bascom Avenue property located over a former landfill area in Campbell. The resultant cemented sand columns had a 28-day strength of 1,000 pounds per square inch (psi) and permeability of 1×10^{-7} centimeters per second (cm/sec) that is considered impermeable to leachate and ground water flow.
 - DDC were installed as part of ground improvement during construction of a parking structure at Amalfi Loop in Milpitas. Groundwater at the site was impacted from an off-site VOC plume located to the east of the site. Further information on the plume is available on GeoTracker.⁶

06.27 *The commenter expresses concerns related to the potential for the release of hazardous substances with potentially significant consequences on public health and the environment due to flooding of contaminated lands (i.e., landfills) and resulting elevated groundwater levels via sea level rise, coastal flooding, and due to flooding. The commenter states that a discussion on these potential risks was not considered in the analysis and suggests that they be considered in the approval of the Project whether or not they are included in the EIR. As stated in Section 3.10, Hydrology and Water Quality, the majority of the Project site is above the grade of the surrounding streets, with the elevated portions having an elevation ranging from approximately 21 to 65 feet above msl. Therefore, the majority of the Project is elevated and not within an area at risk of inundation due to a flooding event. In addition, the Project area is not within a planned tsunami inundation area as depicted on the Tsunami Inundation Map for Emergency Planning prepared by the California Emergency Management Agency and California Geological Survey. Therefore, the Project is not subject to inundation by a tsunami, and likely not vulnerable to coastal flooding. The elevated areas would not be vulnerable to potential coastal flooding effects, even with the higher range of potential SLR. However, the elements of the Project site that are at-grade with surrounding surface streets would be vulnerable to SLR-influenced 100-year flood events. Regardless, per the California Supreme Court December 2015 ruling in the California Building Industry Association v. Bay Area Air Quality Management District (CBIA v. BAAQMD), the general rule under CEQA is that the impacts of the environment on a project are not CEQA impacts because they are not impacts of the project on the environment. This ruling occurred after the release of the Draft EIR, but before certification of the Final EIR. Consequently, impacts*

⁵ Available at: http://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T10000007316

⁶ Available at: <http://geotracker.waterboards.ca.gov/map/?CMD=runreport&myaddress=amalfi+loop+milpitasresponse>.

solely related to the impact of existing flooding or other risks on new receptors are no longer considered to be significant impacts per CEQA.

Existing groundwater and soil quality, as well as public health and safety issues associated with the Project (i.e., landfill gas and hazardous materials) are addressed in Section 3.11, *Hazards and Hazardous Materials*. In addition, the Project would be covered under revised Waste Discharge Requirements, which would address the potential for contaminants to be released from the landfill during Project operation under any circumstance. These Waste Discharge Requirements include regular monitoring and reporting requirements to ensure compliance. As described in Section 3.11 of the Draft EIR, soil investigations were performed on Parcels 1 through 4 in March and October 2014 as part of a *Site Investigation and Environmental Risk Assessment* requested by the Regional Water Board.

A flood event could cause contaminants in soil or groundwater to be leached into standing floodwater or to intrude into adjacent groundwater aquifers. As discussed in Impact HAZ-4 on pages 3.11-26 through 3.11-33 of the Draft EIR, the Project is located on a landfill where subsurface hazardous materials could pose a significant hazard to human health. The migration of leachate-containing toxic chemicals could pose a risk by contaminating groundwater and/or surface water. The risk of leachate migration into the environment from a landfill can be reduced by installing impermeable caps and liners along the top and bottom of a landfill, respectively, and using a leachate collection and removal system (LCRS). Based on historical groundwater data, the groundwater table is generally in or within 10 feet of the bottom layer of refuse at the Project site and a distinct mounded zone of leachate that rises significantly above the surrounding groundwater table has not developed. The landfill is separated from the underlying groundwater aquifer via low-permeability of the native clay layers that reduce the risk of leachate migration into the groundwater. In addition, as described on page 3.11-6 in Section 3.11, *Hazards and Hazardous Materials*, in accordance with 27 CCR 22102, a Corrective Action Plan (CAP) must be prepared, which evaluates known or reasonably foreseeable non-water release corrective action that may be needed as a result of known or reasonably foreseeable causal events. Causal events include, but are not limited to, earthquakes, flooding, tsunami, seiche, fire, precipitation, and degradation of or otherwise inadequate containment structure or environmental monitoring or control system. In addition, with implementation of Mitigation Measure HAZ-4.3 on page 3.11-31, a landfill gas protection systems will be constructed beneath the sub-slabs of structures located on Parcels 1, 2, 3, and 4 to remove landfill gases (e.g., methane, hydrogen sulfide, and volatile COPCs) that could otherwise accumulate and/or migrate through the sub-slab. In addition, Mitigation Measure HAZ-4.4 on page 3.11-32 of the Draft EIR would implement a landfill gas monitoring and control program that will be designed to ensure detection of the presence of landfill gas migrating beyond the disposal site permitted facility boundary and also into on site structures.

Impact HAZ-5 addresses the fact that portions of the Project not underlain by refuse contain subsurface materials that would pose a significant hazard to human health. Future site users (e.g., residents, commercial workers, maintenance workers) could potentially be exposed to hazardous materials by direct exposure to soils or soil gases that migrate into buildings. No residential spaces would be located on the first floor and no buildings would be located in the non-landfill area other than the Fire Station (Option 2). Potential exposure to soil or groundwater contaminants during a flood event would occur during travel (vehicle, bicycle, pedestrian) or recreational activities (sports courts). With implementation of Mitigation

Measure HAZ-5.1 detailed on page 3.11-33 of the Draft EIR, a Phase II Site Investigation will be performed on Parcel 5 and the tennis courts located in the southwest portion of Parcel 4 to (1) delineate the extent of soil, soil gas, and potential groundwater contamination on the site and (2) assess potential health risks posed to construction workers and future site users. In addition, implementation of Mitigation Measure HAZ-5.2 will ensure that soil and groundwater are stored, managed, and disposed of in a manner protective of human health and the environment,

Therefore, with consideration of all of these factors and mitigation measures, the potential for the release of hazardous substances resulting in significant consequences on public health and the environment due to flooding of contaminated lands would be avoided or greatly minimized. However, to provide additional clarification, the following has been added to the end of the second full paragraph on page 3.10-23:

The area for the proposed fire station (Option 2) is currently protected by levees along San Tomas Aquino Creek but may become vulnerable over time if the levees are not raised high enough to address SLR effects. The southern portion of Parcel 5 by Tasman Drive would contain residential and commercial buildings. With SLR, the base elevation of these buildings could be inundated during future SLR influenced 100-year flood events. The Lick Mill Boulevard extension and the other roads mentioned above would also be subject to SLR-influenced flooding in the future. Should inundation occur due to sea level rise or coastal flooding within the Project area, it could cause contaminants in soil or groundwater to be leached into standing floodwater or to intrude into adjacent groundwater aquifers. However, impacts associated with sea level rise and coastal flooding on the Project are no longer considered impacts under CEQA in accordance with CBIA v. BAAQMD.

06.28 *The commenter states that standard storm water protections provided in the EIR are not sufficient for the Project due to its location on top of a landfill and adjacent to two creeks. The commenter suggests that native plantings, trees, and natural stormwater filtration system along the San Tomas Aquino Creek and Guadalupe River be incorporated into the Project design to provide for storm water filtration buffers and to protect water and habitat resources. The potential for leachate runoff is primarily regulated via the Project Waste Discharge Requirements and Provision C.3 of the San Francisco Bay MS4 Permit. The leachate collection system and stormwater control measures described in Mitigation Measure WQ-1.1 on page 3.10-28 of the Draft EIR would be operated and designed so as to prevent the discharge of contaminated stormwater runoff from the Project area. The stormwater management measures for each parcel would be modeled using dynamic hydraulic modeling during the design for buildings, parking garages, site landscaping, etc. This model would consider the potential runoff volumes and rates coming from the top of the landfill, and the resulting design of stormwater management measures would be sufficient to protect water quality and habitat resources along receiving waterways. To adequately reflect this, the following text has been added to Mitigation Measure WQ-1.1, second and third full paragraph, on page 3.10-29:*

The stormwater treatment measures shall capture sufficient flows so that 100-year peak flood elevations or existing design flows within San Tomas Aquino Creek and the Guadalupe River will not increase as part of the Project. The exact reduction in 100-year peak runoff volumes and flows that the stormwater management measures will need to accommodate will be determined during the design process for the

stormwater management measures and will be provided in the detailed Project Stormwater Management Plan.

Due to construction phasing, construction of interim treatment measures may be required once the 40-acre concrete pad has been constructed and before the surface of the pad is developed with new structures with their own associated post-construction stormwater treatment features. These interim measures will be reported to the San Francisco Bay Water Board. The stormwater management measures for each parcel shall be modeled during final design for buildings, parking garages, site landscaping, etc. Dynamic hydraulic modeling, such as the EPA Stormwater Management Model (SWMM), shall be used. Dynamic hydraulic modeling SWMM tracks the quantity and quality of runoff generated within each subcatchment as well as the flow rate, flow depth, and quality of water in each pipe and channel during a simulation period with multiple time steps. The results of the modeling shall be used to compare the proposed "permanent" stormwater peak flows and volumes for the Project with the existing peak flows and show compliance with the jurisdictional regulations. The dynamic hydraulic modeling shall consider the potential runoff volumes and rates coming from the top of the landfill. The resulting design of stormwater management measures shall be required to be sufficient to protect water quality and habitat resources along receiving waterways.

06.29 *The commenter states that construction waste, including contaminated soil and groundwater, must be managed so that workers, nearby residents, and the environment are protected.* Minimal soil and water spoils are anticipated during foundation construction. The quantity of soil and water spoils generated would be estimated after completion of the pile indicator program. As described in the Draft EIR (page 3.11-28), the chemicals of potential concern in near-surface soils that construction workers could come into contact with are not present in concentrations that would be expected to result in significant health risks. Similarly nearby residents would not be at risk because their potential exposure would be much less than construction workers. The potential for contaminated soil to affect the environment would be minimized by implementation of dust control (Draft EIR page 3.4-27) and erosion control measures (Draft EIR page 3.10-24). No construction dewatering of groundwater is expected to occur in areas underlain by landfill waste. However, dewatering (and soil excavation) could occur at non-landfill areas, including Parcel 5. Mitigation Measure HAZ-5.2 in the Draft EIR (pages 3.11-33 to 3.11-34) requires the preparation and implementation of a Soil and Groundwater Management Plan designed to protect construction workers, the general public, and the environment from hazardous materials. A final Waste Management Plan to outline proper soil, landfill debris, and water handling procedures and health and safety requirements would be developed for the Project as part of the Post Closure Land Use Plan (PCLUP).

Implementation of the measures described above (and in more detail in the Draft EIR) would ensure that potential impacts related to management of construction waste are less than significant.

06.30 *The commenter states that the Project should include new recreational facilities and tennis courts for residents.* The Project would provide numerous recreational amenities for residents and employees as well as the public. As stated on page 3.13-20 of the Draft EIR, the Project would provide on-site amenities such as entertainment facilities and large, shared open spaces throughout the Project site. The proposed amenities would reduce the likelihood of residents

and employees utilizing or overburdening existing City facilities because outdoor areas would be available to employees and residents closer to the existing open space areas. Of the total proposed landscaped areas, approximately 74 acres are expected to 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 Master Plan includes proposed public park spaces that could include some sports courts. Office campus greens may be designed to accommodate active recreational uses that could include sports courts and/or fields.

In response to this comment, additional information has been added to Chapter 2, *Project Description*. In addition, a new figure depicting the proposed open space network has been added, as included in Chapter 5 of this document, *Revisions to the Draft EIR*. The following description of landscaping and open space has been added before the first full paragraph on page 2-20 of the Draft EIR as follows.

As depicted in Figure 2-11, the Project would include the following parks and open space program elements within the City Center:

- City Center East Neighborhood Park—A public park located along the east side of Parcel 4 that would include:
 - A north-south multi-use trail (biking, jogging, and walking) that incorporates side buffers and amenities and could include landscaping, seating, fitness areas, sports courts, gardens, and/or an extended transit station platform (should the train station platform expand northward from its current location). The trail would connect the transit station to the proposed east-west multi-use trail that connects the Guadalupe River and San Tomas Aquino Creek trail systems. The width of multi-use trail and the adjacent buffer areas would be a minimum of 30 feet.
 - A level or terraced park area that could be programmed with sports courts; fitness and/or play areas, such as a par course; and/or other active recreational uses. The minimum area for this park would be 1 acre, but the design goal is approximately 3 acres, excluding sloped areas that are not usable (i.e., not usable for proposed active recreational purposes).
- City Center North Neighborhood Park—A public park along the north side of Parcel 4 (physically located on the south part of Parcel 3) that would include:
 - An east-west multi-use trail (biking, jogging, and walking) that includes side buffers and amenities and could include landscaping, seating, fitness areas, sports courts, and gardens. This trail would comprise a segment of the proposed east-west multi-use trail that connects the Guadalupe River and San Tomas Aquino Creek trail systems. The width of multi-use trail and the adjacent buffer would average 30 feet.
 - A turfed fitness and/or play area, such as a par course, fitness steps, and/or other active recreational uses. The minimum area for this park would be 1 acre,

but the design goal is approximately 2 acres, excluding sloped areas that are not usable (i.e., not usable for proposed active recreational purposes).

- City Center West Neighborhood Park—A public park along the west side of Parcel 4 that would include:
 - A children’s play area, including a physical play structure(s) (type and design age specified at the time of the Development Area Plan applications).
 - A family picnic area.
 - An option for an outdoor gathering or performance area.
 - A minimum area for these uses shall be 1 acre.

The residential buildings within the City Center would include private open spaces that would qualify toward the City’s parkland dedication requirement. The anticipated elements within these private open space areas would include a minimum of four of the following uses:

- Landscaped and furnished park-like quiet areas.
- Recreation community gardens.
- Family picnic areas.
- Game, fitness, or sports court areas.
- Accessible swimming pool with adjacent deck and/or lawn areas.
- Recreation center buildings and grounds.

*The commenter cites parks per capita ratios and states that there is no open space available for parks in the City and, therefore, advises against developing the entire Project site. As explained in Response 06.6, above, the City open space and parks inventory totals do not include the existing Santa Clara Golf & Tennis Club facility or the Santa Clara P.A.L. BMX site. Please refer to Response 06.6 regarding the parks per capita ratios. Recreational space would be included within the Project site, plus fees, if any, paid by the Project Developer would be used by the City to acquire and/or develop new parkland and/or amenities or facilities and mitigate any environmental impacts from the development of those facilities. Specifically, the in-lieu park fee is set on a citywide basis under Santa Clara City Code Chapter 17.35 (the Mitigation Fee Act), and the Project would be required to dedicate 8.27 acres of parkland, as stated on page 3.13-3 of the Draft EIR. Furthermore, as discussed in more detail in Section 3.13, *Public Services and Recreation*, the Project would include both private and public open space that would be used by the residents of the Project as well as members of the public.*

The proposed parks and open space program elements would meet and possibly exceed the City requirements, and the payment of fees in accordance with the Mitigation Fee Act would only occur if the Project would not provide sufficient park space. The Project Developer has indicated that it intends to dedicate at least the required amount of parkland within the Project site, which means payment of an in lieu fee would not be necessary. Therefore, Project impacts related to parks and open space would be less than significant.

- 06.31 *This comment states that on-site solar energy generation should be mandatory for the Project. Under Mitigation Measure GHG-1.2, as modified in Chapter 5 of this document, Revisions to the Draft EIR, the Project would be required to provide a total of 50 percent of renewable energy by 2030 to meet the Project's electricity demand through on-site solar or renewable energy purchase (at least 10 percent of which must come from on-site solar).*
- 06.32 *The commenter notes the need to increase the electric vehicle charging stations on-site over time as the number of vehicles in the electric vehicle fleet increases. The Project Developer has stated its intention to provide a sufficient number of electric vehicle charging stations based on market demand and changing technologies. Also, a specific percentage of all required parking spaces for both residential and commercial use shall be EV charging stations per Mitigation Measure GHG-1.2, as revised in Chapter 5 of this document, Revisions to the Draft EIR.*
- 06.33 *The commenter states that LID should be a mandatory requirement within the development to preserve Bay water quality given the proximity to the Bay and that the storm water system should be 100 percent collected and recycled. The current regulations involving LID measures are outlined in Section 3.10, Hydrology and Water Quality. The Project would incorporate LID measures as stormwater control measures into Project design to reduce total runoff rates and associated pollutant discharges in compliance with all relevant stormwater regulations. The Draft EIR adequately addresses this comment, and no changes have been made.*
- 06.34 *The commenter states that the Water Supply Assessment was not available for review. The Water Supply Assessment (WSA) was reviewed and approved by City Council on June 23, 2015. The WSA has been available on the City's website since that time, including the time prior to the release of the Draft EIR.⁷ In addition, the WSA prepared for the Project was included in Appendix 3.14 of the Draft EIR and available on the City's website.⁸*

The commenter asks whether existing practices adopted during the drought will continue, whether the WSA analyzes cumulative impacts, and whether the WSA assumptions leave room to conserve during the next drought. As shown in Table 3.14-3 on page 3.14-8 of the Draft EIR, conservation efforts were considered in the water supply projections in the City of Santa Clara 2010 Urban Water Management Plan (UWMP). As shown, it is anticipated that approximately 795 acre-feet would be conserved in 2020 and conservation would increase to 930 acre-feet in 2035. In addition, as stated on page 20 of the WSA, water conservation is projected to remain unchanged or potentially increase due to public awareness, during a critical dry year. Furthermore, as stated on page 21 of the WSA, the City also assumes no change in water conservation when projecting demands for multiple dry year events for conservative projecting purposes. Therefore, it is anticipated that existing practices adopted during the drought will continue and there is room to conserve during the next drought because additional water conservation efforts during multiple dry years could be implemented beyond what would be implemented during a critical dry year. As stated on page 13 of the WSA, the model used in the 2010 UWMP included forecasting future water demand based on future demands of existing water service accounts and future growth in the number of water service accounts. The forecasting was based on technical studies such as Association of Bay Area Governments (ABAG) Projections or Census

⁷ The WSA is available at: <<http://sireweb.santaclaraca.gov/sirepub/cache/2/qcrcmh5jkiyirnxetrdly4ni/73641402182016032450112.PDF>>.

⁸ The Draft EIR, including appendices, is available at: <<http://santaclaraca.gov/government/departments/planning-inspection/planning-division/ceqa-documents>>.

data. The WSA then analyzes cumulative impacts by comparing water demand, including water demand based on future growth, and water supply.

The commenter states that the 2005 and 2010 UWMPs used in the WSA include overly optimistic supply scenarios and the 2015 UWMP will likely project lower supplies. The 2005 and 2010 UWMPs were available at the time of the preparation of the WSA; thus, the WSA was legally required to rely upon those UWMPs.

The commenter suggests that additional water supply mitigation measures are needed for the Project (e.g., requiring water recycling and re-use on the Project site). As stated on page 4-1 of the Draft EIR, Section 21100(b)(2)(A) of CEQA requires that a Draft EIR identify any significant environmental effects that cannot be avoided if the Project is implemented. Thus, water supply mitigation measures are not required for the Project because water supply impacts would be less than significant. As stated on page 3.14-25 of the Draft EIR, for conservative estimates, the Project demand estimates do not take into account the expected on-site water reduction strategies. Water reduction strategies that would be implemented as part of the Project include the use of low-flow faucets, water closets, and urinals. In addition, the landscaping on the Project site would be irrigated with recycled water, and the plants would be drought-tolerant. Recycled water could also be considered for use in water features, mechanical cooling systems, and toilet flushing. The combined implementation of water conservation strategies could reduce indoor water demand by 10 percent and outdoor water demand by 20 percent. These reductions were not taken into account in the WSA or in the analysis in Table 3.14-6 on page 3.14-21 of the Draft EIR, indicating that the Project demand estimates are conservative. These reduction assumptions would lower Scheme B demand by approximately 231 acre-feet (af) (10 percent x indoor use of 1,531 + 20 percent of irrigation of 390 af = 231 af).

- 06.35 *The commenter expressed concern about the projects in the approved and pending project list. They also requested traffic impacts of adjacent cities be included in the analysis.* The future land use inputs to the traffic model used to develop the traffic forecasts are based on the Plan Bay Area land use projections for 2020 and 2040. These land use projections include approved and pending developments listed in Appendix 3.3-B of the Draft EIR and additional land use development for the City of Santa Clara, Sunnyvale, and San José.

The transportation analysis included study intersections and freeway segments in adjacent jurisdictions. The method of selecting the study intersections and freeway segments is described in Section 3.3 of the Draft EIR, *Transportation/Traffic*. Therefore, traffic impacts in adjacent cities were evaluated.

- 06.36 *The commenter states that cumulative impacts on water supply must be analyzed.* Table 3.14-9 on page 3.14-24 of the Draft EIR compares water supply and demand, including from the Project and cumulative development in the City. As shown in Table 3.14-9 and stated on page 3.14-25, 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. Therefore, as stated on page 3.14-26, under reasonably foreseeable conditions, cumulative water demands, including demand from the Project, would not exceed available water supplies. Therefore, no significant cumulative effect on water supply is identified and the Project's contribution would be less than considerable and, thus, cumulative impacts are also less than significant.

06.37 *The commenter requests an alternative that develops only Phase 1 and Phase 2 of the Project, while developing the remaining parcels into usable parks and open space. Please refer to Master Response 5 for a discussion regarding Project alternatives.*

Comment Letter O7—Center for Public Environmental Oversight, Lenny Siegel (letter dated December 7, 2015)

Letter O7



CENTER FOR PUBLIC ENVIRONMENTAL OVERSIGHT

A project of the Pacific Studies Center

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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).

07.1

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.

- 07.2 | 2. The documents understate the risk of vapor intrusion in the absence of proposed mitigation.
- 07.3 | 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.
- 07.4 | 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.

- 07.5 | 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.

O7.5
Cont.

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.

O7.6

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 ($\mu\text{g}/\text{m}^3$) for residential exposures and 8 $\mu\text{g}/\text{m}^3$ 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 $\mu\text{g}/\text{m}^3$. For commercial/industrial exposure, it's 3 $\mu\text{g}/\text{m}^3$.

But in the same document the Water Board keeps the soil gas ESLs at 300 $\mu\text{g}/\text{m}^3$ for residential and 3,000 $\mu\text{g}/\text{m}^3$ 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 $\mu\text{g}/\text{m}^3$ for residential and 267 $\mu\text{g}/\text{m}^3$ for workplaces. The cancer-based soil gas

O7.6
Cont.

screening levels would be $19.7 \mu\text{g}/\text{m}^3$ for residential exposures and $100 \mu\text{g}/\text{m}^3$ for commercial scenarios.

In 2014 TCE was measured in landfill (soil) gas as high as $170 \mu\text{g}/\text{m}^3$ in Parcel 1, $99 \mu\text{g}/\text{m}^3$ in Parcel 2, $230 \mu\text{g}/\text{m}^3$ in Parcel 3, and $160 \mu\text{g}/\text{m}^3$ in Parcel 4. Since all those levels are below the $300 \mu\text{g}/\text{m}^3$ 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.

O7.7

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.

O7.7
Cont.

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.

O7.8

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.

07.8
Cont.

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
Executive Director

Response to Comment Letter O7—Center for Public Environmental Oversight, Lenny Siegel (letter dated December 7, 2015)

- 07.1 *The commenter states that the extent of volatile organic compounds (VOCs) at the site has not been adequately characterized. This comment is part of a summary, and the response is provided in Response 07.5, below.*
- 07.2 *The commenter states that the documents understate the risk of vapor intrusion in the absence of proposed mitigation. This comment is part of a summary, and the response is provided in Response 07.6, below.*
- 07.3 *The commenter acknowledges that the proposed mitigation may reduce health risks to building occupants but only if supported by appropriate management and regulatory oversight. This comment is part of a summary, and the response is provided in Response 07.7, below.*
- 07.4 *The commenter acknowledges that if buildings on the Project site can be made safe for other uses (e.g., commercial uses), they can be made safe for residential uses, but for any use, the physical risks (settling, compaction, liquefaction, etc.) and the risk of fires, both within the Landfill and from potential methane releases, must be addressed. This comment is part of a summary, and the response is provided in Response 07.8, below.*
- 07.5 *The commenter states that the extent of VOCs at the site has not been adequately characterized. The also commenter expresses concerns about the potential for the presence of TCE waste in buried drums that could release their contents in the future, thereby increasing VOC concentrations at the surface. The commenter inquires as to why TCE concentrations appear to be increasing in some wells. The commenter further asserts that the samples from perimeter wells that identify the lateral extent of the TCE plume contain concentrations of TCE that are too high to be at the plume boundary. Langan submitted a final technical memorandum to the RWQCB on July 23, 2015, regarding the potential presence of drums of hazardous waste buried at Parcel 4 of the closed Santa Clara All Purpose Landfill (Landfill). The investigation focused on Parcel 4 because that was the only parcel in use at the time of the alleged drum disposal activity. The RWQCB sent a letter that concurred with this memorandum on July 27, 2015. The RWQCB had identified the potential disposal of drums during its review of the Solid Waste Assessment Test (SWAT) report for the Landfill, dated June 28, 1988. The SWAT states that Ford Aerospace and Communications Corporation disposed of approximately 108 drums of solvents, organics, inorganics, heavy metals, acids, and bases in “the general area of the All Purpose Landfill.” No basis for the statement was provided in the SWAT report. The Environmental Protection Agency (EPA) Notification of Hazardous Waste Site Form filed by Ford Aerospace and Communications Corporation (included as an attachment to the SWAT) contains a statement that the dumping occurred in an open field between SR 237 and US 101 in Santa Clara between 1960 and 1970. The area between SR 237 and US 101 was primarily open fields and areas that were used for agricultural purposes. The distance between SR 237 and US 101 in this general area is approximately 2.25 miles. Given the ambiguous description of the disposal location in the SWAT (“the general area of the All Purpose Landfill”), there is no certainty that the drums were disposed of at the Landfill. Additionally, in an April 2015 interview with Mr. Rick Mauck, the City of Santa Clara department head and director in charge of administering public works and solid waste programs from 1982 until 2009, Mr. Mauck indicated that this type of waste would not have been accepted at the Landfill because the Landfill was not permitted for the disposal of hazardous materials. Mr. Mauck also indicated that, to his knowledge, there was no record or*

confirmation that such drums were disposed of at the Landfill, other than the vague reference in the 1988 SWAT regarding disposal “in the general area of” the Landfill and an EPA Notification Form about dumping in an open field within what appears to be a large 2,500-acre area between SR 237 and US 101.

Langan's memorandum concluded that the drums, even if they had been placed on-site within Parcel 4, would most likely have long since degraded and lost their structural integrity, releasing their contents within the waste mass. A review of a 1995 drum failure study conducted on behalf of the U.S. Department of Energy (DOE) finds that corrosive waste streams and condensation (both of which would have affected any drums disposed of at the Landfill in the 1960s and 1970s) inside and surrounding a drum can cause the container to fail within 7 years. Even without corrosive waste within the drums, the Landfill waste mass surrounding any buried drums has corrosive characteristics and most likely would have compromised the structural integrity of those drums, which were placed there 50 years ago. The 1995 drum failure study, coupled with the indication that these drums were reportedly disposed of 45 to 55 years ago, suggests that any drums that may have been buried at Parcel 4 would now be degraded, and any potential significant impacts on the environment would most likely be manifested. Such impacts would most likely have been identified during the past two-plus decades of both groundwater and Landfill gas monitoring as well as investigations and/or the environmental investigations conducted in 2014 by Langan, which were completed at Parcel 4, the area where the drums were reportedly disposed of. These investigations did not encounter drums or any highly localized concentrations of solvents in the refuse or Landfill gas. Other than the presence of VOCs in groundwater beneath the northern portion of Parcel 4 and southern portion of Parcel 3/6, areas where impacts have been known to exist since the SWAT report was prepared in 1988, no other areas of significant impacts on refuse, Landfill gas, or groundwater were identified during the three phases of investigation.

With regards to the comment that TCE concentrations appeared to increase in some wells, historic groundwater monitoring results from the upgradient and downgradient wells confirm that the extent of groundwater with moderately elevated VOC concentrations continues to be limited to the northeastern portion of Parcel 4 and southeastern portion of Parcel 3/6. The distribution of VOCs has not changed significantly since the 1988 SWAT (more than 25 years ago), and there has been a significant decrease in VOC concentrations since groundwater data collection began in 2005 at the majority of monitoring wells. Based on their concurrence with the Feasibility Study of Groundwater Remediation Alternatives, the RWQCB appears to consider the concentrations in monitoring wells at the edge of the plume appropriate to mark the plume boundary and the positioning of sampling points adequate.

- 07.6 *The commenter states that the documents understate the risk of vapor intrusion in the absence of proposed mitigation and that different screening levels should be used to evaluate potential health risks to building occupants.* The RWQCB adopted the recommended Department of Toxic Substances Control (DTSC) attenuation factors for existing residential and commercial structures in the derivation of the environmental screening levels (ESLs). The use of ESLs derived from the DTSC-recommended attenuation factors for existing structures represents a conservative approach, given that these attenuation factors are two times more stringent than DTSC-recommended attenuation factors for future structures, such as those proposed at the site. EPA's recommended generic attenuation factor of 0.03 represents a 95th-percentile value from EPA's vapor intrusion database. The vast majority of indoor air samples included in the database

correspond to basement conditions in which a residential building is under pressurized relative to the subsurface; thus, volatiles are drawn toward the building. The proposed redevelopment plan specifies a slab-on-grade foundation, which would not create this condition. The RWQCB also identifies regional differences associated with data in the national database (e.g., higher average heating days, which would result in an overestimate of subsurface vapor attenuation if applied generically to California sites). The ESLs use contemporary toxicity data to derive health-protective indoor air and soil gas screening levels for cancer and non-cancer endpoints; therefore, a comparison of maximum TCE soil gas concentrations to residential and commercial ESLs is appropriate for the Project site.

O7.7 *The commenter asserts that the Project requires a fully funded, robust long-term management program that includes inspection of passive systems, operation and maintenance of active mitigation systems, institutional controls, and monitoring.* Regulatory oversight and management/maintenance requirements are discussed throughout the Draft EIR. Mitigation Measure HAZ-4.1 (page 3.11-31 of the Draft EIR) describes in detail the regulatory agencies that would be involved and their roles in regulating the Project. Mitigation Measure HAZ-4.4 (page 3.11-32) describes the required Landfill gas monitoring and control system maintenance systems. The required regulatory and maintenance programs that would be established for the Project are robust and would reduce potential impacts to a less-than-significant level. With regard to providing disclosure of existing subsurface hazardous materials conditions and the ongoing mitigation and monitoring requirements (as required by Mitigation Measure HAZ-4.6) for employees and visitors, the requirements of Mitigation Measure HAZ-4.6 are not limited to residents but, rather, state that 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. This disclosure would cover all residential and commercial operations. Disclosure to residential and commercial users of the Project would not be needed to reduce health risk impacts to a less-than-significant level but would be required by Mitigation Measure HAZ-4.6 for lessee awareness of the engineering and institutional controls that are in place (and an abundance of caution). There is no need for visitors to be aware of the engineering and institutional controls.

Under the Disposition and Development Agreement (DDA) to be entered into by the City and the Project Developer (which will be considered by the City Council for approval in conjunction with its consideration of certification of the Final EIR), the City would continue to own the Project site in perpetuity and execute one or more long-term ground leases with the Project Developer or its assignees, which, in turn, would ultimately enter into subleases with building occupants. With respect to the Landfill area, the area to be ground leased by the City to the Project Developer generally would comprise the airspace above the Landfill, with the City continuing to own and operate the Landfill.

The DDA would require the City and the Project Developer to enter into a Landfill Operation and Maintenance Agreement that is consistent with a Memorandum of Understanding as to Landfill Operation and Maintenance that is attached as an exhibit to the DDA. This Memorandum of Understanding (among other things) provides that the City would continue to be responsible for the Landfill protection systems, including the Landfill cap and cover, the enhanced Landfill gas collection system, and the leachate collection and treatment system.

The Project Developer would assume initial responsibility for ownership and operation of the new building protection systems, which would be designed to mitigate the potential building

occupants' exposure to methane and other compounds from the subsurface, including vapor barrier membranes, passive vapor collection and venting systems, and contingent active blower system. Ultimately, responsibility for the building protection systems would be transferred to an association of building owners and tenants, subject to approval by the City and the regulatory agencies. The revised Post-Closure Maintenance Plan and the revised Corrective Action Plans (which require approval from the regulatory agencies) would set forth the specific long-term operation as well as measures and responsibilities and the financial assurance mechanisms. Therefore, the commenter's concern about having an appropriate entity with sufficient funds to monitor, maintain, and generally administer the landfill has been addressed.

- 07.8 *The commenter acknowledges that if buildings on this property can be made safe for other uses (e.g., commercial uses), they can be made safe for residential uses, but the physical risks must be addressed. The commenter acknowledges that if the Project follows appropriate design methods on podium construction, the resulting project can adequately address potential health risks. The commenter further states that managing settlement, vapor intrusion, and landfill fires will be important for all building types. The Draft EIR acknowledges that Project improvements can be made safe for both commercial and residential uses. The geologic hazards identified by the commenter (settling, compaction, and liquefaction) are addressed in the Draft EIR, starting on page 3.9-21. All building types would be subject to the design requirements specified in the PCLUP for addressing settlement, vapor intrusion, and landfill fires.*

The commenter also expresses concern over the Project's contribution to the existing jobs/housing imbalance. Please refer to Master Response 1 for an analysis of the jobs/housing imbalance as a result of the Project.

Comment Letter O8—Irvine Company, Carlene Matchniff (letter dated November 18, 2015)

Letter O8



IRVINE COMPANY

Since 1864

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November 18, 2015

DEC 08 2015

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

City of Santa Clara
Planning Division

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:

O8.1

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

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O8.1
Cont.

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

Response to Comment Letter O8—Irvine Company, Carlene Matchniff (letter dated November 18, 2015)

08.1 *The commenter expresses concern about the Santa Clara Gateway Variant. As explained on page 2-17 of the Draft EIR, the Project could include a Santa Clara Gateway Variant for access to the Project site. This variant would include a new access point to Parcels 3 and 4 from Great America Parkway through the southern portion of the Santa Clara Gateway office complex parking lot. The Santa Clara Gateway Variant may replace the City Place Parkway connection from Great America Parkway, as proposed for the Project. Since it is a proposed variant to the Project, the physical impacts of the Santa Clara Gateway Variant are analyzed throughout the Draft EIR.*

This comment pertains to the design of the Project and the fiscal impacts to the adjacent property owner, rather than addressing the adequacy of the Draft EIR or the Project's compliance with CEQA. The Draft EIR analyzes whether the Project would impact the environment and surrounding areas, but does not consider fiscal impacts, except where they are known to have a demonstrable physical impact. Therefore, the Draft EIR only considers the environmental impacts of constructing and operating this variant, rather than the financial impact to the current property owner.

Regardless, the City and Project Developer have been made aware of the concerns of the commenter about this potential access point through the commenter's office complex. The Project Developer is still considering this variant; however, the Project Developer has advised the City that this is a variant and not currently a first priority or preference. At this time, the Project Developer's expressed preferred access to the Project site in this area is the City Place Parkway connection from Great America Parkway and not the Santa Clara Gateway Variant. If the Santa Clara Gateway Variant were pursued, then the City and Project Developer would endeavor to address the commenter's concerns at that time.

Comment Letter O9—SV@Home, Pilar Lorenzana-Campo (letter dated December 8, 2015)



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Hispanic Foundation Silicon Valley*

*Keri Lung, Vice- Chair
Mid-Peninsula Housing Coalition*

*Kevin Zwick, Treasurer
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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

O9.1

Honorable Mayor and Members of the City Council
**City Place Santa Clara Draft Environmental Impact Report (SCH#2014072076, CEQ2014-01180 and
PLN2014-10440)**
Page 2 of 2

09.1
Cont. | 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:

- 09.2 | 1. Approve the maximum number of residential units possible in the City Place
development based on the number allowed by State regulatory agencies.
- 09.3 | 2. Expedite approvals and necessary rezoning for nearby parcels for residential use
to ensure that homes are available for workers employed by City Place.
- 09.4 | 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@santaclearaca.gov
Kevin Riley, KRiley@santaclearaca.gov

Response to Comment Letter O9—SV@Home, Pilar Lorenzana-Campo (letter dated December 8, 2015)

- 09.1 *The commenter expresses concern regarding the imbalance of jobs and affordable housing. Please refer to Master Response 1 for an analysis of the jobs/housing imbalance as a result of the Project and Master Response 5 for a discussion of Alternatives.*
- 09.2 *The commenter requests approval of the maximum number of residential units allowed by State regulatory agencies. As described on page 2-7, the Draft EIR analyzes two different land use schemes at the Project site to capture the range of possible land uses that could be developed. Scheme A presents the scenario with the maximum amount of residential uses feasible at the Project site (1,360 units). The Project Developer has expressed that Scheme A is its preferred scenario; however, because of potential restrictions regarding housing on top of a landfill, Scheme B was also analyzed. Scheme B presents the scenario with the minimum amount of residential uses at the Project site (200 units at Parcel 5, which is not located on the landfill). The Project Developer will most likely proceed with Scheme A, unless it is not accepted by the responsible agencies, at which time Scheme B will be carried forward for further consideration. As proposed, however, the Project comprises both schemes; if the City Council approves the Project, then the Project Developer will have the option to select either scheme.*

The Draft EIR also analyzes an Increased Housing Alternative, as described on pages 5-8 and 5-9. The Increased Housing Alternative was developed to improve the jobs-to-housing ratio, which would result in fewer impacts associated with transportation/traffic, air quality, and GHGs. Under the Increased Housing Alternative, the 320,000 gsf of office space planned for the City Center portion of Parcel 4 under the Project Scheme A would be replaced with 320,000 gsf of residential space. Therefore, this alternative would result in 320 additional residential units, for a total of approximately 1,680 residential units at the Project site. The City Council has the discretion to approve the Increased Housing Alternative in lieu of Scheme A and Scheme B, or in some combination with Scheme A and Scheme B.

- 09.3 *The commenter requests expediting approvals and necessary rezoning for residential uses on nearby parcels. This comment pertains to other development in the City and does not address the adequacy of the Draft EIR or the Project's compliance with CEQA. The Draft EIR analyzes whether the Project as a whole would impact the environment and surrounding areas, but does not consider the review process and entitlements of other projects on nearby parcels. Therefore, no further response is necessary.*
- 09.4 *The commenter requests a minimum of 20 percent of units to be affordable. This comment pertains to specific Project features and does not address the adequacy of the Draft EIR or the Project's compliance with CEQA. The Draft EIR analyzes whether the Project as a whole would impact the environment and surrounding areas, but does not consider features that would not have a substantial physical impact on the environment. Therefore, this comment is better addressed during the review process for the Project rather than in the EIR.*

At this time, the Project Developer has not determined the amount of affordable housing to be provided at the Project site. The City does not currently impose affordable housing requirements, other than the voluntary provisions of the Density Bonus Ordinance (Chapter 18.78 of the City Code). Affordable housing, if provided, would be considered with submission of the Development Area Plans for the relevant parcel(s). If the Project Developer includes

affordable housing, the overall number of residential units would still be within the number of housing units analyzed in the Draft EIR for Scheme A or Scheme B (as applicable). Therefore, if affordable housing is provided as part of the Project after EIR certification, this will not result in additional impacts that were not analyzed in the EIR.