

CC 09-07-21

Oral  
Communications

Written Comments

## Cyrah Caburian

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**From:** Jennifer Griffin <grenna5000@yahoo.com>  
**Sent:** Friday, August 27, 2021 12:50 AM  
**To:** City of Cupertino Planning Commission; City Clerk  
**Cc:** grenna5000@yahoo.com  
**Subject:** Fw: SB 9: Disaster in the Making

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FYI. Please add to the public record. Thank you.

----- Forwarded Message -----

**From:** Jennifer Griffin <grenna5000@yahoo.com>  
**To:** CityCouncil@Cupertino.org <citycouncil@cupertino.org>  
**Cc:** Jennifer Griffin <grenna5000@yahoo.com>  
**Sent:** Friday, August 27, 2021, 12:46:15 AM PDT  
**Subject:** SB 9: Disaster in the Making

Dear City Council:

When you start reading the fine print of what SB 9 is intending to do to California communities and cities, it is totally mindboggling that any California elected politician would support something like this,

1. Ministerial lot splits - A lot split done ministerially? Really? How does that work? No trees? No input from neighbors? Just like that? Whoever wrote this section of this bill had zero land use experience.

2. Four foot setbacks-- Again with the four foot setbacks. Like the ADU four foot setback stuff. Really? And you don't think the neighbors would be interested that you were building a three story high rise four feet from their property line. You are going to do this ministerially too? Yeah, right. Again, zero experience in land use. Sounds like a developer dream giveaway. Sounds like building in Soviet Era Russia circa 1960.

3. Lots that are 1,200 square foot-- Okay. You are splitting a single family lot into 1,200 square foot sections. Again, dreamland on paper, Big developer giveaway. Yes, you are doing this ministerially and the neighbors don't have to be told! Yeah, right again. The neighbors won't notice and the neighbors won't complain. We are the neighbors. No wonder this bill is so hushed up. No wonder none of the bill writers or backers or pushers or yes, voting politicians wanted the neighbors to know. We are the neighbors!

4. No development fees in the suburbs- These builders did not get a free ride to build in commercial corridors because they don't get a free ride there. They are required to pay development fees for infrastructure improvements to the city because of the increased load on the existing city infrastructure because of their development and housing. So the developers are let to run amok in the suburbs where no one is requiring them to pay for city infrastructure improvements, such as sewer and water hookups. Lucky we, the neighbors, get to shoulder the bills for the water and sewer and we have to share our parkland because the developer does not have to pay for any new parkland either.

5. No on-site parking- SB 9 does not require these new housing units to require any on-site parking! Okay, yes, no one wanted to tell the neighbors about this one, How could you even fit a parking place on a 1,200 square foot lot crammed with housing units four feet from every property line? Where do you put the garbage cans? How many cars will these housing units produce? Probably two per housing unit times three or four or five or six or seven or eight or nine or ten housing units will generate six more or eight more or ten more or twelve more or fourteen more or sixteen more or eighteen more or twenty more cars per former lot. Where will these cars park? On the street, of course! Of course, no one should tell the neighbors, us. Wow! This gets worse and worse. And you don't want to tell the constituents in your district this will be happening to them? Total builder give away.

The more you read about what SB 9 says in the fine print, the more you realize that this bill is a big sell out and a big give away to builders or developers. I don't know why an elected state politician with constituents would willingly subject their constituents to something like this and ministerially! And Soviet Era Block Planning style?

Sounds like someone picked and targetted the suburbs when the cost to build on commercial became too expensive or too burdensome for developers. Why the politicians jumped on this band wagon is unknown. Did they not read the bill? Has Special Interest Money hamstrung or roped in the politicians to some unknown mandate that no one knows about. I guess, we, the neighbors are not part of this club or secret in-crowd.

We are the targets because of our land and where we live. How convenient. How calculated. Go build somewhere else. You bought our politicians and your are buying our elections and our state constitution. Do you think we didn't notice? Again, SB 9 is written in Soviet Era Block Mentality. Unfortunately, the bill author did not notice we don't live in Communist Era soviet Era Dictatorship. Surprise! The neighbors live in a democracy and you can't take that over unless you deal with us.

Thank you.

Jennifer Griffin

## Cyrah Caburian

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**From:** Jenny Griffin <grenna5000@yahoo.com>  
**Sent:** Thursday, August 26, 2021 3:39 AM  
**To:** City of Cupertino Planning Commission; City Clerk  
**Subject:** Fwd: SB 9 and SB 10: Target Audience is Seniors in Their Homes

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----- Original Message -----

**Subject:** SB 9 and SB 10: Target Audience is Seniors in Their Homes  
**From:** Jenny Griffin <grenna5000@yahoo.com>  
**Sent:** Thursday, August 26, 2021, 3:36 AM  
**To:** "CityCouncil@Cupertino.org" <CityCouncil@Cupertino.org>  
**CC:** "grenna5000@yahoo.com" <grenna5000@yahoo.com>

Dear City Council:

In slogging through all of the political debris of SB 9 and SB 10, the realization has become Apparent of who one of the main targets of this legislation is focused on: seniors in their Homes. They are sitting ducks for legislation of this kind. Take away the voice and vote of The elderly? That is a low blow. Not let the seniors know what is going on, take advantage Of them?

This type of legislation is preying on our seniors, especially the very elderly and vulnerable. And not just locally, but all over the state. Preying on our parents and aunts and uncles. This is not acceptable.

It is hard enough to live day to day, especially during Covid, if you are a senior. But, then to Have your own politicians turn on you and do something you cannot understand, like SB 9 and SB 10, is totally reprehensible. Changing the rules of the game behind your back And not even telling you about it is beyond comprehension.

It is saying to the senior population, you are of no use to us. Die and go away. You are not Needed anymore. You are not wanted anymore.

I think families of seniors who could be affected by these bills should be very careful to make Sure their elderly parents and relatives are not taken advantage of by these bills. I think The politicians should be very careful to make sure their senior populations are not taken Advantage of and intimidated by this disgraceful legislation presented by SB 9 and SB 10.

The bills are so convoluted and difficult to understand that even the grown children of these Seniors have difficulty understanding them, let alone explaining them to an elderly senior that



Is doing their best to get along day by day.

These bills are a cheap shot at our seniors. Also, throwing in such terms as eliminating local Voter initiatives in SB 10 in a bill that seems to be dealing with housing is deceptive and Wrong.

So are we supposed to let these vultures who are swooping in to take over our neighborhoods With by right and ministerial get at our seniors also? No way. The buck stops here. There has to be some responsibility in the nursery school antics displayed by some of Our politicians, especially the authors of SB 9 and SB 10. They may care about the money Flowing into them from out of control big money backers, but you don't abuse or prey Upon your elderly constituents, and you don't let your big money interests from inside This state or outside of it do that either.

Please show some responsibility and remember your constituents and don't give away and Sell out the elderly living in your districts. SB 9 and SB 10 are such sell outs and abuse of Elders.

Thank you,

Jennifer Griffin

## Cyrah Caburian

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**From:** Jenny Griffin <grenna5000@yahoo.com>  
**Sent:** Monday, August 23, 2021 4:16 AM  
**To:** City of Cupertino Planning Commission; City Clerk  
**Subject:** Fwd: Bumpy Road for HB 2001 Roll Out in Oregon

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FYI. Please add to public record.

----- Original Message -----

**Subject:** Bumpy Road for HB 2001 Roll Out in Oregon  
**From:** Jenny Griffin <grenna5000@yahoo.com>  
**Sent:** Monday, August 23, 2021, 4:13 AM  
**To:** "CityCouncil@Cupertino.org" <CityCouncil@Cupertino.org>  
**CC:** "grenna5000@yahoo.com" <grenna5000@yahoo.com>

Dear City Council:

The governor of Oregon signed into law HB 2001, in August 2019. This bill, like California's defeated SB 50, and now proposed SB 9 and SB 10, allows single family lots in Oregon to be divided up into Multiple housing units, some with additional ADUs. HB 2001 is supposed to be implemented Across the state of Oregon.

Pro-density advocates hope to get California SB 9 and SB 10 passed and implemented across California.

The roll out of HB 2001 is not going well across Oregon. Frustrated home owners in towns across Oregon are complaining that they have been left out of the planning processes and their cities And neighborhoods are being run over by state level mandates that ignore the public.

Citizens in Eugene say that home owners are leaving the city to buy homes in other towns where There are more single family homes.

Residents in Bend say they are being shut out of the rezoning process and do not know what is Going on.

Residents in Portland are complaining that their city streets are being clogged up with cars from ADUs that are not being required to have any on-site parking and often have more than one car per ADU. Those cars all wind up on the residential street. One home owner said that members of his Own family could not find parking on the street because of all the extra cars from the four ADUs On his street and this is a small lot neighborhood with single lane driveways from 1920. Heaven forbid what happens when the 4,500 square foot lots are cut up into multi unit lots, plus More ADUs when HB 2001 comes to town.

Residents in Corvallis are still saying they never voted on anything like HB 2001 and how could a bill like this be passed by the state without them knowing about it. And Corvallis is a college town with one of the highest education rates of residents in the state of Oregon, and yet no one knew this bill was passed. Obviously, the residents of Corvallis were never asked to vote on HB 2001. Their legislators passed them by, along with the legislators of Portland passing them by their residents.

So too, residents of California are being subjected to the onslaught of bills such as SB 9 and SB 10. No California legislators have asked the public to weigh in or vote on SB 9 or SB 10, but yet the plan seems to be to pass these disastrous bills and implement them across the whole state of California like Oregon's legislators and governor did with HB 2001 across Oregon.

It is interesting to note that money used to write and back HB 2001 in Oregon is being used to back similar bills in California, SB 9 and SB 10. Thus the same degrees of excluding the public are being used and not allowing the public to vote on these bills. It worked in Oregon. Will that tactic work here in California? That remains to be seen. Bedlam and anarchy will certainly ensue if SB 9 and SB 10 are passed in California.

The public is asking questions about bills such as SB 9 and SB 10 in California and their autocratic roll out. The public is asking why their ability to voice their opinion on these bills and their right to vote on these bills is being suppressed. The legislators and the governor are mum about their intent and purpose with these bills. They don't seem to want the public involved.

Maybe, the same autocracy machine that passed HB 2001 without the Oregon public knowing about it is at work in California with SB 9 and SB 10 also. The public would like to know.

I am sure if SB 9 and SB 10 are passed by this autocracy machine in California the roll out and implementation of these bills in California will be just as bumpy and bad and messy as the rollout of HB 2001 is going on Oregon. Only two, three, four, five, six or seven or eight or nine or ten times worse in California. In fact, it may be so disastrous it will affect California politics for years to come. New laws of transparency may result from it.

Sincerely,  
Jennifer Griffin

## Cyrah Caburian

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**From:** Jennifer Griffin <grenna5000@yahoo.com>  
**Sent:** Wednesday, August 25, 2021 1:55 AM  
**To:** City of Cupertino Planning Commission; City Clerk  
**Cc:** Jennifer Griffin  
**Subject:** Fw: Co Authors of SB 10

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----- Forwarded Message -----

**From:** Jennifer Griffin <grenna5000@yahoo.com>  
**To:** CityCouncil@Cupertino.org <citycouncil@cupertino.org>  
**Cc:** grenna5000@yahoo.com <grenna5000@yahoo.com>  
**Sent:** Wednesday, August 25, 2021, 01:47:22 AM PDT  
**Subject:** Co Authors of SB 10

Dear City Council:

It is probably important to start looking at the coauthors of SB 10.  
This bill will be a political and economic disaster for California if passed.

The bill's co-authors are Senator Scott Wiener, Senator Toni Atkins, Senator Anna Caballero, Assemblymember Robert Rivas, Senator Nancy Skinner and Assemblymember Buffy Wicks.

SB 10 is going to affect many of their constituents. I don't think any of these politicians asked their constituents what they thought about SB 10 before they jumped on the SB 10 band wagon. They sure did not ask any of their constituents to vote on SB 10. They also don't seem to be concerned that their constituents did not get to voice their opinions on the bill or ever got to vote on the bill. I don't know if these politicians realize they have constituents and that maybe their constituents and their families will be affected by SB 10.

I was talking to someone yesterday about SB 9 and SB 10 and they said when do we get to vote on SB 10. We have the ballots. I said, no you don't get to vote on it. The politicians are voting on it or saying they will.

They they said, why are these bills not on our ballot? I said, that is a good question. Maybe these bills should be on our ballot.

Certainly, the authors of SB 10 don't seem to care about what their constituents care or think. They just jumped on the SB 10 bandwagon and rolled away from reality and those who voted them into office.

I wonder how they will explain to their constituents what SB 10 does to their neighborhoods and cities if SB 10 passes.

I sure would not want to re-elect any politician who let my neighborhood or city suffer from SB 10, or sold my neighborhood or city to the highest big money interest or bidder.

Yes, this is sure what seems to be happening with SB 10. Why be in office anyway if you don't care what your constituents think. There are a lot of jobs where you can jump on bandwagons and follow your boss to the top. Why not do those kinds of jobs if you want to, but don't become a politician and subject your constituents to people who are going to take over their neighborhoods and cities and not allow your constituents to voice their opinions or vote on anything. Why even have politicians if they are going to to give away their constituents neighborhoods and cities to the highest bidder?

Money, but not voice or vote. That is how you wind up with bills like SB 10. etc and etc.

Thank you,  
Jennifer Griffin

## Cyrah Caburian

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**From:** Jennifer Griffin <grenna5000@yahoo.com>  
**Sent:** Thursday, August 26, 2021 8:46 PM  
**To:** City of Cupertino Planning Commission; City Clerk  
**Cc:** grenna5000@yahoo.com  
**Subject:** Fw: Sacramento Controlling California and Washington DC?

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----- Forwarded Message -----

**From:** Jennifer Griffin <grenna5000@yahoo.com>  
**To:** CityCouncil@Cupertino.org <citycouncil@cupertino.org>  
**Cc:** grenna5000@yahoo.com <grenna5000@yahoo.com>  
**Sent:** Thursday, August 26, 2021, 08:43:29 PM PDT  
**Subject:** Sacramento Controlling California and Washington DC?

Dear City Council:

Thank you to all the wonderful California Assemblymembers who voted no or abstained on SB 9 and SB 10. You see through the myriad Special Interest Groups controlling the movements of SB 9 and SB 10. We owe our gratitude to you for being the True Champions of this legislative season. You are working to keep our cities and neighborhoods safe and allowing us to speak through you since many of our elected politicians have abandoned their constituents and signed on with the Special Interests groups attempting to take over Sacramento and maybe, Washington DC.

We hope that these Special Interests have not take over our governor also and look to you, Our True Champions who see through the farce and attempts to suppress our voice and our votes, .to bring us back to our state being lead by caring elected politicians such as yourselves.

Again, thank you for your honor, courage and leadership in these challenging times. We are forever grateful.

Sincerely,

Jennifer Griffin

## Cyrah Caburian

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**From:** Jennifer Griffin <grenna5000@yahoo.com>  
**Sent:** Monday, August 30, 2021 5:22 PM  
**To:** City of Cupertino Planning Commission; City Clerk  
**Subject:** Fw: Disaster SB 9 and SB 10 Get Passed by Senate

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----- Forwarded Message -----

**From:** Jennifer Griffin <grenna5000@yahoo.com>  
**To:** CityCouncil@Cupertino.org <citycouncil@cupertino.org>  
**Cc:** grenna5000@yahoo.com <grenna5000@yahoo.com>  
**Sent:** Monday, August 30, 2021, 05:09:48 PM PDT  
**Subject:** Disaster SB 9 and SB 10 Get Passed by Senate

Dear City Council:

SB 9 and Sb 10 seemed to be passed very suddenly and quietly by the Senate without some of the Senators knowing they were coming up for a vote at noon today.

The passage of these two bills between the Senate and Assembly was very bizarre and untransparent. A lot of people did not know what was going on.

I am assuming these bills will be trotted off to the governor for his signature. I sure hope he sees fit to veto them. This is secret, big money interest politics at its worse as it tries to trick the public which is us.

This will forever tarnish the memory of the otherwise brilliant career of former Governor Jerry Brown. That memory went away the day he signed SB 35 and we are here today reaping the disaster with SB 9 and SB 10.

We must navigate stormy waters ahead because of the mayhem and bedlam that will ensue from SB 9 and SB 10.

Thank you.

Jennifer Griffin

## Cyrah Caburian

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**From:** Jennifer Griffin <grenna5000@yahoo.com>  
**Sent:** Monday, August 30, 2021 5:47 PM  
**To:** City of Cupertino Planning Commission; City Clerk  
**Subject:** Fw: Questions about Sb 9 and SB 10

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----- Forwarded Message -----

**From:** Jennifer Griffin <grenna5000@yahoo.com>  
**To:** citycouncil@cupertino.org <citycouncil@cupertino.org>  
**Cc:** Jennifer Griffin <grenna5000@yahoo.com>  
**Sent:** Monday, August 30, 2021, 05:45:59 PM PDT  
**Subject:** Questions about Sb 9 and SB 10

Dear City Council:

SB 9 and SB 10 come with no instructions, just disrupt the neighborhoods. They are a regular sell out and give away to big money interests. And, We the public, did we get to voice our opinions or get to vote on these Monstrosities of bills? No, the legislature passed SB 9 and SB 10 like A 1950s Soviet Party Block group. No vote. No vote from the public.

What is the difference from Soviet Russia and tactics used in California To get SB 9 and SB 10 where they are today? Evidently, not much difference. Just secret dealings and secret monies going round and round to push SB 9 and SB 10 along with the public kept in the dark the whole time.

Was passage of SB 9 and SB 10 so precious, that it was worth causing the recall of The governor to get them passed? Or was that the actual motive: the giving away Of the neighborhoods, the tearing down of local control and the recall of the governor? Why to get someone new? To put someone else in control? Set up a puppet government from Sacramento? Does anyone even know why they are doing this or is it just a trail of money and supposed power at the public's expense?

Well, no one answered our questions before. Now, maybe we will get some answers about SB 9 and SB 10 and their apparent political agenda. You think you have passed them. This is a preview of the public being made to be silent no longer.

Thank you.

Jennifer Griffin

Thank you.



## Cyrah Caburian

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**From:** Jennifer Griffin <grenna5000@yahoo.com>  
**Sent:** Monday, August 30, 2021 11:51 PM  
**To:** City Clerk  
**Subject:** Fw: San Diego Has a Thirty Foot Building Height in Beach Areas

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FYI. Please add to the Public Record. Thank you very much.

----- Forwarded Message -----

**From:** Jennifer Griffin <grenna5000@yahoo.com>  
**To:** CityCouncil@Cupertino.org <citycouncil@cupertino.org>  
**Cc:** grenna5000@yahoo.com <grenna5000@yahoo.com>  
**Sent:** Monday, August 30, 2021, 11:47:32 PM PDT  
**Subject:** San Diego Has a Thirty Foot Building Height in Beach Areas

Dear City Council:

San Diego has a thirty foot height limit for building in coastal areas. This height limit was set up by a voter backed initiative and has been in effect in the city to protect coastal areas since 1972. The voter backed initiative was passed by 60 percent of San Diego voters in 1972. This height limit is in effect from Point Loma to La Jolla.

Writers of the Pro Housing Bills have often been accused of spot zoning, writing sweeping bills that seem to be for the whole state, but actually may target one specific area in California. Thus, it is very interesting that SB 9 mentions specifically building in Coastal areas and SB 10 also allows City Councils and Board of Supervisors to over ride citizen backed initiatives.

Could SB 9 and SB 10 be such a spot zoning bill is eliminate the thirty foot building height limit in coastal areas in San Diego? This seems to be a rather fair question to ask now that SB 9 and SB 10 have been rushed through the doors of our legislative houses to go to the governor.

It is interesting that SB 9 mentions beaches and SB 10 has the curious "over ride voter backed Initiatives" in it. This might be a worthy question to ask of these two very interesting housing Bills so adored by the Pro Housing set.

Thank you.

Jennifer Griffin

## Cyrah Caburian

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**From:** Jenny Griffin <grenna5000@yahoo.com>  
**Sent:** Sunday, September 5, 2021 8:03 PM  
**To:** City of Cupertino Planning Dept.; City Clerk  
**Subject:** Fwd: Housing Bills and Dangerous Issues in Sacramento

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Fyi. Please add to this Public Record. Thank you.

----- Original Message -----

**Subject:** Housing Bills and Dangerous Issues in Sacramento  
**From:** Jenny Griffin <grenna5000@yahoo.com>  
**Sent:** Sunday, September 5, 2021, 8:00 PM  
**To:** "CityCouncil@Cupertino.org" <CityCouncil@Cupertino.org>  
**CC:** "grenna5000@yahoo.com" <grenna5000@yahoo.com>

Dear City Council:

With the drama from SB 9 and SB 10, I have really come to believe that Sacramento Has lost the ability to govern the state in a democratic way. The intent of SB 9 and SB 10 are to deceive the public and take away their voice and their vote.

The bills are written very poorly and make no sense. They are a jumble of confusion And were not written by anyone with any logic or idea of practical land use experience. SB 10 is unconstitutional because it attempts to take away the public's California Constitutional right to voter backed initiatives at the local level.

Yet, many of our Sacramento politicians voted blindly to pass these two bills That many of their constituents did not want or approve of.

What is going on in Sacramento? There are some very dangerous things going on when Politicians ignore their constituents and vote in doctrine that threatens the ability of Thier constituents to govern themselves in their cities and communities.

Is someone or something trying to deceive our politicians too in Sacramento? What is the goal? Taking over the state, taking over all the states, taking over Washington DC too?

Are we going to wind up with the Revolutionary War again?

Constitutional Democracy is at risk in California with the voting in of SB 9 And SB 10 by our Sacramento electeds voting in lockstep, and ignoring their Voters.

There goes local control and the right to voice our opinions and exercise our vote  
In our own state. Whose dictatorship is this anyway?

What happens when this Sacramento based dictatorship hits Washington DC?  
We have SB 9 and SB 10 at a Federal Level? How does that work?

You cannot have a dictatorship without a public, either here in Sacramento or in Washington  
DC. And you just lost your public with SB 9 and SB 10.

This state and this country were formed in parts that eventually became a whole.  
I don't think the public will be so willing to follow blindly into your level  
Of dictatorship when we have our cities and our communities.

You do not dictate your form of democracy to us, in Sacramento or Federally,  
Because what you preach is not democracy. It is just a shell game of self  
Guided delusion that any one can see through.

Thank you,

Jennifer Griffin

## Cyrah Caburian

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**From:** Becky Bartindale <bartindalebecky@fhda.edu>  
**Sent:** Tuesday, September 7, 2021 10:05 AM  
**To:** City Council  
**Cc:** Cupertino City Manager's Office; Brian Babcock; City Clerk  
**Subject:** Foothill-De Anza moving to trustee area elections - be part of it!

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Council members,

I'm writing to let you know that the Foothill-De Anza Community College District is moving from at-large elections to trustee area elections. The district will be divided into five trustee areas and a resident will be elected to the Board of Trustees from each area, starting next year.

We have two public hearings coming up soon, described in the announcement below, and invite you to participate. We'd also would appreciate it if you would share this information with your networks. More information at [www.fhda.edu/trustee-areas](http://www.fhda.edu/trustee-areas)

Thank you for your interest and assistance.

Best wishes,

Becky

--

**Becky Bartindale (she/her/herself)**  
**Foothill-De Anza Community College District**  
**Coordinator of communications and public affairs**  
**650-949-6107 office**  
**650-269-8927 mobile**

## **Community members invited to help shape new trustee areas** ***Foothill-De Anza seeks public input for new governing board election system***

The Foothill-De Anza Community College District is changing the way members of its Board of Trustees are elected. The district will be divided into five trustee areas and voters will elect a resident from each area to serve on the board. Community members are invited to provide information and ideas to assist in the drawing of trustee area boundary lines.

The first public hearings will be held on **Monday, Sept. 13**, and **Monday, Oct. 4**, at 7:00 p.m. to gather your ideas and information about "communities of interest" in the district. People also can take an online Communities of Interest Survey. **Learn more at [www.fhda.edu/trustee-areas](http://www.fhda.edu/trustee-areas)**

A community of interest is a group of people who live in the same contiguous geographic area and who share common social and economic interests. They can be united in their interests by

many factors including race, language, culture, history, circumstances and values. Bringing people with common interests together for fair and effective representation is an important principle in drawing the new trustee area boundary lines.

Information gathered at the public hearings will be used in preparing and evaluating draft trustee area boundary maps. Public hearings on draft maps will be held later this year and early next year.

The agenda and connection/location information for the Sept. 13 and Oct. 4 public hearings, along with instructions for how to make a public comment, can be found the Thursday before the meetings at

<https://go.boarddocs.com/ca/fhda/Board.nsf/Public> under the heading **Regular Meeting of the Board of Trustees.**

The Foothill-De Anza district includes the communities of Palo Alto, Stanford, Mountain View, Los Altos, Los Altos Hills, Cupertino, Sunnyvale, and small portions of Saratoga and San Jose.

## Cyrah Caburian

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**From:** Beth Ebben <ebben444@sbcglobal.net>  
**Sent:** Sunday, September 5, 2021 3:59 PM  
**To:** Greg Larson  
**Cc:** City Council; City Clerk; City of Cupertino Planning Commission; fineartscomission@cupertino.org; HousingCommission; City Attorney's Office; Dianne Thompson; Roger Lee; Kristina Alfaro; Benjamin Fu; Bill Mitchell; Joanne Magrini; City of Cupertino Parks and Recreation Commission  
**Subject:** Response to the Final Report by Koff Associates, re PRA #21-85  
**Attachments:** Cupertino Org Structure Citywide Report 8-24-21.pdf

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please have this email read into the Public Comment portion of Oral Communications at the next City Council meeting as best as possible.

Thank you for your time.

Hello Mr. Larson-

Thank you for obtaining the Final Report of the staffing analysis done by Koff & Associates and forwarding it to me. This fulfills my Public Records Act request from May 21, 2021. It is unfortunate that you and the City Council needed to become involved. Once the "responsive" City Staff became aware of the missing Final Report back in April 2021, they should've rectified the situation themselves.

In reading the report, it appears that the 'analysis' was just a classification/FTE position clarification rather than a comparison of the actual work done by the City of Cupertino's Staff in their respective departments as compared to the work done by their peers in other cities. Job Titles are just Job Titles. What is a "Clerk" in one city is a "Support Staff II" in another. It is the work performed or the volume of work that matters. This is what should've been compared. As you stated, the Draft Report was flawed. So too, is this report.

Some Examples: 1) It was stated in the report that the Building Department has one more Building Inspector than that of the comparable cities. As such, the report recommends that the Building Inspector Staffing be reduced. The report does not mention that the City of Cupertino's Building Inspectors have the continuing task of supporting the development (and on-going redevelopment) of an international, multi-billion dollar, company headquartered within the City. The comparable cities do not have this specific need. More staffing by the Building Department is required to support this particular, special demand. 2) The report states that the Deputy (City)Board Clerk position in the Community Development Department (my position) was recommended to be re-classified as the other, comparable cities, did not have this classification in their departments. The report omitted the fact that the other cities' Community Development Departments only conduct two to three different types of public meetings on a regular basis each month. The City of Cupertino's Community Development Department has, over the years, conducted up to seven different types of public meetings on a regular basis each month; Planning Commission, Housing Commission, Fine Arts Commission, Design Review Committee, Environmental Review Committee, Economic Development Committee, and Administrative Hearings. The comparable cities have no need for a designated Staff Member to manage agenda packets/public meetings along the same scope as that of a Deputy City(Board) Clerk simply due to their lack of this volume of public meetings. 3) The report indicates that the Administrative Services Department and the IT Department are overstaffed, yet the report states that "No changes are recommended". All other (deemed) overstaffed departments in the report had recommendations to reduce staff, reclassify staff, or shift workloads among staff.

Due to the woeful inconsistencies contained in this Final Report, it can be suggested that this report has been tailored to reflect a desired narrative. A narrative that calls for a reduction in the City's payroll liability. The Human Resources Manager and the Administrative Services Director made staffing changes based upon the recommendations contained in a flawed Draft Report. They implemented these changes without the direction of or the acknowledgement of the City Council. The analysis was concluded in December 2020 and the Final Report and presentation should have been made to the City Council in early 2021. That did not happen. It is unconscionable to me that these *draft* recommendations were enacted prior

to receiving some feedback from the City Council. After implementation of these un-vetted recommendations, the City had an unrepresented 10 employees retire within a 2 week time span. There was also a few other employees who were terminated as their positions no longer existed. Some of the 10 retirees were forced to retire early due to the loss of or reclassification of their position. This early retirement has cost these retirees not only their career but tens of thousands of dollars in lost pension benefits in addition to the emotional loss. When I asked several times why the changes to my position couldn't have waited until my (planned) retirement, I got no answer. Which leads me back to the budget narrative. The long-time employees, hired before 2003, needed to go. Our employment contracts had become expensive.

I get it. The City's revenues are down due to Covid-19. However, had the Final Report been presented to Council in early 2021, there would've been time to put together a budget that phased or transitioned the payroll liability accruals. Communication with the affected employees could've happened. I found out later that Supervisors had been instructed not to talk to their employees about what was happening to them. "Questions were to be referred to HR". Instead, employees were demoralized and shuffled off to CalPERS or left to find another position elsewhere. The institutional knowledge losses from these long time employees has yet to be realized by the City. The residents of the City of Cupertino have come to expect a level of service that cannot be achieved by those left behind us without everyone enduring a long learning curve.

We are big shoes to fill.

Cc:

City Council

Planning, Housing, Parks & Recs, & Fine Arts Commissions

City Clerk

Department Heads



**Submittal date: August 24, 2021**

# Staffing and Organizational Assessment Final Report

**City of Cupertino**

## **KOFF & ASSOCIATES**

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August 24, 2021

Ms. Vanessa Guerra  
Human Resources Manager  
Administrative Services  
City of Cupertino  
10300 Torre Avenue  
Cupertino, CA 95014

Dear Ms. Guerra:

Koff & Associates is pleased to present the Staffing and Organizational Assessment Report for the City of Cupertino ("City"). This report documents the study methodology and provides best practice recommendations related to operational processes and staffing.

We would like to thank you, Kristina Alfaro, Laura Miyakawa, and City staff for your assistance and cooperation, without which this study could not have been brought to its successful completion. We will be glad to answer any questions or clarify any points as you are implementing the findings and recommendations and of course, are available any time to provide you our professional assistance.

Very truly yours,



Katie Kaneko  
President



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- Appendix I. Summary of Recommendations
- Appendix II. Staffing Analysis
- Appendix III. References



## EXECUTIVE SUMMARY

In May 2020, the City of Cupertino (Cupertino) contracted with Koff & Associates (K&A) to conduct a comprehensive city-wide organizational assessment study. The study focused on organizational structure, staffing roles and responsibilities and resources of each of the departments (and divisions within the departments) relative to the best management practices of other similar organizations. In addition, in November 2020 an amendment to the contract was executed to provide for a more in-depth analysis of the Public Works Service Center. While this final report was not released until August 2021, most of the work and analysis was conducted in Fiscal Year 2020-21 and based on staffing, structures and funding during that year.

### Study Scope

This organizational assessment review process was precipitated by:

- The desire to identify best management practices related to organizational structure of Cupertino; to recommend strategies to incorporate market best practices into day-to-day operations; and to identify opportunities to leverage departmental efforts to improve overall synergy throughout Cupertino;
- To ensure the organization is properly staffed, numerically and organizationally, to carry out current and future functions in the most efficient manner possible; and
- Recent organizational changes at Cupertino, including a new City Manager and other new hires in key management positions, and reorganization of some city programs/functions.

Throughout this study process K&A found that management and staff have a strong desire to improve Cupertino's organizational effectiveness and morale. The engagement and candidness of staff participating in the study process was impressive. As is true in any organization there are areas in need of improvement. The goal of this study is to help identify priority areas of focus to assist in enabling organizational improvements with the goal of increasing the quality of services and programs.

### Recommendations

Based on the analysis of the data collected twenty-one (21) recommended action items were identified. Each of these recommendations is explored in detail within the Analysis and Recommendations section. The summary of recommendations by theme can be found in Appendix I.



## CITY INFORMATION

Cupertino, California, is on the western edge of Silicon Valley against the foothills of the Santa Cruz Mountains. With a population of 64,000 people within 13 square miles, Cupertino is 42 miles south of San Francisco and is home to world renowned high-tech companies.

Cupertino’s mission is to provide exceptional service, encourage all members of the community to take responsibility for one another and support the values of education, innovation, and collaboration.

Cupertino’s reputation as a center of innovation in Silicon Valley far surpasses its moderate size of approximately 64,000 residents. Around the world, Cupertino is famous as the home of high-tech giant Apple Inc. In the San Francisco Bay Area, Cupertino is known as one of the founding cities of Silicon Valley and as a city with excellent public schools.

Quality schools and closeness to technology jobs make Cupertino a desirable address for a highly educated and culturally diverse population. More than 60 percent of residents aged 25 years or older hold a bachelor’s degree or higher, and more than 40 percent were born outside of the United States. Cupertino’s lush social tapestry includes a range of parades and events, such as the Diwali Festival of Lights, Cherry Blossom Festival, Moon Festival and Tournament of Bands.

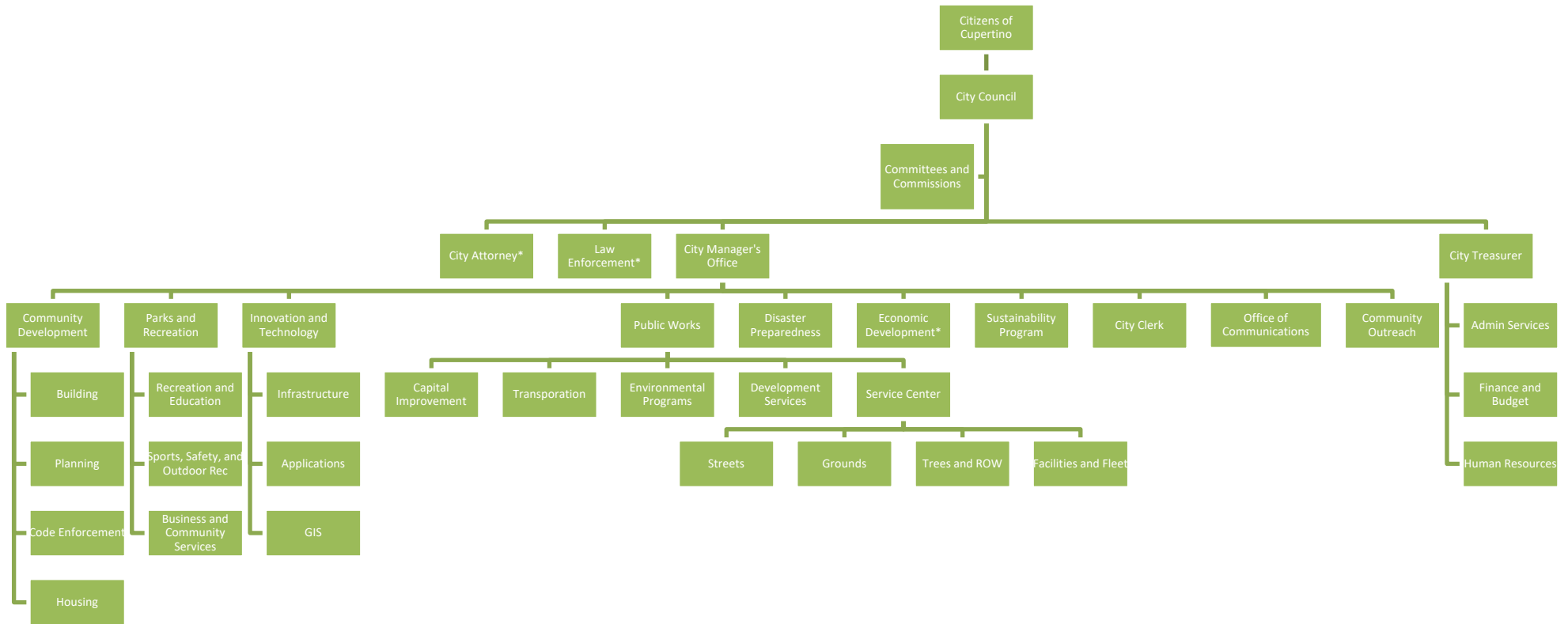
*Education, innovation, and collaboration* are the hallmarks of Cupertino reinforced by the city government, the community, and businesses. For example, the configuration of the Civic Center complex underscores this theme: City Hall and the Cupertino Library flank the Cupertino Community Hall. The Community Hall houses the City Council chambers and accommodates public and private events. The library, part of the Santa Clara County Library system, occupies a state-of-the-art two-story, 54,000-square-foot building.

Residents help to guide the city’s development and quality of life by serving on commissions and committees, including Planning, Fine Arts, Technology, Information & Communication, Parks & Recreation, Housing, Teen, Library, Bicycle and Pedestrian and Public Safety.

Cupertino is a progressive and diverse city that places high value on community outreach and engagement. This collaboration between community and city government influences the range of city services provided, which is not paralleled in other communities.



City Structure (as of Fiscal Year 2020-21)



\*Contracted services

Figure 1: Citywide Organizational Chart



The City has six departments, each with multiple divisions, and a total of 191.75 allocated positions.

**Table 1. City Departments and Divisions and Allocated Positions**

<b>Department/Division</b>	<b>FTE</b>
<b>OFFICE OF THE CITY MANAGER</b>	<b>16.75</b>
City Manager	1.00
Assistant City Manager	1.00
Executive Assistant to the City Manager	0.00
Assistant to the City Manager	1.00
Sustainability Manager	1.00
Management Analyst	1.00
Emergency Services Coordinator	1.00
<b>COMMUNICATIONS</b>	<b>6.75</b>
Public Information Officer	1.00
Community Relations Coordinator	0.75
Community Outreach Specialist	1.00
Multimedia Communications Specialist	3.00
Senior Office Assistant	1.00
<b>CITY CLERK'S OFFICE</b>	<b>3.00</b>
City Clerk	1.00
Deputy City Clerk	1.00
Senior Office Assistant	1.00
<b>CITY ATTORNEY'S OFFICE</b>	<b>1.00</b>
Legal Office Manager	1.00
<b>ADMINISTRATIVE SERVICES</b>	<b>16.00</b>
Director of Administrative Services	1.00
Administrative Assistant	1.00
Senior Management Analyst	1.00
<b>FINANCE</b>	<b>9.00</b>
Finance Manager	1.00
Senior Management Analyst (limited term)	1.00
Senior Accountant	1.00
Accountant II	2.00



Department/Division	FTE
Accounting Technician	1.00
Account Clerk I/II	3.00
<b>HUMAN RESOURCES</b>	<b>4.00</b>
Human Resources Manager	1.00
Human Resources Analyst II	2.00
Human Resources Technician	1.00
<b>COMMUNITY DEVELOPMENT AND PLANNING</b>	<b>29.00</b>
Director of Community Development	1.00
Assistant Director Community Development/Building Official	1.00
<b>BUILDING</b>	<b>16.00</b>
Deputy Building Official	1.00
Senior Building Inspector	1.00
Building Inspector	4.00
Plan Check Engineer	1.00
Permit Center Manager	1.00
Permit Technician	3.00
Senior Code Enforcement Officer	3.00
Office Assistant	1.00
Administrative Assistant	1.00
<b>PLANNING</b>	<b>11.00</b>
Planning Manager (includes Housing Manager [working title])	2.00
Management Analyst	1.00
Senior Planner	2.00
Assistant/Associate Planner	5.00
Deputy City Clerk	1.00
<b>INNOVATION AND TECHNOLOGY</b>	<b>12.00</b>
Chief Technology Officer	1.00
Administrative Assistant	1.00
<b>APPLICATIONS</b>	<b>3.00</b>
Innovation and Technology Manager	1.00
Business Systems Analyst	2.00
<b>GIS</b>	<b>3.00</b>





Department/Division	FTE
Innovation and Technology Manager	1.00
Business Systems Analyst	1.00
Engineering Technician	1.00
<b>INFRASTRUCTURE</b>	<b>4.00</b>
Innovation and Technology Manager	1.00
Business Systems Analyst	1.00
Information Technology Assistant	2.00
<b>PARKS AND RECREATION</b>	<b>29.00</b>
Director of Parks & Recreation	1.00
Assistant Director Recreation & Community Services	1.00
Management Analyst	1.00
Administrative Assistant	1.00
<b>BUSINESS AND COMMUNITY SERVICES</b>	<b>8.00</b>
Recreation Supervisor	1.00
Recreation Coordinator	1.00
Community Outreach Specialist (reports to Public Information Officer)	1.00
Facility Attendant	2.00
Senior Office Assistant/Office Assistant	3.00
<b>SPORTS AND OUTSIDE RECREATION</b>	<b>8.00</b>
Recreation Supervisor	1.00
Recreation Coordinator	6.00
Office Assistant	1.00
<b>RECREATION AND EDUCATION</b>	<b>9.00</b>
Recreation Supervisor	1.00
Recreation Coordinator (1 position is limited term)	5.00
Case Manager	1.00
Facility Attendant	1.00
Senior Office Assistant	1.00
<b>PUBLIC WORKS</b>	<b>89.00</b>
Director of Public Works	1.00
Senior Management Analyst	1.00
Administrative Assistant	1.00



Department/Division	FTE
Park Restoration Improvement Manager	1.00
<b>ENGINEERING</b>	<b>5.00</b>
Assistant Director of Public Works/City Engineer	1.00
Senior Civil Engineer	2.00
Public Works Inspector	1.00
Engineering Technician	1.00
<b>ENVIRONMENTAL PROGRAMS</b>	<b>5.00</b>
Environmental Programs Manager	1.00
Environmental Programs Assistant	2.00
Environmental Program Compliance Technician	1.00
Environmental Programs Specialist	1.00
<b>CAPITAL IMPROVEMENT</b>	<b>5.00</b>
Capital Improvement Program Manager	1.00
Public Works Project Manager (1 Position Is LT)	4.00
<b>TRANSPORTATION</b>	<b>7.00</b>
Transportation Manager	1.00
Senior Planner (Position Is LT Transportation Planner)	1.00
Assistant Civil Engineer	2.00
Environmental Programs Assistant	1.00
Traffic Signal Technician	1.00
Traffic Signal Tech-Apprentice	1.00
<b>SERVICE CENTER</b>	<b>3.00</b>
Service Center Superintendent	1.00
Administrative Assistant	1.00
Senior Office Assistant	1.00
<b>STREETS</b>	<b>12.00</b>
Public Works Supervisor	1.00
Public Works Inspector	1.00
Street Light Worker	1.00
Maintenance Worker III	1.00
Maintenance Worker I/II	8.00
<b>GROUNDS</b>	<b>20.00</b>
Public Works Supervisor	1.00
Maintenance Worker III	2.00



Department/Division	FTE
Maintenance Worker I/II	17.00
<b>TREES AND RIGHT OF WAY</b>	<b>17.00</b>
Public Works Supervisor	1.00
Maintenance Worker III	2.00
Maintenance Worker I/II	14.00
<b>FACILITIES AND FLEET</b>	<b>11.00</b>
Public Works Supervisor	1.00
Lead Equipment Mechanic	1.00
Equipment Mechanic	1.00
Maintenance Worker III	2.00
Maintenance Worker I/II	6.00
<b>TOTAL</b>	<b>191.75</b>

## METHODOLOGY

K&A utilized various methods of data collection including document review, individual and group interviews, questionnaires, and external surveys. These methods produced in-depth data from various stakeholder groups and data from comparable City’s.

The city-wide organization assessment was separated into two phases, with the first phase focusing on the City Manager’s Office and Community Development Department, and the second phase incorporating the remainder of the City departments. This report documents the methodology, findings and recommendations for Cupertino holistically including the information from the first phase of the study.

**Project Team Identification.** The process started with the identification and development of the project team. K&A met with the project team to create a specific work plan and schedule, reaffirm primary objectives, determine the timetable and deadlines, and determine responsibility for coordinating/scheduling communications with employees and management.

**Document Review.** Documentation from Cupertino was collected. The documentation included current organization charts, classification descriptions, operational and capital improvement program budgets, documentation on current operational practices, policies and procedures and other relevant documentation.

**Individual Interviews with Senior Management.** Individual interviews were conducted with each member of the senior management team (Assistant City Manager and department heads). The purpose of the interviews was to gather information on organizational efficiency and staffing. In addition, department heads were interviewed to gather feedback on services provided by the departments and which commissions and committees those departments provided staff



work/staff liaison roles for. The information gathered was used to gain a clearer understanding of needs and resources related to staffing and the impact on department efficiency and effectiveness.

**Individual and Group Interviews.** Staff were invited to participate in the individual and/or group interview process. The purpose of the interviews was to follow-up on the information provided via department head interviews, as well as to get staff perspective on roles and responsibilities and staffing needs and resources.

**External Survey of Comparable Cities.** Finally, K&A collected data from comparable cities. Most of the data collection involved review of public documents available on the city's websites. In addition, information requests were sent via email and/or follow-up conversations with city representatives occurred.

K&A met with City management to discuss the list of comparator cities to be included in the external survey. The factors that were reviewed in selection of the comparator cities included:

- **Organizational type and structure:** While various agencies may provide overlapping services and employ some staff having similar duties and responsibilities, the role of each city is somewhat unique, particularly in regard to its relationship to the citizens it serves and level of service expectation.
- **Similarity of population served, number of full-time equivalents, and operational budgets:** These elements provide guidelines in relation to resources required (staffing and funding) and available for the provision of city/departmental services. They also speak to the diversity of the community that they serve and the common issues that Cupertino might face to best serve that community.
- **Scope of services provided:** While having a city that provides all of the services at the same level of citizen expectation is ideal for comparators, as long as the *majority* of services are provided in a similar manner, sufficient data should be available for analysis.

These elements were considered in selecting the group of comparator agencies. The Project Team agreed upon a list of seven recommended cities which were used as comparators for the purposes of this study:

1. City of Campbell
2. City of Dublin
3. City of Gilroy
4. City of Menlo Park
5. City of Milpitas
6. City of Newark
7. City of San Ramon

The goals of the industry/market survey were to obtain information on the following:

- Organizational structure, reporting relationships, span of control and staffing levels;



- Resources available, including human, financial, and technological resources; and
- Best management practices and standards.

## ANALYSIS AND RECOMMENDATIONS

Cupertino is continuously working toward enhancing productivity, performance improvement and aligning spending with results. In researching and analyzing Cupertino's operations, K&A identified potential staffing and organizational structure changes for City Council and City management to focus on and address.

Cupertino has a dedicated staff ready to move forward to make meaningful and sustainable changes to ensure that Cupertino meets the ongoing needs of the community. The recommendations described in this section of the report are meant to guide further discussions and assist the City Council and City management in making organizational and staffing decisions.

### Staffing & Workforce Planning

The data and feedback gathered from the management and staff interviews revealed that most employees believe that their division is adequately staffed. There were some functional areas within specific departments and/or divisions, such as Community Development Department, who commented that they felt stretched and an increase in number of staff would alleviate these feelings. Based on the staffing analysis of the market, generally, the City is comparable to the market in number of staff, except for a few functional areas.

Prior to beginning the staffing analysis, we want to premise the analysis by stating that Cupertino is staffed at higher levels compared to the surveyed cities in specific departments/divisions. However, this does not mean that Cupertino is overstaffed and that positions should be eliminated. Consideration should be given to the fact that the surveyed cities do not provide all the same services as Cupertino. For example, one of the seven cities had a position comparable to the Sustainability Manager; none of the surveyed cities had positions comparable to the community preparedness/relations positions responsible for neighborhood watch and block leader programs; one city had a position comparable to the Multimedia Communications Specialist; and two cities had positions comparable to the Emergency Operations Coordinator. Furthermore, one city contracts out building inspection services and public works maintenance services.

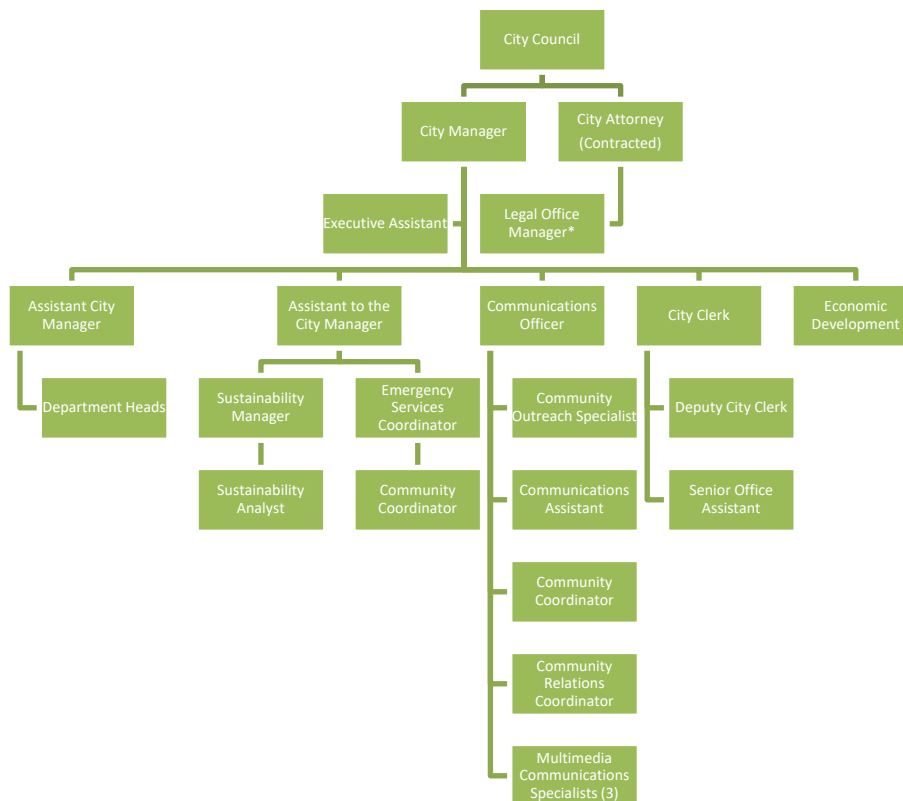
The market staffing averages are meant to be a target to establish appropriate staffing levels and the conclusion should not be that Cupertino is overstaffed or understaffed just purely based on the numbers. There are other factors, such as services provided that are valued by the community, albeit unique to Cupertino, that need to be taken into consideration when assessing staffing levels. Thus, any areas where Cupertino is staffed above or below market numbers require additional analysis, discussion, and evaluation by management. Finally, if the decision is

to eliminate a position, K&A highly recommends that this is done through natural attrition versus laying individuals off to ensure operational continuity.

The staffing analysis focuses on the positions where Cupertino deviates from the market average staffing by more than 0.5 FTE.

## DEPARTMENT/DIVISION STAFFING LEVELS

### City Manager's Office



\*Legal Office Manager reports to City Manager's Office

**Figure 2: City Manager's Office Organizational Chart**

#### Roles and Responsibilities of the City Manager's Office

The City's Manager's Office is comprised of several functional/program areas, including Sustainability, Communications, Community Outreach, Emergency Services, Economic Development, City Clerk's Office, and the City Attorney's Office.

The City Manager is responsible to the City Council for the effective and efficient operation of the City. Under the direction of the City Council as a whole, the City Manager carries out the City's goals and objectives.



The Sustainability Division works to implement the City's Climate Action Plan and works across departments to facilitate activities that reduce greenhouse gas emissions, help to mitigate financial and regulatory risk, provide utility cost assurances, conserve scarce resources, prioritize public health and prepare for the impacts of climate change. In this capacity, the program teams with regional partners and adjacent jurisdictions, and seeks grant funding to develop collective approaches to implement the City's ambitious Climate Action Plan.

The Office of Communications is responsible for community outreach to ensure that residents have access to timely, useful, and important information. The primary goal of the division is to increase public awareness, interest, understanding and participation in the issues facing Cupertino. The Office of Communications oversees and maintains many of Cupertino's lines of communication with residents, including Cupertino's website, social media accounts, monthly newsletter, videos, event tabling, flyers and press releases. The Office of Communications also acts as a liaison between various Cupertino departments and the community when it comes to disseminating information about projects and events. In FY 2020-21, the Video Division transferred from Innovation Technology to the City Manager's Office. The Video Division staff promotes Cupertino's services and programs through its 24/7 government access channel, radio station, digital signage network, the city's website, and numerous online video platforms. In addition, the video staff provides multimedia production services and technical support for all departments. Video staff also oversees the design, maintenance and engineering of Cupertino's broadcast and audiovisual systems.

Community Outreach programs facilitate communication and enhance cultural understanding in Cupertino neighborhoods through two distinct programs. The Block Leader program is instrumental in building connected communities, delivering timely and pertinent information to neighbors, and gathering constituent feedback on programs, resources, and services provided. The Neighborhood Watch program enhances public safety by providing crime prevention information to local businesses and residents. The program promotes an active relationship between the community and the Sheriff's Office.

The mission of the Office of Emergency Services is to lead and direct Cupertino in prevention, preparation, mitigation, response and recovery from all emergencies, hazards, incidents, and events.

The Economic Development program specifically targets business retention, expansion, and attraction with a focus on small business development, to support Cupertino's financial stability. This program is currently staffed by contracted services.

The City Clerk's Office responsibilities include administrative duties associated with the City Council's agenda and actions, publishing legal notices, posting notice of all commission vacancies, processing codification of City's Municipal Code, records management, compliance with Public Records Act requests and provides partial mail service for all City Departments.



The City Attorney is appointed by the City Council to manage the legal affairs of the City, including the operation of the City Attorney’s Office. The City Attorney’s Office provides all legal services that are needed to support the City Council, City Commissions, City Manager, department directors and staff. Currently Cupertino contracts out city attorney and legal services.

Staffing and Organizational Structure Observations and Common Market Practices

**Table 2. Staffing Analysis – City Manager’s Office**

Department/Divisions	Cupertino FTE	Market Average FTE
<b>OFFICE OF THE CITY MANAGER</b>	<b>16.75</b>	<b>9.7</b>
<b>ADMINISTRATION</b>	<b>6.0</b>	<b>4.3</b>
City Manager	1.0	1.0
Assistant City Manager	1.0	0.8
Executive Assistant to the City Manager	0.0	1.0
Assistant to the City Manager	1.0	0.8
Sustainability Manager	1.0	0.1
Management Analyst	1.0	0.5
Emergency Services Coordinator	1.0	0.1
<b>COMMUNICATIONS</b>	<b>6.75</b>	<b>0.9</b>
Public Information Officer	1.0	0.5
Community Outreach Specialist	1.0	0.3
Community Relations Coordinator	0.75	0.0
Multimedia Communications Specialist	3.0	0.1
Senior Office Assistant	1.0	0.0
<b>CITY CLERK’S OFFICE</b>	<b>3.0</b>	<b>2.2</b>
City Clerk	1.0	1.0
Deputy City Clerk	1.0	0.8
Senior Office Assistant	1.0	0.4
<b>CITY ATTORNEY'S OFFICE</b>	<b>1.0</b>	<b>0.3</b>
Legal Office Manager	1.0	0.3
<b>OTHER</b>	<b>0.0</b>	<b>1.8</b>
Other	0.0	1.8





### City Manager – Administration

Based on the staffing analysis, City Manager’s Office Administration is staffed in alignment with the market except for the Sustainability Manager and Emergency Services Coordinator. In addition, the staffing analysis discussion to follow takes a closer look at the Assistant to the City Manager due to feedback received that this position is currently functioning with a workload of 1.3 FTE.

#### Assistant to the City Manager

The Assistant to the City Manager manages complex studies and projects of a citywide nature often involving representation of the City Manager's Office. Assignments may include managing interdepartmental teams and maintaining relations with committee and intergovernmental groups. This position performs a wide variety of administrative and confidential assignments required in the City Manager's Office and undertakes special projects as assigned.

The Assistant to the City Manager primarily focuses on internal and citywide policy development by researching policies and best practices, conducting outreach with identified stakeholders, writing draft policy, and revising and finalizing the policy through staff, Council, and stakeholder review. For example, the Assistant to the City Manager worked on the tobacco policy and donation/sponsorship policy. The Assistant to the City Manager also oversees legislative affairs including tracking, reviewing, and providing analysis of legislation relevant to municipal operations; coordinating and attending legislative affairs meetings in Sacramento; coordinating and meeting with local legislators to develop a legislative platform; and supporting the Legislative Review Committee.

Furthermore, the Assistant to the City Manager manages the City Manager’s budgets, as well as assigned program budgets, contracts, special projects (for example, aircraft noise, minimum wage and return to work following COVID-19) and special work program (projects identified by City Council). The position also provides administrative and analytical support to the Assistant City Manager and City Manager.

Finally, the Assistant to the City Manager supervises the staff within the City Manager’s Office:

- Sustainability Division (1 Sustainability Manager)
- Emergency Services Division (1 Emergency Services Coordinator)
- Management Analyst

The market staffing analysis shows that the Assistant to the City Manager is staffed at approximately 0.8 FTE; and at Cupertino the position is allocated as 1.0 FTE. While the staffing levels for the Assistant to the City Manager is in alignment with the market, there was concern that this position’s workload (currently assessed at 1.3 FTE) and areas of responsibility (such as sustainability and emergency management) are not in alignment with the market. There are four



cities with a comparable position to the Assistant to the City Manager and three of the cities allocates 1 FTE to the position and at San Ramon the position is allocated at 0.5 FTE:

- Dublin: The Assistant to the City Manager is allocated at 1.0 FTE and is responsible for managing, planning, and coordinating complex administrative, program, and analysis work in support of activities and functions within the City Manager’s Office such as, disaster preparedness, waste management, animal control, environmental services as well as contract administration, legislative, budget and fiscal analysis; and provides highly complex staff assistance to the City Manager and/or Assistant City Manager. This classification supervises assigned staff.
- Gilroy: The Senior Management Analyst is allocated at 1.0 FTE and manages complex, difficult, and sensitive specialized functions, projects and/or studies; and plans and directs major departmental and City-wide functions, programs or activities involving comprehensive specialized administrative operations. Position responsibilities include budget/financial analysis, program/organizational analysis, project management, legislative analysis and development, and contract administration. This class may supervise assigned staff.
- Newark: Assistant to the City Manager is allocated at 1.0 FTE and performs advanced professional administrative and research tasks for the City Manager; may administer a specific program area; and conducts complex and comprehensive analyses of a wide range of programs and services. Position responsibilities include developing administrative policies, supervising administrative activities in the City Manager’s Office, serving as manager of liability claims against the City, developing and implementing risk management program, and acting as a liaison with contract franchises. This class may supervise assigned staff.
- San Ramon: For the purposes of the staffing analysis, the Deputy City Manager (1.0 FTE) position is allocated equally at 0.5 FTE to Cupertino’s Assistant to the City Manager and Public Information Officer. The Deputy City Manager is responsible for both functional areas of assignment. The Deputy City Manager aligns with Cupertino’s Assistant to the City Manager by supervising assigned staff (1 Administrative Analyst) and supervising or coordinating a variety of management and administrative support activities including participating in review of issues facing the City, developing and implementing programs and projects, coordinating contract arrangements with other agencies, and participating in the development and implementation of city-wide goals, objectives, strategic planning and funding strategies, policies, and procedures.

These positions, like Cupertino’s Assistant to the City Manager, are responsible for citywide programs and projects, as well as performing financial/budgetary, policy, legislative, contract administration, and research and analysis work. However, only two of the positions above actually has supervisory responsibilities (specifically each supervise 1 Analyst); whereas



Cupertino's Assistant to the City Manager supervises four staff (through lower-level supervisors/coordinators). Furthermore, none of the positions above specifically manage sustainability and emergency operations programs as these programs are managed by different departments and/or program management is contracted out. For example, at the cities of Campbell, Dublin, Gilroy, Milpitas, and Newark, sustainability is a function/program administered by the Public Works Department; and at San Ramon, sustainability is a function/program administered by the Community Development Department. At the cities of Campbell, Menlo Park, Milpitas and San Ramon, emergency management is the responsibility of either the police or fire department; and at Newark, emergency management is contracted out to the County. Thus, the positions above, while staffed at 1.0 FTE, perform a more limited scope of program management and supervisory responsibilities as compared to Cupertino's Assistant to the City Manager.

There are three cities that do not have an Assistant to the City Manager and/or senior-level analyst positions. However, all three of the cities have Deputy and/or Assistant City Managers that perform the duties assigned to the Assistant to the City Manager as a portion of their responsibilities, and so for the staffing analysis, the FTE for each position was allocated to the Assistant to the City Manager and the other positions, as appropriate:

- Campbell: The Deputy City Manager (the position is currently vacant and will remain vacant for fiscal year 2020-21 due to a hiring freeze) is responsible for many of the duties performed by the Assistant to the City Manager at Cupertino, including researching and developing citywide policies, budget management and reporting, legislative analysis (including tracking pending legislation and recommending and communicating the City's legislative position and attending meetings in Sacramento), contract management, and supervision of staff. The Deputy City Manager also serves as the City's Purchasing Agent, manages the communications/public information program, and serves as the City Manager in his/her absence. In addition to the Deputy City Manager, there is an Administrative Analyst who reports to the Deputy City Manager and provides assistance to the Deputy City Manager in areas such as communications/public information, development of citywide policies, and budget administration and reporting, and provides administrative support to the Legislative Review Committee. The Administrative Analyst is comparable to Cupertino's Management Analyst position allocated to the City Manager's Office.
- Menlo Park: There is no comparable position to the Assistant to the City Manager; and no position comparable to the Management Analyst. However, Menlo Park has one Assistant City Manager and one Deputy City Manager. Both positions, as part of their scope of work, are responsible for citywide programs, projects, and policies. In addition, the Assistant City Manager oversees Administrative Services, Library Services, and Community



Services; and the Deputy City Manager oversees Public Works and other citywide programs/projects.

- Milpitas: There is no comparable position to the Assistant to the City Manager; and no position comparable to the Management Analyst. However, Milpitas has one Assistant City Manager and one Deputy City Manager. Both positions, as part of their scope of work, are responsible for citywide programs, projects, and policies. In addition, the Assistant City Manager manages the public information/communications function; and the Deputy City Manager manages economic development.

The Assistant to the City Manager at Cupertino is a key support position to the Assistant City Manager and City Manager, allowing the Assistant City Manager to focus on internal city operations and providing direct management and guidance to department heads, and allowing the City Manager to focus on external, City Council, and board/commission/committee relations. While the market staffing analysis shows that the Assistant to the City Manager position is appropriately staffed at 1.0 FTE, in looking at the market more closely, the cities with a comparable position do not necessarily perform the scope of program management and supervisory responsibilities like Cupertino's position. By comparison, the Assistant to the City Manager spends approximately 30% time managing the emergency services and sustainability programs and providing supervision of staff assigned to these programs. In addition, of the three cities that do not have an Assistant to the City Manager, two cities have two Assistant/Deputy City Manager positions filled who serve in the Assistant to the City Manager role as a portion of their overall responsibilities. At the other city, the Deputy City Manager position performs the duties of Cupertino's Assistant to the City Manager, as a portion of their overall responsibilities and receives support from an Analyst.

Thus, we do not recommend any staffing changes to the Assistant to the City Manager. However, we recommend that Cupertino further evaluate whether the Office of Sustainability and Office of Emergency Services should continue to report to the Assistant to the City Manager (see narrative on Organizational Structure Observations and Common Market Practices section below). The Assistant to the City Manager spends approximately 30% time supervising these programs and assigned staff and removing this responsibility for program and staff oversight would address the workload issues for this position (currently responsible for a workload of 1.3 FTE). As discussed, the majority of the cities surveyed allocate the Office of Sustainability to a different department, typically Public Works, and the Office of Emergency Services to a public safety department or is contracted out. While Cupertino does not have a public safety department, there is opportunity for this function to be consolidated with the Office of Communications and report to City Manager because both programs are focused on engaging with external agencies and the community, as well as the City Manager serving as the designated Emergency Services Manager.



Finally, as a note, we do not recommend the City adjust the staffing levels for the Management Analyst in the City Manager’s Office at this time. While not all of the cities had an Analyst allocated to the City Manager’s Office (market staffing average is 0.5 FTE), in taking a closer look at the market, two cities have both an Assistant to the City Manager and an Analyst; and at both cities, the comparable Assistant to the City Manager position did not have the same scope of program management and supervisory responsibilities as Cupertino’s position. However, if Cupertino were to reorganize the Office of Sustainability and Office of Emergency Services so that the offices no longer reported to the Assistant to the City Manager, we recommend Cupertino reevaluating the need for an Analyst position in the City Manager’s Office (with the assumption that the Assistant to the City Manager could take on policy, legislative affairs, and project support assigned to the Management Analyst).

#### Sustainability Manager

The Sustainability Manager oversees the Sustainability Division located within the City Manager's Office and is responsible for fostering and implementing positive change to make Cupertino world class in its pursuit of Climate Action Plan (CAP) implementation and greenhouse gas reduction goals. Cupertino is committed to environmental sustainability, both community-wide and in its operations. Sustainability is a key element of Cupertino’s General Plan and Climate Action Plan that lays out the specific steps for achieving aggressive greenhouse gas reduction goals.

The work of the Sustainability Division in the City Manager’s Office is distinct from the Environmental Services Division in Public Works Department in that the Sustainability Division focuses on achieving sustainability goals such as greenhouse gas reduction and energy saving incentives, whereas the Environmental Services Division focuses on regulatory compliance such as solid waste collection and stormwater permit compliance.

Upon further review of the market, only one surveyed city has a Sustainability Division, like the City, and a dedicated Sustainability Manager classification responsible for program development and implementation.

At five of the surveyed cities, sustainability is a function/program administered by the Public Works Department; and at one surveyed city, sustainability is a function/program administered by the Community Development Department. For these six surveyed cities, there are no positions dedicated to performing only sustainability program implementation as the responsibility is shared amongst multiple positions and/or is a component of a position’s overall responsibilities. The positions responsible for sustainability program implementation (as a shared responsibility or a portion of their overall responsibilities) at the surveyed cities were typically professional-level and/or supervisory-level positions in engineering, environmental programs and/or facilities management. Furthermore, the surveyed cities within Alameda County (i.e., cities of Dublin and San Ramon) receive external support from StopWaste.Org, which is a joint powers authority



formed to provide support to jurisdictions with sustainability efforts and efficient use of resources.

Most of the surveyed cities do not have a Sustainability Division and/or specialized sustainability positions, distinguishing Cupertino from other municipalities in their dedication to creating a sustainable and healthy community to live, learn, work and play. While the market may not support having a full-time Sustainability Manager, K&A does not make a recommendation to adjust staffing levels as this position supports a key initiative at Cupertino and reflects the cutting edge, progressive culture of the community. Additionally, K&A has observed a trend over the years to incorporate dedicated resources to this function within municipalities.

#### Emergency Services Coordinator

The Emergency Services Coordinator manages and coordinates all aspects of Cupertino's emergency preparedness, mitigation, response and recovery programs including developing comprehensive emergency preparedness plans, conducting training and exercises, maintaining the operational readiness of key facilities and systems for emergency operations and managing compliance with the National Incident Management System (NIMS) and the Standardized Emergency Management System (SEMS).

At the surveyed cities, emergency management was either the responsibility of an internal public safety department (typically performed by sworn staff) and/or a component of the overall responsibility of a position in another department, such as human resources or community development. For example, at cities of Campbell, Menlo Park, Milpitas and San Ramon, emergency management is the responsibility of either the police or fire department. At Dublin, the Assistant to the City Manager serves as City's Emergency Operations Center (EOC) Manager with oversight from the Assistant City Manager, and emergency management duties are approximately 25% of the Human Resources Director's responsibilities; and at Gilroy, emergency management is led by the Recreation and Community Development Departments. Finally, at Newark, emergency management is contracted out to Alameda County Fire Department.

Cupertino contracts out fire and police services to the County of Santa Clara. However, Cupertino decided to bring emergency management in-house sharing County resources with the Western Valley region and a decision by the City to enhance Cupertino-specific emergency management resources and services. The advantage of bringing an emergency management position in-house is to better serve and meet the needs of the community by providing more efficiency in response and emergency operations center communications and activities. Furthermore, recent events with COVID-19 and upcoming, scheduled events, like the need for community cooling centers and public power shutdowns, have increased emergency operations center activities.

In addition, the Emergency Services Coordinator is working on developing a three-year strategic plan including developing enhanced response network, as well as planning out financial and logistical requirements and documentation. In developing the enhanced response network, there



is also a plan to develop a comprehensive, citywide training program for volunteers to be fully trained to more effectively respond to emergencies and to qualify for reimbursement from the Federal Emergency Management Administration (FEMA).

Thus, while the market may not appear to support having a full-time Emergency Services Coordinator, K&A does not make any recommendation to adjust staffing levels as this position supports Cupertino's and community's overall efforts and commitment to make the city a safe place to live, work and play, now and in the future. By having an in-house position dedicated to emergency management (as opposed to contracting out to the County), Cupertino is better able to manage available resources (rather than sharing resources with the County and other jurisdictions; and Cupertino has a robust volunteer program of over 300 volunteers), provide services and responses specific to the needs of Cupertino (for example, in response to the COVID-19 pandemic, providing guidance to department heads on workforce planning, solicitation of janitorial and related service contract, and/or distribution of supplies like water to employees), and providing proper training to and redirecting Cupertino staff from other departments to provide emergency services quickly and efficiently as opposed to waiting for County resources.

Finally, many of the surveyed cities assign emergency management positions to an in-house public safety department, however, the City does not provide public safety services in-house (services are contracted out to the County). Based on the City's current departments and organizational structure, the City Manager being designated the Emergency Management Director, and consideration for the city-wide emergency management initiatives currently in development (i.e., development of emergency management strategic plan and city-wide training program), the function and positions should remain in the City Manager's Office.

As a note, the trend in the market is to call this function "Emergency Management" as opposed to "Emergency Services." Thus, K&A recommends changing the program title and associated classification titles to "Emergency Management."

### City Manager's Office – Communications

Communications is comprised of the Office of Communications and the Video Division, with a mission of giving City residents access to timely, engaging, and important information.

The Office of Communications is responsible for:

- Media Relations: press releases, responding to media inquiries, maintaining relationships with media, and pitching stories.
- Marketing: graphic design, developing marketing plans and campaigns, social media, email marketing (e-notification system), creating signs/banners and photography.
- Community Relations: attending and serving as Cupertino representative at events, coordinating and facilitating open town hall meetings, writing frequently asked questions (FAQs) and related documentation for projects, writing and sending out newsletters, maintaining website alerts and banners; conducting community surveys, assisting other





departments with survey development, developing and maintaining relationships with other agencies, block leader program administration and front desk/reception services.

- Community Events: coordinating and programming city-sponsored events including providing multimedia support.
- Foreign Relations: maintaining relations with four sister cities and ten friendship cities, including maintaining policy, coordinating delegation visits and tours, providing Cupertino swag to delegations, and administering reimbursement program.
- Crisis Communications: coordinating communications and providing support (such as writing talking points and communications) with appropriate department.

The Video Division is responsible for producing videos for both city staff as well as the public. Typically, dozens of video productions are completed every year with a large percentage that are unscheduled or unanticipated. Video productions range in scope from relatively simple 30-second public service announcements to major projects that require more than two months of on-going field production, post-production editing and a live awards program telecast. Video productions are evaluated and prioritized on the basis of their immediate organizational value, impact and/or newsworthiness and there is an on-going need within the division for workflow and work schedule adaptability when it comes to evaluating video productions and completing them on time and on budget.

Based on the staffing analysis, the Communications Division is not staffed in alignment with the market.

#### Public Information Officer

The Public Information Officer is responsible for citywide public communications working closely with executive leadership to accomplish successful implementation and progress toward City Council and organizational goals. The Public Information Officer plans and organizes public communications activities and operations including media relations, community relations, crisis management, branding, and internal communications programs, working with other departments and outside agencies to provide highly responsible and complex consultation. The Public Information Officer also develops guidelines to create a unified city identity when it comes to communications. Finally, the Public Information Officer works closely with department staff to align the message (content) with overall goals (purpose of communication) and the city brand.

The market average staffing for the Public Information Officer is 0.5 FTE. There are three cities with a comparable position to the Public Information Officer allocated at 1.0 FTE each:

- Gilroy: The Community Engagement Manager is responsible for management of the public information and community engagement function including finalizing the Community Engagement Strategy and Toolkit, continuing development of a Communications Framework and Strategy, development of Social Media guidelines, and refreshing the City's website. This position reports to the City Manager.





- Menlo Park: The Public Engagement Manager develops and updates the Community Engagement plan with specific strategies for creating and disseminating clear, accurate, and comprehensive information about City policies, programs, and services and for facilitating public input into the City decision-making process. The position is also responsible for implementing the plan, directly through his/her own work, by managing the work of consultants and contractors and by supporting and guiding the work of other City staff throughout the organization. This position reports to the City Manager.
- Milpitas: The Public Information Officer proactively provides strategic internal and external communications about City actions, events, programs and projects; collaborates with senior management staff and elected officials to develop strategic approaches to public information; coordinates and disseminates information pertaining to City operations and services by utilizing traditional and new social media channels; develops and implements a strategic citywide public information plan; maintains oversight of City communications activities to ensure consistent and effective management of information; proactively identifies emerging communications issues and recommends strategies to address them. This position reports to the Assistant City Manager.

None of the positions above have supervisory/division management responsibilities, like the Public Information Officer at Cupertino. It should also be noted that the Public Engagement Manager at Menlo Park is a new position created in fiscal year 2019-20 in response to a recommendation in Menlo Park's Communications Master Plan.

At the remaining four surveyed cities, the duties of the Public Information Officer at Cupertino are assigned to the Assistant or Deputy City Manager. The public information duties are a portion of each position's overall responsibilities (for the market staffing purposes, the FTE allocated to the Assistant or Deputy City Manager positions were split between the Public Information Officer and the Assistant City Manager or Assistant to the City Manager staffing allocation, as appropriate). At two of the cities, there is an Analyst (1.0 FTE each) allocated to support the Assistant/Deputy City Manager in implementing the public information program. The Analyst positions are comparable to Cupertino's Community Outreach Specialist.

While Cupertino's staffing levels deviate from the market, at those cities that have a comparable position to the Public Information Officer, the position is staffed at 1.0 FTE. In addition, there is a trend in the public sector for public information/communications positions to support more strategic communications externally and internally and to ensure a consistent and unified city brand and story. The Public Information Officer plays a key role in supporting Cupertino's efforts to ensure comprehensive, transparent, and timely communications externally to residents and the community, as well as internally to City staff. The community of Cupertino is actively engaged and interested in local government services and activities (as demonstrated by the attendance at public meetings and participation in community volunteer programs). The public information function is critical to ensuring clear, comprehensive, and transparent communication and



building trust internally and with the community. The Public Information Officer is key in developing and implementing communication strategies and thus, there is no recommendation to adjust staffing levels for this position.

#### Community Outreach Specialist

The Community Outreach Specialist performs a variety of duties related to the development, preparation and implementation of strategic internal and external communications, public information and community relations activities by preparing informational materials for dissemination through a variety of communications media, public meetings and events, developing media relations outreach programs for all of the City's primary functional areas and working with neighborhood communities, businesses and civic leaders to assure their understanding of Cupertino policies and operations.

There are two Community Outreach Specialist positions in the City (1.0 FTE allocated to the Communications Division in the City Manager's Office and 1.0 FTE allocated to the Parks and Recreation Department). The Community Outreach Specialist in the Communications Division is responsible for overseeing digital/social media (such as Facebook, Nextdoor, Instagram, Twitter and You Tube) and the city website, as well as writing and producing a monthly newsletter that is sent to the residents (20,000+ households). The position spends approximately 30% of their time participating in planning, developing, and implementing a variety of social media campaigns and community outreach/education activities; 25% of their time performing public outreach and community relations activities, events, and public awareness programs; and 15% of their time researching, creating, editing, and contributing content and materials for public information materials. The Community Outreach Specialist in Parks and Recreation Department spends approximately 90% of time supporting the marketing of Cupertino's parks and recreation programs and 10% of time supporting citywide communication initiatives.

The market average for both Community Outreach Specialist positions is 0.9 FTE with 0.4 FTE allocated to the citywide public information/communication support and 0.5 FTE allocated to department-specific public information/communication support.

In terms of staffing for citywide public information/communication support, there are two cities with a position comparable to Cupertino's Community Outreach Specialist in Communications. Both cities staff the position at 1.0 FTE and classify the position as an Analyst:

- Dublin: The Management Analyst II serves as the Communications Analyst responsible for supporting and implementing the City's public information, media relations, and communications programs. The position also supports the Parks and Community Services Department in crafting outreach materials and publications. This position reports to the Assistant City Manager who functions as the Public Information Officer.
- San Ramon: The Administrative Analyst works with city departments to coordinate communications and outreach efforts; coordinates and serves as point person for social



media outreach efforts; assists with emergency communications and outreach; and ensures brand compliance by updating the City's style guide and designing, drafting/writing, and editing newsletters, website content, brochures, fact sheets, press releases, and presentations. This position reports to the Deputy City Manager who functions as the Public Information Officer.

The two positions above perform similar responsibilities to the Community Outreach Specialist in the Communication's Office. However, the difference between Cupertino and Dublin and San Ramon is that the two positions at Dublin and San Ramon are the only full-time positions supporting the citywide public information function. There is no full-time Public Information Officer at these cities. Each analyst reports to the Deputy or Assistant City Manager who spends a portion of their time serving as the office Public Information Officer for their city.

Furthermore, in looking at metrics related to social media and outreach engagements, on average, for all of the cities surveyed, the average number of social media followers is 37,367; the average population served is 58,627; and the average number of social media engagements (all platforms) per month is approximately 250. By comparison, Cupertino has a comparable number of social media followers at 36,892 and population served at 59,549. However, in terms of social media engagements per month, Cupertino is lower than the market average at 169 (all platforms) engagements per month. Thus, K&A recommends that Cupertino further evaluate the need for the Community Outreach Specialist position in the City Manager's Office as the market staffing and metrics do not support staffing this position at 1.0 FTE.

As mentioned previously, Cupertino has a second Community Outreach Specialist (1.0 FTE) allocated to the Parks and Recreation Department. This position spends 90% of their time supporting department-specific public information, communications, and marketing efforts. Three of the surveyed cities had a similar position that provided department-specific support:

- Campbell: The Communications and Public Engagement Coordinator is allocated to the Police Department, specifically, and produces, promotes, manages, implements, and coordinates communications, public relations, marketing, and media outreach activities for the City; and leads the City to develop and implement the City's online and social media presence and interactive outreach strategy.
- Dublin: The Graphic Design and Communications Coordinator is allocated specifically to the Parks and Community Services Department and is responsible for developing and coordinating City or assigned departmental marketing, publication, and presentation materials to encourage positive customer contact, and ensure consistent, credible, and professional communications are continuously developed within the City.
- Milpitas: The Marketing Coordinator is allocated to the Parks and Recreation Department, specifically, and is responsible for planning, promoting, implementing, coordinating, and marketing new and existing recreation and citywide services and programs; developing



and maintaining strong communication and working relationship with vendors and customers; and designing and distributing all marketing materials.

The positions described above at cities of Dublin, Gilroy, and Milpitas share similarities with Cupertino's Community Outreach Specialist in the Parks and Recreation Department by specifically supporting one department (and coordinating department efforts with citywide efforts) and report to management in the department to which the position is assigned. Each of these positions are staffed at 1.0 FTE each; and, specifically at Dublin and Milpitas, the positions work closely and provide support, on a limited basis, to citywide public information and communication functions.

It is not unusual for a department, like Parks and Recreation or a public safety department, to have a department-specific position responsible for public information, communications, community engagement, marketing, and event planning. Departments like Parks and Recreation publish multiple guides throughout the year to market the recreation programs, activities, and services. Furthermore, these departments engage and communicate with the community more frequently than other departments in order to align programs, activities, and services with community needs.

With the current social climate, government agencies are also focusing on diversity, equity, and inclusion efforts. The National Parks and Recreation Association and the National Park Service Conservation Study Institute have issued publications addressing the importance of community engagement in parks and recreation services and the latter specifically to implement equitable and inclusive community engagement strategies around the planning, design, construction, maintenance, and activation of park projects and park plans. Due to the increasing focus on integrating diversity, equity, and inclusion strategies into all municipal services including parks and recreation, it is anticipated that the role of the Community Outreach Specialist in the Parks and Recreation Department (and similar positions at other agencies) will increase focus on community engagement from a diversity, equity, and inclusion lens.

Thus, K&A does not recommend changing the staffing levels for the Community Outreach Specialist allocated to the Parks and Recreation Department. However, with the recommendation to reassess the staffing level for the Community Outreach Specialist in the Office of Communications, K&A recommends Cupertino take a closer look at the workload of the Community Outreach Specialist position allocated to Parks and Recreation Department, as well as how much time each of the Recreation Coordinators are spending on communications, marketing, and event planning, to identify if there are opportunities for the Community Outreach Specialist in Parks and Recreation to provide support for citywide initiatives and strategies as needed.

#### Community Relations Coordinator



The Community Relations Coordinator (0.75 FTE) plans, researches, directs, coordinates and promotes a community engagement program that improves communication, increases public safety and enhances cultural understanding in the Cupertino's neighborhoods by disseminating of useful, important and relevant city information to the neighborhoods and generating tools to organize neighborhoods and increase citizen involvement. The position develops and maintains relationships with volunteer neighborhood Block Leaders. The Block Leader program is an extension of the Neighborhood Watch program and includes approximately 100 active volunteers. The Block Leader Program teaches residents how to get to know neighbors and organize activities so neighbors can more easily communicate. Block leaders receive updates on neighborhood activities and services and are vital links between City Hall and the neighborhoods. Recently with the COVID-19 pandemic, block leaders have offered to shop for groceries and run errands for elderly neighbors; helped to set-up teams and volunteers on nearby streets; and informed neighbors about how to remain healthy and safe. Before this, block leaders received training on active shooter awareness and how to recycle and compost, take action on the climate crisis and how to gain rebates for water and energy-efficiency equipment.

None of the cities surveyed had a position comparable to the Community Relations Coordinator as at all of the cities the neighborhood watch and similar community volunteer programs are administered by the city's police department or, for one city, by the county with whom they contract public safety services. Furthermore, for those cities that administer the program through their police department, typically the program coordinator and/or point of contact was a sworn position (such as Sergeant) and/or an administrative support position (such as office specialist or staff assistant) and program administration was a portion of their overall responsibilities.

As discussed with other positions, Cupertino is a leader in prioritizing community engagement and has a community that is receptive. Thus, while the market does not support having a position dedicated to administering the block leader program, this is a critical program that supports Cupertino as a safe place to live, work and stay. Furthermore, the Community Relations Coordinator is key to maintaining positive community relationships, engagement and public participation related to public safety.

As a note, there are discussions of creating a new Community Preparedness Coordinator position (1.0 FTE) with the intent of replacing the Community Relations Coordinator and one part-time Community Coordinator position (0.5 FTE responsible for administering the Neighborhood Watch program). The Community Preparedness Coordinator will be responsible for the Neighborhood Watch and Block Leader programs, as well as supporting emergency management. Having a single position be responsible for coordinating and administering these programs and activities falls more in alignment with market practices. If this position is created, the position should report to Emergency Services Coordinator as the position is more focused on community engagement and preparedness as opposed to communications.



### Multimedia Communications Specialist

The Multimedia Communications Specialist performs a variety of duties related to the development, preparation and implementation of strategic internal and external communications, public information, and customer and community relations activities; performs technical and creative development work in the production of video, audio, media and broadcast productions for instruction, communications and public information; prepares informational materials for dissemination through a variety of communications media, public meetings and events; and works with neighborhood communities, businesses and civic leaders to ensure their understanding of City policies and operations.

There are three positions (3.0 FTE) that are responsible for designing, managing and maintaining the many audiovisual and broadcast systems located within the City including systems within the conference and multipurpose rooms, office and huddle spaces, as well as the complex broadcast systems within the video control room at Community Hall. Engineering projects differ from simple repairs, tasks, and modifications in that projects, as defined, require a phased-in approach with advanced planning, design, budgeting, resource acquisition and implementation. Most engineering projects are scheduled well in advance; occasionally, however, video staff may need to implement unanticipated projects if staff or council priorities require as such.

There was only one surveyed city that had a position with similar functional responsibilities to the Multimedia Communications Specialist and this city staffed that function with 1.0 FTE. In addition, K&A reviewed the results of the total compensation study conducted in 2019 to further assess staffing trends related to multimedia communications support function. In the 2019 total compensation study, there were four cities, in addition to Milpitas (already included in the organization assessment market study), that had a comparable classification to the City's Multimedia Communications Specialist. Each of these four cities staffed the comparable positions with 1.0 FTE (as a note, one city had a second comparable position dedicated specifically to their Utilities Department) and the majority of these positions, not only performed multimedia support, but also performed general communications/outreach duties.

As a note, during COVID-19, as the workplace has shifted from a centralized office to remote work sites, the Multimedia Communications Specialists attend and provide support for all virtual meetings. The staff are spending approximately half their time supporting Zoom meetings for City Council, commission, and committee meetings (there are approximately 10 meetings a week).

While the City benefits from the support of the Multimedia Communications Specialist positions, the City might evaluate staffing levels to ensure they are aligned to community needs and expectations. K&A recommends the City further evaluate the need for 3.0 Multimedia Communications Specialist FTEs in this function and might consider reducing the number of staff. The evaluation should consider the ongoing needs Cupertino will have related to remote meeting





support, as well as that the cities surveyed typically supplement in-house staff with contracted support. For example, the Multimedia Communications Specialist at Cupertino perform more in-depth and hands-on work related to design, management and maintenance of audiovisual and broadcast systems and equipment as compared to all the other comparable functions and positions.

#### Senior Office Assistant

The Senior Office Assistant (working title: Communications Assistant) assigned to the Office of Communications spends 45% of time on receptionist duties including sitting at the front desk in City Hall, handling inquiries from the public, incoming calls, and routing individuals to the appropriate staff, and monitoring public inquiries and creating a weekly document summarizing and organizing inquiries for use in communications; and spends 40% of time providing clerical and administrative support including compiling information for reports, copying documents, filing and retrieving files, reviewing and processing mail, processing invoices and timecards, preparing weekly items of interest and posting to the City's website, assisting in creating articles, and related duties as assigned. The Senior Office Assistant also provides support to the City Council by writing proclamations, preparing promotional gifts for Council delegation visits, creating delegation packets, ordering frames and name plates, and setting up meeting rooms.

Four of the seven surveyed cities had comparable positions allocated to the Senior Office Assistant:

- Dublin: There is 1.0 FTE allocated to the Senior Office Assistant position. The position is shared between the City Manager's Office and City Clerk's Office and is responsible for performing general clerical duties in support of assigned departments including typing, proofreading, and processing a variety of documents, acting as a receptionist, processing bills for fees, sorting and filing documents and records, processing mail, and related duties.
- Gilroy: There is 1.0 FTE allocated to the Senior Office Assistant position. The Senior Office Assistant provides support to the Senior Management Analyst (comparable to Cupertino's Assistant to the City Manager) and is responsible for establishing and maintaining files and official records, typing letters, reports, and other documents, processing mail, greeting the public and providing assistance, answering phones, and related duties.
- Milpitas: There are 2.0 FTE allocated to the Senior Office Assistant position. One FTE is allocated to the City Clerk's Office and one FTE is allocated to support the Executive Assistant to the City Manager. The position in the City Clerk's Office types, proofreads, and processes a variety of documents, acts as a receptionist, compiles data, and prepares and maintains reports, receives, and processes mail, and performs related duties. The position in City Manager's Office provides information to the public and City staff in technical areas, researches and compiles information to complete reports and forms,



organizes and maintains filing systems, takes minutes, processes purchase requisitions, receives and processes mail, acts as a receptionist, and performs related duties.

- San Ramon: There is 1.0 FTE allocated to the Senior Office Assistant position responsible for providing support to the City Clerk’s Office including answering phones and greeting visitors, performing data entry, preparing correspondence, reports, forms, and other documents, gathering information, and performing related duties.

Based on the market staffing levels, the market does not support allocating more than one FTE to this position (market staffing average is 0.6 FTE and only one of the surveyed cities filled this position with more than 1.0 FTE). Furthermore, at three of the surveyed cities, the position reported to the City Manager’s Office and/or City Clerk’s Office and provided support to these Offices (as compared to public information/communications function specifically).

Thus, based on market staffing and organizational practices, we recommend Cupertino further evaluate the need for the Senior Office Assistant assigned to Communications. The market supports having one FTE allocated to provide support to the City Manager’s Office and/or City Clerk’s Office. This position would provide office and clerical support the Assistant to the City Manager and City Clerk’s Office, alleviating and addressing the workload issues identified during the employee interviews. The market does not support the allocation of a position to specifically support the public information/communications function since the majority of the duties performed by the Senior Office Assistant allocated to Communications at Cupertino are typically performed by the position allocated to the Senior Office Assistant in the City Manager’s and/or City Clerk’s Offices in the market. Finally, as discussed under the Community Outreach Specialist staffing analysis above, when looking at performance metrics related to communications/engagement, the market does not support having more than one position allocated to support the Public Information Officer in the public information/communications function (excluding the position specifically allocated to the Parks and Recreation Department).

#### City Manager’s Office – City Clerk’s Office

The City Clerk’s Office responsibilities include administrative duties associated with the City Council’s agenda and actions; publishing legal notices; posting notice of all commission vacancies; processing codification of City’s Municipal Code; records management; compliance with Public Records Act requests; and provides partial mail service for all departments. The City Clerk’s Office’s mission is to build trust and confidence by promoting transparency, engaging the community, providing accessibility to local government, and ensuring regulatory compliance.

The City Clerk’s Office manages the citywide records management and retention program ensuring records are kept and maintained in accordance with state requirements including all agreements (City Clerk is required to read and sign off on all agreements and associated amendments). The City Clerk’s Office also maintains legislative history and council actions (i.e., adoption of resolutions and ordinances and necessary follow-up); manages official elections;





manages annual recruitment and appointment process for committees and commissions; ensures public noticing requirements are met for Council, committee and commission meetings; and performs various administrative support (such as preparing notices and agendas and processing and filing campaign statements and Form 700). The City Clerk’s Office responds to records requests. In 2019, the office processed 127 public records act requests. Finally, the City Clerk and Deputy City Clerk provide notary services to all city staff and the public as well.

There were concerns raised during the department head and staff interviews that there are staffing and resource challenges with current staffing levels in the City Clerk’s Office. However, the staffing analysis does not support adding more positions to the City Clerk’s Office. Furthermore, when looking at workload indicators such as number of council meetings per fiscal year and public records act requests processed, the City’s workload metrics are lower than the market average.

**Table 3. Workload Metrics – City Clerk’s Office**

City	Number of City Council Meetings FY 2019	PRA’s Processed FY 2019
Cupertino	18	131
Campbell	24	-----
Dublin	24	-----
Gilroy	38	280
Menlo Park	40	153
Milpitas	33	-----
Newark	24	119
San Ramon	24	186
<b>Average</b>	<b>29</b>	<b>184</b>

Based on feedback from department heads and staff interviews, there is a need in Cupertino to have a more comprehensive training program for new Council members, commissioners and committee and board members, as well as for City staff liaisons, to ensure roles and responsibilities are clearly defined, efficiencies and consistency in processes and compliance with local, state and federal regulations. The City Clerk’s role is to provide annual training to members, and the Deputy City Clerk will be responsible for onboarding new members. With the current workload, and increasing number of public records requests received and processed (over the last six years the number of public records act requests received and processed has increased by approximately 800%), frequency of meetings (most recently due to the impact of COVID-19 and other societal and environmental impacts) and current day-to-day operations, the City Clerk and Deputy City Clerk would be challenged to allocate time and resources to this effort.

Thus, the City should assess the need for additional resources and staff needed in the City Clerk’s Office if the Office were to take on a more active role in overseeing the agenda process for all commissions, boards and committees, ensuring compliance with established rules and



regulations and managing the roles of and relationships between staff and the commission, board or committee. Included in this effort would be to develop a more comprehensive onboarding and training program for new and current members, as well as a training program for internal staff that serve in staff liaison roles to support assigned commissions, boards and committees (including updating committee and commission websites which the City Clerk's Office currently is responsible for). This change will help to address current issues and confusion arising from lack of clarity on roles and responsibilities and consistency in terms of process and publications.

Finally, citywide mail processing is currently a function assigned to the City Clerk. In looking at the surveyed cities, there is not a consistent practice as to where this function should organizationally reside. For example, the City Clerk oversaw this function in one city, Finance/Administrative Services oversaw this function in two cities and Human Resources oversaw this function in another city. While there is no consistent market trend as to where citywide mail processing resides, the City might consider moving this function to Administrative Services as this is the department that receives the most incoming mail (note: typically Parks and Recreation and Community Development have the most outgoing mail), especially with the potential of the City Clerk's increasing role and responsibility related to committee and commission support.

#### City Manager's Office – City Attorney's Office

The City Attorney is appointed by the City Council to manage the legal affairs of the City, including the operation of the City Attorney's Office. The City Attorney's Office provides all legal services that are needed to support the City Council, City Commissions, City Manager, department directors and staff. City Attorney services are contracted out currently with an appropriated budget of approximately \$1,865,000 for fiscal year 2020-21.

Cupertino currently has 1.0 FTE (Legal Services Manager) allocated to the City Attorney's Office. The Legal Services Manager performs a variety of responsible and confidential administrative and legal duties for the City Attorney including drafting and reviewing legislation and other legal documents and instruments; coordinating the gathering of information from various departments in the preparation of contracts and other legal documents; reviewing contracts and other legal documents to ensure necessary provisions are included; compiling, organizing and analyzing various data for use in reports or other documents; assisting in preparation of form complaints, declarations and other basic pleadings; and coordinating and monitoring overall office activities and work flow ensuring timely completion of clerical and administrative support work.

The market staffing average for the Legal Services Manager is 0.5 FTE; whereas the City has 1.0 FTE. Upon further review of the market, three surveyed cities did not contract out City Attorney services; and at two of these cities there was a comparable position to the Legal Services Manager



allocated at 1.0 FTE each. However, four of the surveyed cities are like Cupertino in that City Attorney services are contracted out. At the cities that contract out services, one allocated an Executive Assistant level position to provide administrative support to the contract City Attorney; and the other three cities did not have internal staff or positions allocated to support the contract legal services.

It is unusual for Cupertino to have a position dedicated to support a City Attorney function that is contracted out. The Legal Services Manager provides administrative support to the contract City Attorney and staff attorneys by managing legal documents and reports (ensuring proper signatures, supporting documentation and filing), maintaining staff reports and closed session minutes, maintaining action items and monitoring City Attorney budget expenditures and trends. In addition, the Legal Services Manager supports risk management (general liability) by receiving all tort claims and working with a third-party administrator to process the claims. There are approximately 25 claims received per year and the Legal Services Manager spends approximately 12.5% of time on receiving and coordinating the processing of tort claims. Finally, the Legal Services Manager also reviews all contracts to ensure exhibits are properly presented and insurance requirements are met prior to sending for attorney review and signature.

Although the Legal Services Manager has increased time spent on contract and claims review and processing, the Legal Services Manager provides minimal, if any, paralegal support to the City Attorney and legal staff because this is within the scope of services provided by the contract for legal services. K&A recommends that Cupertino evaluate if there is an opportunity to reallocate some of the Legal Service Manager's time to support other initiatives/programs within the City Manager's Office (for example, to provide administrative support to the City Manager and/or Assistant City Manager due to the vacancy in the Executive Assistant) and/or another City department (for example, providing citywide support for contract administration and/or Administrative Services who is responsible for managing the risk management program) as there is less of a need for paralegal and legal administrative support.

### City Manager's Office – Other

The staffing analysis showed that at the surveyed cities, there are typically 1.8 additional FTE assigned to the City Manager's Office. These other positions primarily included city attorney and economic development staff. Specifically, the other positions allocated to the City Manager's Office included:

- Campbell: City Attorney (1.0 FTE); Economic Development Specialist (1.0 FTE)
- Dublin: Economic Development Director (1.0 FTE); Management Analyst – Economic Development (0.7 FTE)
- Milpitas: Economic Development Director (1.0 FTE); Economic Development Coordinator (1.0 FTE); and Economic Development Specialist (1.0 FTE)



- Newark: City Attorney (1.0 FTE); Recycling Assistant (1.0 FTE); Economic Development Manager (1.0 FTE); Administrative Support Specialist – Economic Development (0.4 FTE)
- San Ramon: City Attorney (1.0 FTE), Assistant City Attorney (1.0 FTE)

K&A does not recommend that Cupertino add these additional positions as both functions are currently contracted out to external attorneys/consultants, however Cupertino might further evaluate the effectiveness and efficiency of contracting out versus in-house economic development services as majority of the surveyed cities have internal positions performing this work.

*Organizational Structure Observations and Common Market Practices*

There are six divisions/offices/programs in the City Manager’s Office:

1. City Manager Administration
2. City Attorney’s Office (contracted out)
3. City Clerk’s Office
4. Economic Development Division
5. Office of Communications
6. Office of Emergency Services
7. Sustainability Division

The City Manager’s Office at Cupertino is structured differently than the City Manager’s Office at most of the other cities. For example, many of the divisions/offices/programs that reside in the City Manager’s Office are typically found in other departments. As shown, in Table 4, at five of the cities, Sustainability is organized and allocated to the Public Works Department and at five of the cities, Emergency Services is organized and allocated to a Public Safety and/or contracted out. Similarly, at four of the cities, Economic Development is organized and allocated to the Community Development Department. City Clerk’s Office, contract City Attorney services, and Office of Communications are typically found in the City Manager’s Office, similar to Cupertino.

**Table 4. Program Organization – City Manager’s Office**

City	Sustainability	Emergency Services	City Attorney	City Clerk	Economic Development
Campbell <sup>1</sup>	Public Works	Police	Contract	City Manager’s Office	Community Development
Dublin	Public Works	City Manager’s Office	Independent Department	Independent Department	City Manager’s Office

<sup>1</sup>IT and HR are also in the City Manager’s Office.



<b>City</b>	<b>Sustainability</b>	<b>Emergency Services</b>	<b>City Attorney</b>	<b>City Clerk</b>	<b>Economic Development</b>
Gilroy	Public Works	City Manager's Office / Fire Department	Contract	City Manager's Office	City Manager's Office
Menlo Park	City Manager's Office	Police	Independent Department (contract)	City Manager's Office	Community Development
Milpitas	Public Works	Fire	Contract	City Manager's Office	City Manager's Office
Newark	Public Works	County	Independent Department (contract)	City Manager's Office	Community Development
San Ramon	Planning/Community Development	Police	City Manager's Office	Independent Department	Community Development

There is opportunity for Cupertino to reorganize the City Manager's Office to be more in alignment with market practices. For example, the Sustainability Division could move to Public Works and align sustainability efforts, like reduction of greenhouse emissions, with related public works areas like capital project delivery, development services, and/or environmental compliance/management. Moving the Sustainability Division would also alleviate the Assistant to the City Manager of programmatic management responsibilities and address workload issues.

Currently, there are no positions allocated to Economic Development as Cupertino contracts out this function. Economic development is focused on external relationships with businesses and ensuring and aligning internal programs, resources, and services to support businesses (such as business retention, forming relationships and removing barriers to promote business expansions, and to attract new businesses). With the focus on external relationship building and integration with internal operations and based on the staffing and workload challenges faced by the Community Development Department, Economic Development should remain in the City Manager's Office reporting to the City Manager.

Cupertino does not provide police and fire services for the Office of Emergency Services to move to and so the Office of Emergency Services should remain in the City Manager's Office. There is opportunity for this Office of Emergency Services to be integrated with the Office of Communications. Both offices have programs that require extensive internal and external communications and community relationships building and engagement. Furthermore, there are positions in the Office of Communications that work closely with community volunteers on community safety programs such as the Neighborhood Watch Program and Block Leader Program and align with the efforts of the Office of Emergency Services. This would further



alleviate the Assistant to the City Manager of programmatic management responsibilities and address workload issues.

Finally, feedback was received through the employee interviews that due to the number of divisions/offices/programs and diversity of services, there is a lack of a cohesive department culture and identity the department. One way to address the lack of cohesiveness in the City Manager’s Office is to hold, department management meetings (including division and program managers and supervisors) on a regular, on-going basis. The meeting would consist of the Assistant City Manager, Assistant to the City Manager, Public Information Officer, City Clerk, and City Manager. There can be two types of meetings: 1) monthly meetings to discuss department initiatives and performance-based budget monitoring (i.e., discuss, learn about, and debate department strategy and goals encompassing clearly articulated action plans, outcomes, deadlines and accountability); and 2) weekly or biweekly meetings to discuss day-to-day operational and tactical issues with the agenda of these meetings including status updates but also time allocated to discuss department-wide issues and/or work on problem-solving. Information discussed at these meetings should then be filtered down to staff as appropriate.

In addition, while each division/office/program has performance goals and measures, there is opportunity to create department goals and measures that requires collaboration and communication between the separate divisions/offices/programs to achieve. Having a shared sense of purpose, an inclusive approach, and clear roles, responsibilities, and accountability contribute to a cohesive department. The effort to create department-shared goals and measures could be led by the Assistant to the City Manager (assuming some of the workload issues discussed earlier are addressed).

### Summary of Recommendations

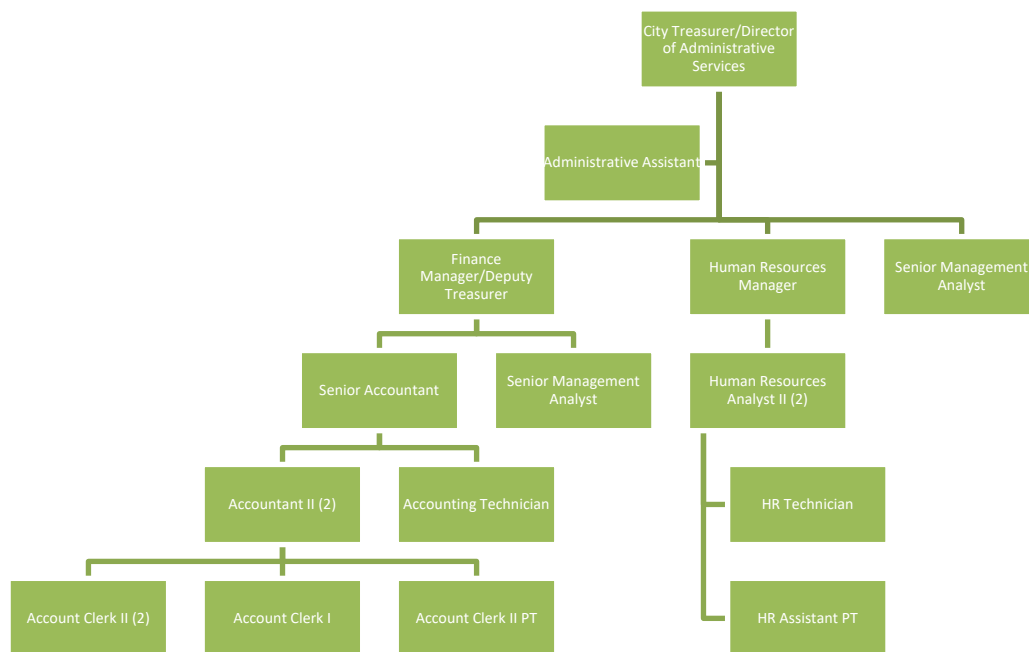
In summary, there are positions in the City Manager’s Office that are not staffed in alignment with the market. However, Cupertino is a leader in prioritizing community engagement and innovative programs (such as sustainability) and has a community that is receptive. Thus, there were many recommendations to not change staffing levels even if the staffing numbers deviated from the market.

There are six areas where staffing and/or organizational changes are recommended for the City Manager’s Office:

- Change the program title and associated classification titles from “Emergency Services” to “Emergency Management.”
- Further evaluate the need for 3.0 Multimedia Communications Specialist FTEs and consider reducing the number of staff.
- Retain staffing levels for the Public Information Officer (1 FTE) and the Community Outreach Specialist position providing support to the Parks and Recreation Department

- (1 FTE); and further evaluate the need for a second Communications Outreach Specialist and a Senior Office Assistant, both currently allocated to the Office of Communications.
- Assess the need for additional resources and staff needed in the City Clerk’s Office if the office were to take on a more active role in overseeing the agenda process for all commissions, boards and committees, ensuring compliance with established rules and regulations and managing the roles of and relationships between staff and the commission, board or committee.
  - Evaluate if there is an opportunity to reallocate some of the Legal Service Manager’s time to support other initiatives/programs within the City Manager’s Office.
  - Evaluate if there is an opportunity to reorganize the City Manager’s Office such that the Office of Sustainability potentially move to the Public Works Department; and the Office of Communications and Office of Emergency Management merge and report directly to the City Manager.

## Administrative Services Department



**Figure 3: Administrative Services Organizational Chart**

*Roles and Responsibilities of Administrative Services*

Administrative Services consists of three divisions: 1) Administration, 2) Finance and 3) Human Resources.

Administration oversees and coordinates all divisions and provides staff support to the Fiscal Strategic and Audit Committees, as well as the Santa Clara County Leadership Academy.



The Finance Division oversees all financial accounting and treasury functions for Cupertino. Accurate and timely maintenance of all financial records, including financial reporting, revenue collection, banking and investments, disbursement of all funds and payroll processing are handled by the Finance Division. All required federal, state, and other regulatory reporting with respect to Cupertino’s financial condition are prepared in the Accounting function within Finance. In addition, Finance monitors Cupertino’s two investment policies, manages budget-to-actual activities for both operational and capital budgets, performs all financial analyses, conducts research and prepares reports on all fiscal matters of Cupertino for internal and external customers.

The Human Resources Division is responsible for the administration of human resources, employee benefits, and labor relation programs including personnel selection, classification, compensation, equal employment opportunity, labor negotiations, employee relations, employee training and development, benefits, and retirement. In addition, Human Resources administers risk management, safety and wellness programs and a self-insured workers’ compensation program.

*Staffing and Organizational Structure Observations and Common Market Practices*

**Table 5. Staffing Analysis – Administrative Services**

<b>Department/Divisions</b>	<b>Cupertino FTE</b>	<b>Market Average FTE</b>
<b>ADMINISTRATIVE SERVICES</b>	<b>16.0</b>	<b>14.1</b>
<b>ADMINISTRATION</b>	<b>3.0</b>	<b>1.6</b>
Director of Administrative Services	1.0	1.0
Administrative Assistant	1.0	0.6
Senior Management Analyst	1.0	0.0
<b>FINANCE</b>	<b>9.0</b>	<b>8.5</b>
Finance Manger	1.0	1.2
Senior Management Analyst	1.0	0.1
Senior Accountant	1.0	1.0
Accountant II	2.0	1.9
Accounting Technician	1.0	2.2
Account Clerk I/II	3.0	2.1
<b>HUMAN RESOURCES</b>	<b>4.0</b>	<b>3.7</b>
Human Resources Manager	1.0	1.0
Human Resources Analyst II	2.0	1.3





Department/Divisions	Cupertino FTE	Market Average FTE
Human Resources Technician	1.0	1.8
<b>OTHER</b>	<b>0.0</b>	<b>0.3</b>
Other	0.0	0.3

Based on the staffing analysis, Administrative Services is staffed in alignment with the market except for the Senior Management Analyst, Accounting Technician, Account Clerk I/II, Human Resources Analyst II, and Human Resources Technician positions.

**Administrative Services – Administration**

Administrative Services – Administration manages the City’s investment portfolio, provides short and long-term fiscal planning including implementation of the Fiscal Strategic Plan, manages the City’s contract for law enforcement services with the Santa Clara County Sheriff’s Office and performs special projects for the City Manager. Staff also provide support to the Fiscal Strategic and Audit committees and Santa Clara County Leadership Academy.

In Administrative Services – Administration, the staffing is in alignment with the market except for the Senior Management Analyst position. The market staffing average shows that there is a total of 0.1 FTE allocated to Administrative Services, specifically to Finance; whereas Cupertino has 2.0 FTE allocated to Senior Management Analyst positions in Administrative Services (1.0 FTE in Administration and 1.0 FTE in Finance.)

**Senior Management Analyst**

The Senior Management Analyst is responsible for a wide variety of analytical assignments and activities and provides staff support in the administration and implementation of Cupertino programs and policies. Senior Management Analyst positions are typically assigned to conduct analysis and develop and/or recommend processes, procedures or policies related to the work unit or area of assignment.

The 2.0 FTEs, although one is allocated to Administration and one is allocated to Finance, are responsible for Cupertino’s budgeting functions. Cupertino, like six of the seven surveyed cities, does not have a separate budget office. However, the difference between Cupertino and the surveyed cities is that the budget function at most of other cities is a portion of the responsibilities assigned to accountant classifications, whereas at Cupertino these responsibilities are assigned to two Management Analysts and are the primary responsibilities of these positions.

While Cupertino deviates from market staffing practices, K&A does not recommend reducing the number of staff and/or reassigning the work to the accountants because budgeting plays an important role in the effective utilization of available resources in order to achieve overall



objectives of an organization (Unknown, 2020). Furthermore, Cupertino, unlike some of the surveyed cities, is in alignment with best practices related to budget administration by using performance-based budgeting principles focusing on results versus money including reporting on performance achievements and metrics. It is not entirely uncommon for an agency to use analytical classifications to perform budgeting functions. Given the nature of the level, scope and complexity of work expected to be performed by the Senior Management Analyst level, we do not recommend any changes to the 2.0 Senior Management Analyst FTEs that perform the City's budget functions.

### Administrative Services – Finance

The goal of the Finance Division is to provide a sustainable level of core services that are funded from ongoing and stable revenue sources. The Finance Division is responsible for accurate and timely maintenance of all financial records, collection, disbursements of funds and the payroll process. The Division also oversees the annual audit and preparation of the Comprehensive Annual Financial Report (CAFR) and performs year-long monitoring and analysis of budget-to-actual activities for both operational and capital budgets.

The Finance Division is organized into two programs: 1) Accounting and 2) Business Licenses.

The Accounting program oversees all financial accounting and treasury functions including:

- Accurate and timely maintenance of all financial records, such as financial reporting, revenue collection, banking and investments, disbursement of all funds and payroll processing;
- Preparing required federal, state, and other regulatory reporting with respect to Cupertino's financial condition;
- Monitoring Cupertino's two investment policies;
- Managing budget-to-actual activities for both operational and capital budgets; and
- Performing all financial analyses, conducting research and preparing reports on all fiscal matters of Cupertino for internal and external customers.

The Business License program monitors business licensing activities for compliance with City Municipal Code and applicable state law. Staff are responsible for issuing business licenses, collecting appropriate fees, and identifying non-compliant business activity.

Based on the staffing analysis, the Finance Division is staffed in alignment with the market with the following exceptions: Accounting Technicians, Accounting Clerk I/II, and the previously referenced Senior Management Analyst position.

### Accounting Technician and Account Clerk I/II

The Accounting Technician performs paraprofessional and high-level clerical accounting work in one or more designated areas such as payroll or general accounting and assumes responsibility



for a designated procedural area. There is one position allocated to the Accounting Technician classification and this position is responsible for processing Cupertino’s biweekly payroll.

The Account Clerk I/II performs clerical accounting and data entry tasks, including preparation, posting, maintenance and reconciliation of accounting, inventory and statistical records and to assist and provide information to customers, City staff and the general public via telephone, email and in person. There are three positions allocated to the Account Clerk I/II classification. Specifically, two positions are assigned to business licenses and accounts receivable (posts and reconciles daily cash deposits and journal entries; assists with the preparation and collection of billing for City services; follows up on delinquent accounts and bad debt; processes petty cash transactions; balances cash and prepares bank deposits; issues business licenses, follows-up on non-compliant business activity, provides billing, payment and other accounting information to customers, vendors, City staff and others; and assists customers with business license applications and payments), and the third position is assigned to accounts payable (manages the accounts payable process for the City including receiving, reviewing, and approving of vendor invoices; preparing, reviewing, and verifying of purchase orders and related documentation; and supporting fixed asset and inventory tracking).

The market staffing analysis reflects that Cupertino is currently staffed below the market by approximately 1.0 FTE for the Accounting Technician and approximately 1.0 FTE above the market for the Account Clerk I/II. While Cupertino has allocated the positions differently than the market by having less technicians and more clerks, when looking holistically at the functional responsibility of providing technical and clerical accounting support to professional accountants and the Finance Division, the needs of Cupertino support the current staffing and allocation of positions. Furthermore, based on the feedback gathered from the employee and management interviews, current staffing levels do not have an impact on operational efficiencies and effectiveness. Thus, K&A does not recommend adjusting staffing levels for the Accounting Technician and Account Clerk I/II.

### **Administrative Services – Human Resources**

The Human Resources Division is responsible for the administration of human resources, employee benefits and labor relation programs including personnel selection, classification, compensation, equal employment opportunity, labor negotiations, employee relations, employee training and development, benefits administration and retirement. In addition, Human Resources administers risk management, safety and wellness programs and a self-insured workers’ compensation program.

The staffing in the Human Resources Division is not in alignment with the market for the Human Resources Technician and Human Resources Analyst II.

#### **Human Resources Technician**



The Human Resources Technician provides a wide variety of paraprofessional, technical, and clerical duties related to human resources operations and interacts frequently with employees and the public. More specifically, the Human Resources Technician:

- Plans, coordinates, and oversees the employment life cycle for part-time positions including recruitment and onboarding for part-time employees;
- Maintains and updates the human resources information system (HRIS) including ensuring data integrity, updating fields and employee data, troubleshooting technology issues, and coordinating with payroll and Information Technology for system issues and updates;
- Assists employees and supervisors in using timesheet system;
- Assists in coordinating training and development activities;
- Processes unemployment claims;
- Maintains and monitors Department of Motor Vehicle (DMV) Pull Notice Program;
- Works with California Public Employees' Retirement System (CalPERS) and employees/retirees to resolve eligibility and benefit questions;
- Assists in benefits audits; and
- Monitors the Department of Justice system for employee status and processing employment status changes as required.

Prior to filling the Benefits Analyst position, feedback received from the employee and management interviews was that there is a need for additional administrative support in Human Resources. More specifically, while there is an Administrative Assistant assigned to the Administrative Services Department, the position spends majority of their time and effort providing administrative support to the Finance Division and Director of Administrative Services. Furthermore, there have been changes in processes and/or employment activity that has increased the administrative support workload such as an increase in the number of part-time hires and positions to be filled (for example, there can be up to 200 part-time positions filled during peak season), and increase in personnel changes requiring HRIS system updates (for example, an increase in approximately 230 personnel/payroll changes from fiscal year 2018 to fiscal year 2019). Finally, there is an on-going need for support in records retention including filing, organizing policies and procedures, and converting hard copy files to electronic files (Laserfiche project).

With the Benefits Analyst position filled, the Human Resources Technician will be able to focus on recruitment and selection support and Benefits Analyst will be responsible for conducting new hire orientation for full-time employees, benefits administration, leave management, conducting interactive processes and meetings, coordinating personnel changes with payroll, and overseeing and administering assigned programs.



Based on the market staffing analysis, the market staffing levels for the Human Resources Technician is 1.8 FTE, whereas the Cupertino is at 1.0 FTE. The comparable Human Resources Technician positions at the surveyed cities are responsible for:

- Campbell: The Human Resources Representative (1.0 FTE) performs a variety of paraprofessional, technical, and administrative support work in one or more specialized areas of human resources including but not limited to: recruitment and selection, classification and compensation, risk management, benefits administration, employee and labor relations, volunteer services functions, human resources information systems, and/or training and organizational development. More specifically, this position coordinates the city's benefits and wellness program, processes personnel transactions, processes leave requests, coordinates return to work, coordinates human resources training (new hire orientation, health and benefits fairs, retirement workshops, and exit interviews), responds to and conducts surveys related to human resources and labor relations issues, assists in coordinating the workers' compensation program, and assists in recruitment and selection (such as placing advertisements, screening applications, preparing and processing oral board materials, and arranging and coordinating tests and exams)
- Dublin: The Administrative Technician (1.0 FTE) provides responsible technical assistance to the Human Resources Department by coordinating, monitoring, and reporting on various departmental activities of a routine and recurring nature; and performs administrative and technical work of assigned program area. The position provides support for recruitment and selection, benefits administration, classification and compensation, and risk management. Dublin also allocates 0.5 FTE to a Senior Office Assistant to assume overall clerical responsibility for the Human Resources department including providing office management, maintaining records, preparing reports, serving as an overall information source, and acting as a receptionist.
- Gilroy: The Human Resources Technician (1.0 FTE) provides a wide variety of paraprofessional and technical duties related to human resources operations including providing information regarding benefit programs, recruitment processes, workers' compensation, and personnel policies and procedures; organizing and conducting new hire orientations; coordinating annual benefits open enrollment process and development of annual employee benefits statements; coordinating or assisting in coordinating insurance benefit programs; reviewing benefit bills and invoices; coordinating retirement and deferred compensation programs; assisting with technical aspects of recruitment; and coordinating HRIS projects. The Human Resources Assistant I/II (1.0 FTE) performs clerical and administrative work related to human resources and/or risk management operations including answering phones, establishing and maintaining files, preparing correspondence, reports, agendas, minutes, and other documents,



assisting with recruitment (such as Department of Justice Livescan processing and tracking), preparing and processing personnel action forms, and related work.

- Menlo Park: The Human Resources Technician (1.0 FTE) provides specialized technical support to the Human Resources division in areas of employee orientation, benefits, recruitment, payroll, and workers' compensation. More specifically, this position prepares personnel transaction forms, establishes and maintains personnel files, assists with recruitment processes (creating brochures, posting announcements, and proctoring assessments), assist in enrolling and updating employees' insurances and other payroll deductions, prepares and processes bills, and assists with open enrollment, wellness fairs, training, and related employee events.
- Milpitas: There are 2.0 FTE allocated to the Human Resources Technician positions with each position reporting to a Human Resources Analyst. Each Human Resources Technician performs a variety of administrative and technical paraprofessional support in areas such as recruitment and selection, classification, HRIS, compensation, benefits, labor relations employee development, and workers' compensation. More specifically, the positions receive, report, and process personnel documents and transactions related to workers' compensation, benefits, recruitment, and training; updating and maintaining position control; coordinating human resources training (new employee orientation, open enrollment, retirement seminars, exit interviews); and assisting in administering employee benefits programs. In addition to the two technicians, there is also a Human Resources Assistant (allocated at 1.0 FTE) who reports directly to the Human Resources Director and provides administrative and clerical support to the department in areas such as data entry, human resources information system maintenance, benefits (processing enrollments), recruitment and selection (posting recruitment flyers, updating announcements, scheduling exams and interviews, and preparing oral board and testing materials), generating personnel action forms, and coordinating training.
- Newark: There are 2.0 FTE allocated to the Human Resources Technician. These positions provide complex and responsible technical and office support work in such areas as recruitment, selection, classification, compensation, benefits, administration, and employee relations. More specifically, the positions plan, develop, and participate in recruitment and selection processes (designing and preparing announcements, screening applications, preparing and administering tests, and serving as an interviewer); acting as a liaison between employees and benefit providers; and participating in administering various programs such as employee benefits, workers' compensation, and employee relations.
- San Ramon: There is 1.0 FTE allocated to an Administrative Coordinator responsible for performing, coordinating, and overseeing technical and office administrative support work within the Human Resources department, including the provision of varied and complex support to managerial, professional, and supervisory staff or the direct



coordination of specific administrative support projects and operations; and responsible for supervising assigned staff. In addition to the Administrative Coordinator, there is 1.0 FTE allocated to an Office Specialist and 1.0 FTE allocated to an Office Technician. The Office Specialist organizes and maintains human resources and personnel record systems, prepares reports, provides technical support for human resources programs such as recruitment, employment verification, performance management, and compensation surveys, assists in administration of labor and employee relations, recruitment and selection, employee benefits, classification and compensation, employee training and development, risk management, and family and medical leave. The Office Technician provides a limited spectrum of office support duties including answering phones and greeting visitors, data entry, preparing correspondence, forms, and related documents, gathering information, establishing, and maintaining files, and related duties.

As described above, five of the seven surveyed cities have at least 1.5 FTE allocated to human resources support positions. However, when taking into consideration the human resources workload metrics collected, Cupertino is below the market average in terms of number of recruitments, applications received per recruitment, workers’ compensation claims, new hires (full-time), trainings administered, and personnel transactions processed which are major programmatic/functional areas that the Human Resources Technician and similar positions support. Furthermore, when looking at overall staffing levels, including the Human Resources Manager, Analyst, and Technician, Cupertino is staffed in alignment with the market with two positions allocated to the Analyst-level and one position allocated to the technician-level; whereas the market trend is to staff one position at the Analyst-level and two positions at the technician-level. Thus, while the market staffing levels support increasing the staffing levels of the Human Resources Technician at Cupertino, when taking into consideration workload metrics and overall staffing for the Human Resources Department, we do not recommend Cupertino add positions at the technician-level.

**Table 6. Workload Metrics - Human Resources**

City	Bargaining Units	Recruitments	Recruitment Timeline (Days)	Applications per Recruitment	Workers' Compensation Claims	New Hires (F/T) <sup>2</sup>	New Hires (Temp/Seasonal) <sup>2</sup>	Trainings	Personnel Transactions	Exits (F/T)
Cupertino	2	21	68	37	12	16	105	1	938	21
Campbell	6	20	60	30	27	23	107	3	---	24
Dublin	0	36	60	27	1	14	80	20	380	20
Gilroy	5	75	---	23	30	127		---	1500	---
Menlo Park	6	75	45	---	58	51	7	61	---	27
Milpitas	5	96	79	38	27	75	127	14	1831	23
Newark	3	30	30	23	36	16	99	0	736	26

<sup>2</sup> Excludes City of Gilroy from average since the number of new hires reflects both full-time and part-time hires.





San Ramon	2	50	136	44	13	23	153	8	874	18
<b>Average</b>	<b>4</b>	<b>50</b>	<b>68</b>	<b>32</b>	<b>26</b>	<b>33</b>	<b>97</b>	<b>15</b>	<b>1043</b>	<b>23</b>

Human Resources Analyst II

The Human Resources Analyst II performs professional, administrative, and analytical duties in support of a full range of human resources functions. These include recruitment, classification and compensation, employment procedures, labor relations, employee relations, risk management, administration of personnel records, personnel policies, benefits, workers’ compensation, training, and staff development. This classification oversees technical and confidential processes and programs and provides highly responsible and complex staff assistance to the Human Resources Manager and the Director of Administrative Services.

The market staffing average is 1.3 FTE for the Human Resources Analyst; whereas Cupertino allocates 2.0 FTE to the Human Resources Analyst. At the surveyed cities, each of the comparator’s Human Resource Analyst positions provide professional support in the following capacity:

- Campbell: The Human Resources Analyst (1.0 FTE) performs a variety of Human Resources projects and assignments including but not limited to: recruitment and selection, classification and compensation, employee/employer relations, employee safety, training and organizational development; and assists with labor negotiations.
- Dublin: The Management Analyst II (1.0 FTE) performs analytical duties in support of risk management and personnel support functions.
- Gilroy: The Human Resources Analyst (2.0 FTE) perform human resources projects and assignments that typically fall under the areas of: recruitment, screening, selection, position classification, salary administration, training, employee safety, diversity program, and employer/employee relations.
- Menlo Park: The Management Analyst I/II (2.0 FTE) administer recruitment and retention, classification and compensation, and organizational and employee development.
- Milpitas: The Human Resources Analyst II (2.0 FTE) perform professional human resources administrative and analytical assignments in a variety of program areas, including: recruitment and selection, classification and compensation, workflow and staffing, benefits administration, employee development and training, employee relations, systems development, program management, policy and procedure development, and special programs, including the safety program.
- Newark: The Administrative Analyst (1.0 FTE) administers and provides support for various human resources programs including recruitment and selection, classification and compensation, employee relations, employee development and training, employee recognition programs, personnel actions, Equal Employment Opportunity, benefits administration, workers’ compensation, and safety programs.





- San Ramon: The Administrative Analyst (1.0 FTE) in Human Resources administers various human resources programs including recruitment, classification and compensation, benefits, training, risk management and claims administration, and labor relations programs.

At Cupertino, the responsibilities performed by the Analyst positions at the surveyed cities are split allocated to 2.0 FTEs. One position (1.0 FTE) is responsible for benefits administration, workers' compensation, facilitating interactive process meetings for employee accommodations, leave management, and coordinating personnel changes with payroll. The second position (1.0 FTE) is responsible for recruitment and selection, classification and compensation, and risk management. Both FTEs are expected to rotate in as part of the labor relations negotiating team, acting as a scribe, or lending their subject matter expertise related to their area of assignment.

While Cupertino is not in alignment with market staffing practices at the Analyst-level, overall, when taking into consideration the staffing levels of the entire Human Resources Department, Cupertino is staffed in alignment with the market at a total of 4.0 FTE in the department. Where Cupertino deviates from the market is allocating two positions to the Analyst-level and one position to the Technician-level. At the surveyed cities, typically the positions comparable the Human Resources Technician position, are responsible for conducting new hire orientation for full-time employees, administering benefits, assisting in administering leave management programs, and coordinating personnel changes with payroll, which are assigned to an HR Analyst at Cupertino. Cupertino, may in the future, consider reevaluating this body of work to ensure that the work is allocated to the proper classification (i.e., technician or analyst).

Finally, Human Resources at Cupertino is responsible for labor relations, employee relations, and risk management, as well as initiatives such as succession planning and evaluating and revising the performance management program. In comparison to the market, Cupertino is similar to the market in that at all of the cities surveyed, Human Resources was responsible for administering employee and labor relations; and at five of the seven cities, Human Resources also administered the risk management program (the exceptions are Menlo Park where Finance oversees risk management and Human Resources administers active risk management through the safety and workers' compensation programs; and Newark where risk management is budgeted to the City Manager's Office).

Human Resources has also been assigned with initiatives such as succession planning and evaluating and revising the performance management program. Initiatives, such as these, typically take time in the planning, development, and implementation phases and once developed, administration falls within the scope and responsibility of human resources staff. At the surveyed cities, performance management administration falls within the scope of the Human Resources staff. Succession planning, on the other hand, is not an initiative that many of the surveyed cities are performing, although most are involved in training and development, position control for budget management purposes, and recruitment and selection. If Human



Resources were to take on these initiatives, and taking into consideration current staffing levels and workload, Cupertino should consider outsourcing the initial efforts related to planning and development, and once implemented, administration of such initiatives would be the responsibility of Human Resources (which is in alignment with market practices).

### Administrative Services - Other

There were three cities that had “other” classifications allocated to their Finance and Human Resources departments/divisions. These “other” classifications included two cities with office assistant positions to support human resources and one city with purchasing/buyer positions.

Alternatively, there was feedback that there is a need to review the procurement and contracts management processes within the Public Works Department. A recommendation from staff and management was to have a centralized purchasing agent/buyer or related position to oversee procurements and contracts in the department to increase the process efficiency and effectiveness. This issue is further discussed under the Public Works Department. K&A did not see an operational need for a centralized purchasing agent/buyer at this time.

### Organizational Structure Observations and Common Market Practices

The Administrative Services Department includes Finance Division and Human Resources Division, with the Administrative Services Director reporting to the Assistant City Manager. Cupertino is organized differently than the surveyed cities with respect to Administrative Services. Specifically:

- Campbell: Human Resources is in the City Manager’s Office; and Finance is its own department.
- Dublin and Gilroy: Human Resources is its own department; and Finance and Information Technology Divisions are in the Administrative Services Department. Human Resources reports directly to the City Manager.
- Menlo Park and San Ramon: Administrative Services includes Human Resources, Finance, and Information Technology. At Menlo Park, the Assistant City Manager serves as the Director of Administrative Services; and at San Ramon, the Administrative Services Director reports to the City Manager.
- Milpitas: Human Resources and Finance are separate department and report to the City Manager.
- Newark: Human Resources is its own department; and Finance is in the Administrative Services Department with City Clerk, Information Systems, Management Services, and Waste and Recycling Management. The Human Resources Director reports to the City Manager.

There is no consistent practice in what divisions/functional areas are organized within a broader Administrative Services Department. Furthermore, while four of the seven surveyed cities

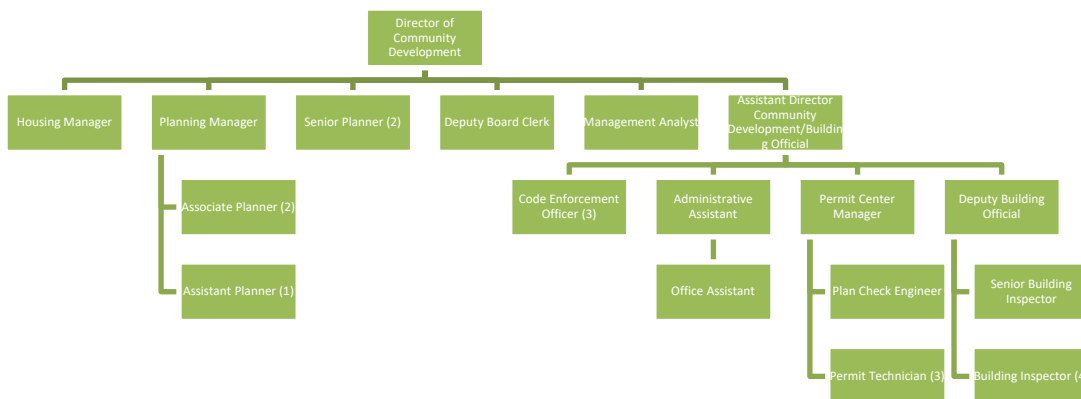
separate out Human Resources as its own department, we do not see a need to change the organizational structure of the Administrative Services Department.

Finally, there was feedback received that at times each division within the department is viewed as its own department which has led to unintended workflow, communication, and organizational cultural issues within the department. These issues extend beyond a review of staffing and organizational structure; however, any opportunity to make changes, such as creating on-going all department staff meetings, help to create a more cohesive department culture and improve communication and interdepartmental work processes. This is not uncommon, especially when a department is responsible for a wide diversity of services and/or programs and appears to be a city-wide issue and not specific to one department.

**Summary of Recommendations**

- No changes recommended.

Community Development Department



**Figure 4: Community Development Department Organizational Chart**

Roles and Responsibilities of Community Development Department

The Community Development Department oversees Planning, Building, Housing and Code Enforcement and provides staff support for the Planning Commission, Housing Commission, Design Review Committee and Environmental Review Committee.

The Planning Division has a Current Planning program that serves to review projects and implement Cupertino’s ordinances, land use plans and the General Plan goals and objectives through the planning review and building plan check processes. The Planning Division also has the Current-, Mid- and Long-Term Planning program which assists the community in preparing, reviewing, and amending documents including the General Plan, Specific Plans, Conceptual Plans, and the Municipal Code, such as the Zoning Ordinance. Additionally, the program anticipates and evaluates trends and develops strategies and plans to help Cupertino address change.



The Building Division establishes the minimum requirements to safeguard the public health, safety and general welfare through structural strength, means of egress facilities, stability, accessibility, sanitation, adequate lighting and ventilation and energy conservation; safety to life and property from fire and other hazards attributed to the built environment; and to provide safety to fire fighters and emergency responders during emergency operations. The Building Plan Review program is responsible for the timely and accurate review and approval of construction drawings for all residential, commercial and industrial permit applications for buildings and structures to ensure the proposed design meets or exceeds the minimum life safety, plumbing, mechanical, electrical, accessibility, energy and structural safety standards of the California Building Code and all governing local amendments

Also housed in the Building Division is the Building Inspection program. This program enforces certain minimum standards pursuant to the California Building Code and all local amendments for all new and existing buildings and structures within Cupertino’s jurisdiction. These minimum standards include public safety, health and general welfare through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire, hurricane, and other hazards attributed to the built environment. These include alteration, repair, removal, demolition, use, and occupancy of buildings, structures, or premises. Building Inspections also regulates the installation and maintenance of all electrical, gas, mechanical and plumbing systems, which may be referred to as service systems. The program also responds to stormwater pollution protection, emergency situations and complaints of unsafe structures, work without permits, and prepares Notices of Violation, as necessary. Unabated cases are referred to the Code Enforcement Division for further action.

Housing handles the General Administration of the Community Development Block Grant (CDBG). The CDBG program is a federal entitlement program which serves low- and moderate-income Cupertino residents. This program administers the grants and loans to non-profit developers and agencies for eligible activities such as public improvements, property acquisition for affordable housing, rehabilitation of affordable units, and development of affordable housing.

The Community Development Code Enforcement program provides enforcement of various provisions of the municipal code relating to nonconforming land use and building code compliance. These activities include building without permits, unpermitted removal of protected trees, nonconforming accessory structures, various use permit violations, private residential fence height/setback violations, and nonconforming signs. Assistance is provided to Planning and Building Division staff in the resolution of different code violations and land use concerns, which are contrary to the municipal code. The Code Enforcement program also provides enforcement of various provisions of the municipal code relating to parking citations, noise, animal control, zoning and building, and other compliance areas. Assistance is provided to the Sheriff Department in the areas of traffic control and other complaint responses.

*Staffing and Organizational Structure Observations and Common Market Practices*



**Table 7. Staffing Analysis – Community Development and Planning Department**

Department/Divisions	Cupertino FTE	Market Average FTE
<b>COMMUNITY DEVELOPMENT AND PLANNING</b>	<b>29.0</b>	<b>21.8</b>
<b>ADMINISTRATION</b>	<b>2.0</b>	<b>2.1</b>
Director of Comm Development	1.00	1.1
Assistant Director Comm Dev/Building Official	1.00	1.0
<b>BUILDING</b>	<b>16.0</b>	<b>10.8</b>
Deputy Building Official	1.0	0.4
Senior Building Inspector	1.0	0.9
Building Inspector	4.0	2.4
Plan Check Engineer	1.0	0.8
Permit Center Manager	1.0	0.5
Permit Technician	3.0	1.7
Senior Code Enforcement Officer	3.0	0.3
Code Enforcement Officer	0.0	2.8
Office Assistant	1.0	0.5
Administrative Assistant	1.0	0.5
<b>PLANNING</b>	<b>11.0</b>	<b>7.6</b>
Planning Manager (and Housing Manager)	2.0	1.2
Management Analyst	1.0	0.6
Senior Planner	2.0	2.1
Assistant/Associate Planner	5.0	2.6
Deputy City Clerk	1.0	1.1
<b>OTHER</b>	<b>0.0</b>	<b>1.3</b>
Other	0.00	1.3

**Community Development – Administration**

Based on the staffing analysis, Community Development Administration is staffed in alignment with the market.

**Community Development – Building**

The Building Inspection program is established to enforce certain minimum standards pursuant to the California Building Code and all local amendments for all new and existing buildings and



structures within the Cupertino’s jurisdiction. These minimum standards include public safety, health and general welfare through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire, hurricane, and other hazards attributed to the built environment. These include alteration, repair, removal, demolition, use, and occupancy of buildings, structures, or premises. The Building Inspections Division also regulates the installation and maintenance of all electrical, gas, mechanical and plumbing systems, which may be referred to as service systems. The program also responds to stormwater pollution protection, emergency situations and complaints of unsafe structures, work without permits, and prepares Notices of Violation, as necessary. Unabated cases are referred to the Code Enforcement Division for further action.

#### Deputy Building Official

The Deputy Building Official assists in the administration of the Building Division including, but not limited to assigning, supervising, coordinating, and participating in the daily operations of the Building Division staff and providing technical guidance and training to staff.

The market staffing average is 0.4 FTE; whereas the City staffs this position at 1.0 FTE. K&A does not recommend adjusting staffing levels for the Deputy Building Official as this position has day-to-day oversight of the Permit Center (permits and plan review) and building inspection and code enforcement functions. Without this level of oversight, the responsibility would fall to the Assistant Community Development Director/Building Official, who not only serves as the City’s Building Official, but serves in an assistant director capacity for the department as well.

#### Building Inspectors

The Building Inspectors perform inspections of buildings and structures in all stages of construction and accurately document the results of the inspection. They review various building, construction, improvement, repair and related building plans and specifications with applicable building, residential, plumbing, electrical, mechanical, fire, energy, green building standards and housing codes; and compute fees and issue permits.

Based on the staffing analysis, Cupertino is staffed at approximately 1.7 FTE above the market staffing average. In looking at performance metrics such as number of inspections conducted, the market average is approximately 4,500 more inspections per year as compared to the number of inspections conducted by Cupertino. There was only one surveyed city that had more building inspectors than Cupertino and at this survey city, the number of building inspections conducted was almost double the number conducted by Cupertino. Thus, based on the staffing analysis and further review of performance metrics, K&A recommends that Cupertino consider reducing the number of building inspectors from 4.0 FTE to 3.0 FTE.



**Table 8. Workload Metrics – Building Inspectors**

City	Number of Permits Applications Received	Number of Inspections Requested	Number of Building Counter Inquiries
Cupertino	2,321	13,625	3,781 <sup>3</sup>
Campbell	1,793	7,526	Not tracked
Dublin	Contract	Contract	Contract
Gilroy	390	18,000	363
Menlo Park	1,065	11,692	-----
Milpitas	4,000	25,000	2,700
Newark	-----	-----	-----
San Ramon	2,950	17,000+	2,850
<b>Average</b>	<b>2,040</b>	<b>15,555</b>	<b>1,971</b>

Permit Center Manager

The Permit Center Manager oversees the operation of the Building Department's permit center by leading a multi-disciplinary team to ensure proper coordination of all applications received, timely service is provided to all customers and collection of fees; and providing coordination with the Building Department's plan check staff and outside plan check agencies, the general public and other staff.

Upon further review of the surveyed cities, only three cities had a “permit center” and each of these cities had a position (1.0 FTE each) comparable to the Permit Center Manager. One city did not have a “permit center”; however, there is 1.0 FTE allocated as the supervisor over the permit technician staff. At the remaining three cities, the permit processing staff report directly to the Building Official/Chief Building Official. K&A does not make any recommendation to adjust staffing for the Permit Center Manager.

Permit Technician

The Permit Technicians assist architects, engineers, contractors, and homeowners by providing routine and technical information related to the issuance of permits. They provide technical information regarding routine building code requirements and ordinances and assist the public in completing applications and other required forms. In fiscal year 2019, the Permit Technicians received and processed 2,321 permit applications.

Based on the staffing analysis, Cupertino is staffed at approximately 1.0 FTE above the market average. In looking at performance metrics such as number of permit applications received and processed, the market average is slightly less per year as compared to the number of permit

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<sup>3</sup> Reflects six months of inquiries.



applications received and processed by Cupertino. The ratio of staff to number of permit applications received and processed is approximately 1.0 FTE for 1,200 permit applications received and processed. While Cupertino receives and processes more permit applications per year, using the ratio of staff to permit applications received and processed, Cupertino should be staffed at approximately 1.5 FTE. Based on the staffing analysis and further review of performance metrics, K&A recommends that Cupertino consider reducing the number of permit technicians from 3.0 FTE to 2.0 FTE.

The third FTE could be allocated to a Planning Technician position as there was feedback received that there is a need for additional technical support for the Planning Division (as discussed under Community Development – Other below).

#### Office Assistant and Administrative Assistant

The Office Assistant and Administrative Assistant provide support to the Building Division. The Office Assistant provides customer services to customers at the counter and over the phone, processes issued permits, sends out permit expiration letters, schedules inspections, runs reports, processes refunds, payments and daily cash receipts/deposits, maintains records and answers phones for building and permit questions. The Administrative Assistant assists in tracking development projects and preparing reports, updating, and maintaining the department website, overseeing records maintenance, and providing administrative support to management and staff.

The market average staffing for administrative support for the building function is approximately 1.0 FTE; whereas at Cupertino, there are 2.0 FTE allocated. Based on performance metrics such as the number of customers assisted at the counter, Cupertino has assisted approximately 1,000 more customers in six months as compared to the market average indicating that Cupertino experiences higher counter traffic than surveyed cities. While the metrics provide a measure of frequency, the metrics do not provide information on the time spent with the customer, reason for the customer visit and/or who the customer visited with which would also have an impact on staffing levels.

Based on the market information, K&A recommends that Cupertino consider either maintaining the current number of FTE and/or reallocating 1.0 FTE to a Planning Technician position (as discussed under Community Development – Other below).

If Cupertino were to maintain the current number of FTE, there is opportunity for either the Office Assistant and/or Administrative Assistant to provide administrative support to the code enforcement staff including receiving and tracking incoming calls and complaints and writing reports, and alleviate some of the staffing and resource challenges experienced by the Senior Code Enforcement Officer staff (see discussion under Senior Code Enforcement Officer).

#### Senior Code Enforcement Officer





The Community Development Code Enforcement program provides enforcement of various provisions of the municipal code relating to nonconforming land use and building code compliance. These activities include building without permits, unpermitted removal of protected trees, nonconforming accessory structures, various use permit violations, private residential fence height/setback violations and nonconforming signs. Assistance is provided to Planning and Building Division staff in the resolution of different code violations and land use concerns, which are contrary to the municipal code.

The Code Enforcement program provides enforcement of various provisions of the municipal code relating to parking citations, noise, animal control, zoning, building and other compliance areas. Assistance is provided to the Sheriff Department in the areas of traffic control and other complaint responses.

The Senior Code Enforcement Officers coordinate activities in the receipt, investigation and enforcement of the municipal code and other California State codes related to building and life safety; and perform basic code enforcement related planning and zoning functions. One position (1.0 FTE) is assigned to the Community Development Code Enforcement program and two positions (2.0 FTE) are assigned to the Code Enforcement program.

The two positions assigned to the Code Enforcement program received and responded to 3,695 code enforcement calls and complaints in 2019 for issues such as noise, graffiti abatement, property maintenance, parking enforcement, abandoned vehicle, traffic control, towing vehicles, and animal control. In 2019, there were 2,953 parking citations issued and 40 administrative citations issued. The Senior Code Enforcement Officers receive and respond to calls and complaints by conducting educational and code enforcement efforts including conducting investigations and inspections. The Senior Code Enforcement Officers are also responsible for writing reports of findings and actions taken. With the volume of calls and lack of administrative support in receiving and tracking incoming calls and complaints and writing reports, there was feedback received that at least one additional Senior Code Enforcement Officer should be added to the Code Enforcement program.

The market does not support adding one Code Enforcement Officer as Cupertino's current staffing level of 3.0 FTE is in alignment with market average staffing levels for the code enforcement officer and senior code enforcement officer combined. As a note, the staffing analysis separates out Code Enforcement Officer (journey-level) from Senior Code Enforcement Officer (advanced journey-level and/or lead-level); whereas Cupertino only has positions allocated to the senior-level of the classification series. As shown in the market analysis, all surveyed cities primarily staff the code enforcement positions at the Code Enforcement Officer level, with one surveyed city also having a senior-level classification in addition to the journey-level. It is unusual for Cupertino to have three Senior Code Enforcement Officers and none filled at the journey-level. Cupertino may want to further review how the Senior Code Enforcement Officer is defined, level of responsibility, complexity of work and qualifications required to



perform the work and other job factors to assess if there is a need for more than one level in the Code Enforcement Officer classification series.

Upon further review of performance metrics, the market average number of code enforcement cases per officer is approximately 130; while at Cupertino the average number of complaints/calls per each Code Enforcement program officer is approximately 1,800. Furthermore, the City Council recently adopted a new ordinance creating a regulatory program for short-term rental activity with funds allocated funds to be enforced by code enforcement staff. Thus, Cupertino should further evaluate the need for an additional code enforcement officer; and as part of this evaluation, Cupertino should consider that there is an opportunity to reallocate the Office Assistant's and/or Administrative Assistant's time to provide additional administrative support to the Senior Code Enforcement Officers by receiving and tracking incoming calls and complaints and writing reports.

Organizationally, the code enforcement program has been assigned to various departments over the years and now resides within the Community Development Department. At all surveyed cities, code enforcement, like at Cupertino, resided within the Community Development Department. Furthermore, at the surveyed cities, the code enforcement staff typically reported to the Community Development Director and/or Building Official (or similar management classification). There was feedback received during the employee interviews that Cupertino and staff would benefit from having a code enforcement manager with a background and knowledge of code enforcement to assist with more complex and/or politically sensitive code cases. Currently, the code enforcement staff report to the Assistant Community Development Director/Building Official; and while the Assistant Community Development Director/Building Official supports staff in the more complex and politically sensitive cases, a position with a comprehensive understanding of code enforcement resources and resolutions would better serve the staff and Cupertino in providing clear and best direction in an efficient manner. While K&A sees the benefit of having a code enforcement manager, the market does not support such a position, and organizationally, having the Assistant Community Development Director/Building Official oversee code enforcement follows market practices. Thus, K&A does not make any recommendations for organizational changes and/or to add a management position in code enforcement.

### Community Development – Planning

The Planning Division provides efficient and responsive professional planning services to the community and implements city development policies, programs, and regulations. The primary responsibilities of the Planning Division are to assist the community to plan and foresee future land uses and policies and to review current development proposals for conformance with the Cupertino's adopted policies and ordinances. The Planning Division administers land use regulations while striving to enhance the livability of Cupertino by fostering a healthy,



prosperous, and sustainable community environment. The Planning Division is responsible for the following programs:

- The Current Planning program serves to review projects and implement City ordinances, land use plans and the General Plan goals and objectives through the planning review and building plan check processes.
- The Mid- and Long-Term Planning program assists the community in preparing, reviewing, and amending documents including the General Plan, Specific Plans, Conceptual Plans, and the Municipal Code, including the Zoning Ordinance. Additionally, the program anticipates and evaluates trends, and develops strategies and plans to help the City address change.
- The General Administration of the Community Development Block Grant (CDBG) federal entitlement program is reserved for program administration costs to cover salary and benefits of staff who operate the CDBG program. The CDBG program is a federal entitlement program which serves low- and moderate-income Cupertino residents. CDBG program administration costs represent 20% of the City's annual federal CDBG allocation plus prior year program income.
- BMR Affordable Housing Fund administration: This program covers administration of the Below Market Rate (BMR) Housing program.

Finally, the Planning Division serves as staff to the City Council on land use issues and to the following regular commissions and committees:

- Planning Commission
- Housing Commission
- Design Review Committee
- Environmental Review Committee

### Planning Manager

The Planning Manager assists in planning, organizing, managing, and providing administrative direction and oversight for major functions and activities of specific functions in the Planning Division, which may include current and long-range planning programs and activities. The Planning Manager effectively uses planning resources to improve organizational productivity and customer service.

The market staffing average for the Planning Manager is 1.0 FTE; whereas the City has 2.0 FTE allocated with one position assigned to supervise Planning staff and programs; and the second position assigned to manage the housing program. In looking at the market, only three of the surveyed cities had a full-time (equivalent to 1.0 FTE) position dedicated to administering housing programs and/or housing planning programs; and of these three cities, all three also had a full-time equivalent dedicated to Housing. At the other four surveyed cities, the housing program is not as robust and is typically administered by planning staff (at less than 0.5 FTE). While the



market does not support having one Planning Manager and one Housing Manager, K&A does not recommend adjusting staffing levels as five surveyed cities also have a Planning Manager; and at least three cities have comparable housing programs to Cupertino and staff such programs with at least one position (a separate position from the Planning Manager). Finally, in reviewing the City's Work Program for fiscal year 2020-21, the Community Development Department is staff lead and/or the responsible department for 36% of all projects; and 20% of all projects are dedicated specifically to Housing to support Cupertino's goal of contributing meaningfully and in a balanced manner to the housing inventory in support of community needs, including affordable housing (from extremely low-income to moderate-income level housing) and addressing homelessness. This further supports the recommendation to not adjust staffing levels.

#### Assistant/Associate Planner

The Assistant/Associate Planners perform various professional-level work in current and/or advanced planning and special projects; complete technical assessments and studies; prepare written analyses and reports; and perform community outreach and education.

The Assistant Planner is the entry-level class in the professional planning series and incumbents learn to apply concepts and work procedures and perform professional planning work. As experience is gained, assignments become more varied and are performed with greater independence. Positions at this level are trained to represent Cupertino to the Planning Commission, City Council and other stakeholders and usually perform most of the duties required of the positions at the Associate level, but usually exercise less independent discretion and judgment in matters related to work procedures and methods.

The Associate Planner independently manages the more complex planning projects such as mixed use, multi-jurisdictional and/or larger projects and research, analyzes and develops solutions to planning issues. Employees at this level have experience that enables them to represent Cupertino to the Planning Commission, City Council, and other stakeholders. The Associate Planner is distinguished from the Senior Planner in that the latter is the advanced, lead-level class in the series and is responsible for organizing, assigning and reviewing the work of planning staff, in addition to performing the more complex, long-term planning and project management assignments.

The market staffing average for the Assistant/Associate Planner is 2.6 FTE; whereas Cupertino has 5.0 FTE. However, upon further review of performance metrics, the average number of planning applications received is approximately 160 per year, equivalent to approximately 34 applications per planner (equivalent to 1.0 FTE and includes senior planners). In fiscal year 2019, the Planning Division received approximately 138 planning applications, equivalent to 30 applications per planner (equivalent to 1.0 FTE). Furthermore, each Associate Planner spends approximately 25% of time dedicated to the administration of housing programs and/or housing planning programs. Finally, in reviewing City's Work Program for fiscal year 2020-21, the



Community Development Department is staff lead and/or responsible department for 36% of all projects.

Based on the staffing analysis, further review of performance metrics and consideration of the City's Work Program, K&A recommends that Cupertino does not change the staffing levels for the Assistant/Associate Planners.

#### Deputy City Clerk

Per Cupertino's classification specification, the Deputy City Clerk performs a variety of responsible and complex clerical, secretarial and routine administrative duties in the City Clerk's Office. This position, however, is assigned to the Community Development Department and supports planning, housing, administrative hearings, the Planning Commission, design review and environmental review committees and supports the City Clerk and planners to get information to the City Clerk for City Council meetings.

While Cupertino is staffed in alignment with market staffing practices, the comparable positions at the surveyed cities were typically an office assistant/specialist, administrative assistant, or similar classification, not a Deputy City Clerk. Deputy City Clerk classifications at the surveyed cities were limited to use within the City Clerk's office/department and not allocated to other departments. Furthermore, Cupertino's current classification specification does not represent the work being performed by this position assigned to the Community Development Department. Thus, K&A recommends no adjustment to staffing levels; and recommends Cupertino conduct a classification review of the Deputy City Clerk position to classify the position to align with best practices.

#### Community Development – Other

Based on the staffing analysis, there is approximately 1 additional FTE, on average, allocated to the Community Development Department at the surveyed cities. The other FTE reflects positions that Cupertino currently does not have and/or allocate staff to. For example, of the five surveyed cities with "other" positions in the Community Development Department, four cities had a Planning Technician classification. Typically a Planning Technician performs a variety of technical duties in support of the Community Development Department, primarily related to land use regulations and policies; assisting the public at the counter and providing them with technical information related to the issuance of permit applications, including the process and any related fees; checking plans; reviewing materials prior to submittal to ensure comprehensive and accurate submittals; using specialized database and permit tracking management programs; preparing materials for community meeting presentations; and conducting research related to planning efforts.

Cupertino currently does not have a Planning Technician classification. The Planning Technician duties are currently performed primarily by the assistant/associate planners, and to some extent the Office Assistant, Administrative Assistant and/or Permit Technician. Based on the market



staffing analysis, Cupertino would be better aligned with market practices by re-allocating at least one position (1.0 FTE) to a Planning Technician to provide counter and technical support to the Planning Division. This could potentially allow more time for the assistant/associate planners to assist with code enforcement duties (as stated in the current classification description), the Office Assistant and/or Administrative Assistant to provide additional administrative support to the Code Enforcement Officers and/or opportunity to dedicate one planner position to support housing planning efforts.

From a classification perspective, in reviewing the overall responsibilities, duties and qualifications (such as knowledge, skills and abilities) required to perform the work, the Permit Technician and Planning Technician are comparable and could be allocated to the same classification such as Community Development Technician (and/or alternatively broaden the Permit Technician classification to include planning technician duties). In looking at the surveyed cities, four cities had specific Planning Technician classifications (separate classification from the Permit Technician), at one city, the Permit Technician performed planning technician work and at the remaining two cities other classifications performed the planning technician work (such as administrative support and/or entry-level planners).

While the more common practice at the surveyed cities is to have two separate classifications, there is opportunity for Cupertino to create a broader classification, with the ability to cross-train staff in both areas: permitting and planning. Having positions that move between the Planning and Building Division is beneficial to the department, not only for cross-training and continuous operations; it also allows the department flexibility to allocate staff time to where the greater need is: planning or building. Thus, K&A recommends Cupertino consider re-allocating one position (1.0 FTE) from the Permit Technician to a Planning Technician to be in better alignment with the needs of the Planning Division and market practices; and potentially creating a new classification of Community Development Technician that reflects both permit technician and planning technician duties (and reallocate the current Permit Technician positions to this new classification), or revise the Permit Technician classification to include planning technician duties.

#### Organizational Structure Observations and Common Market Practices

Organizationally, the Community Development Department is structured appropriately, and K&A does not recommend any changes. There were slight variations in the organizational structure as compared to the surveyed cities, such as:

- At one city, economic development reported to community development (as compared to the City Manager’s Office in Cupertino);
- At one city, planning was its own department (separate and distinct from building and housing); and the code enforcement officers reported to the housing manager;



- At one city, economic development, community preservation (code enforcement), housing and planning reported to the Assistant City Manager; and building inspection reported to Public Works; and
- At one city, transportation reported to community development (as compared to Public Works in Cupertino).

Even with these differences, overall, the organizational structure of the Community Development Department is in alignment with market practices. Currently the two Senior Planners report directly to the Community Development Director. The plan is to shift these two positions to report to the Planning Manager. The organizational structure of the department will then reflect three program areas/divisions: 1) planning; 2) housing; and 3) building and code enforcement.

Finally, while the Community Development Department is structured in alignment with market practices, there was feedback received that at times each division within the department is viewed as its own department (and not a division within the Community Development Department). This has led to unintended workflow and organizational cultural issues within the department. These issues extend beyond a review of staffing and organizational structure; however any opportunity to make changes, such as creating a broader Community Development Technician classification that is reflective of the department services as opposed to division services, helps to create a more cohesive department culture and improve interdepartmental work processes. This is not uncommon, especially when a department is responsible for a wide diversity of services and/or programs and appears to be a city-wide issue and not specific to one department.

### Summary of Recommendations

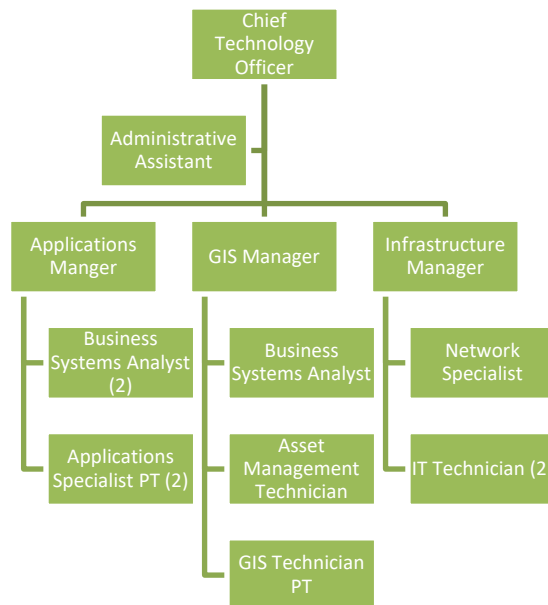
In summary, there are positions in the Community Development Department that are not staffed in alignment with the market. There are six recommended staffing and/or organizational changes:

- Based on the staffing analysis and further review of performance metrics, K&A recommends that Cupertino consider reducing the number of building inspectors from 4.0 FTE to 3.0 FTE.
- Based on the staffing analysis and further review of performance metrics, K&A recommends that Cupertino consider reducing the number of permit technicians from 3.0 FTE to 2.0 FTE. The third FTE could be allocated to a Planning Technician position as there was feedback received that there is a need for additional technical support for the Planning Division and to be in alignment with market practices.
  - Alternatively, Cupertino might consider creating a broader Community Development Technician to incorporate both permit technician and planning technician duties. Two positions could be assigned to perform permit technician work and one position could be assigned to planning technician work.



- For the Office Assistant and Administrative Assistant, based on the market information, K&A recommends that Cupertino consider either maintaining the current number of FTE and/or reallocating 1.0 FTE to a Planning Technician position. If Cupertino were to maintain the current number of FTE, there is opportunity for either the Office Assistant and/or Administrative Assistant to provide administrative support to the code enforcement staff including receiving and tracking incoming calls and complaints and writing reports, and alleviate some of the staffing and resource challenges experienced by the Senior Code Enforcement Officer staff.
- Cupertino should further evaluate the need for an additional code enforcement officer; and as part of this evaluation, Cupertino should consider that there is an opportunity to reallocate the Office Assistant’s and/or Administrative Assistant’s time to provide additional administrative support to the Senior Code Enforcement Officers by receiving and tracking incoming calls and complaints and writing reports.
- For the Deputy City Clerk, there are no recommendations to change staffing levels; and there is a recommendation for Cupertino to conduct a classification review of the Deputy City Clerk position to classify the position to align with best practices.

## Innovation and Technology Department



**Figure 5: Innovation and Technology Organizational Chart**

### Roles and Responsibilities of Innovation and Technology

The Innovation and Technology (IT) Department is organized in three divisions: 1) Applications; 2) Geographic Information Systems (GIS); and 3) Infrastructure.

The IT Department uses technology to boost the efficiency of municipal operations and to connect to constituents by planning, developing/designing, implementing, and supporting





various applications, systems, and infrastructure. For example, the IT Department implements and supports:

- A quick response (QR) code system for the thousands of trees owned and maintained by the City with a mobile application that gives a dossier on each tagged tree;
- An open data portal that serves as a gateway to municipal finance and budget information, GIS data, city infrastructure details and demographics data;
- An interactive map-based system that shows current and historical planning applications and building permits by street address; and
- Technology-based communications platforms.

Staffing and Organizational Structure Observations and Common Market Practices

**Table 9. Staffing Analysis – Innovation and Technology**

Department/Divisions	Cupertino FTE	Market Average FTE
<b>INNOVATION AND TECHNOLOGY</b>	<b>12.0</b>	<b>4.7</b>
<b>ADMINISTRATION</b>	<b>2.0</b>	<b>0.6</b>
Chief Technology Officer	1.0	0.5
Administrative Assistant	1.0	0.1
<b>APPLICATIONS</b>	<b>3.0</b>	<b>1.1</b>
Innovation and Technology Manager	1.0	0.3
Business Systems Analyst	2.0	0.8
<b>GIS</b>	<b>3.0</b>	<b>0.8</b>
Innovation and Technology Manager	1.0	0.3
Business Systems Analyst	1.0	0.3
Engineering Technician	1.0	0.2
<b>INFRASTRUCTURE</b>	<b>4.0</b>	<b>2.3</b>
Innovation and Technology Manager	1.0	0.3
Business Systems Analyst	1.0	0.6
I.T. Assistant	2.0	1.4
<b>OTHER</b>	<b>0.0</b>	<b>0.1</b>
Other	0.0	0.1

**Innovation and Technology – Administration**

The IT Department is led by the Chief Technology Officer (CTO). The CTO plans, organizes, manages and provides administrative direction and oversight for all functions and activities of



the Innovation and Technology Department including agency-wide information systems and enterprise-level applications, infrastructure, the Geographic Information System (GIS) and security systems; formulates departmental policies, goals and directives; coordinates assigned activities with other Cupertino departments, officials, outside agencies and the public; and fosters cooperative working relationships among departments and with intergovernmental, regulatory agencies and various public and private groups.

The CTO is also responsible for planning, developing, implementing, evaluating, and revising the Cupertino’s Innovation and Technology Strategic Plan and GIS Strategic Plan.

Administration provides staff support to the Technology, Information & Communication Commission (TICC) who is an appointed body that advises the City Council on technology matters.

### Innovation and Technology – Applications

The Applications Division is responsible for development, procurement, project management, implementation and ongoing maintenance of all enterprise-level applications, such as the Enterprise Resource Planning (ERP) system, Land Management system, Recreation system, Laserfiche, and multiple custom applications such as the bid management, permit parking, and business license systems. In addition, the Division is responsible for supporting mobile applications. All these applications require constant support and maintenance including:

- Providing user access updates to issues that may require intensive programming to resolve;
- Troubleshooting existing or building new application configuration rules and parameters based on the current business process or new requirements;
- Creating custom application workflows in back office applications like Accela and New World;
- Configuring fee schedules in enterprise applications;
- Working and coordinating with software vendors to identify and resolve business workflows and other operational related problems; and
- Coordinating the scheduling of corrective patches and upgrades between vendors and staff.

The Applications Division also creates custom applications by going through all stages of the software development life cycle including: gathering business requirements participating in a variety of system user and work groups to identify user needs and operational, programmatic, and or regulatory changes affecting application requirements and other related issues; performing software application coding and building system integration and interfaces between applications; performing end user application tests for functionality and usability; writing test scripts based on business processes; and performing system, integration and performance (volume) tests.



### Innovation and Technology – GIS

The GIS Division captures, manages, analyzes and displays all forms of geographically referenced information for Cupertino by providing tools (such as maps, reports and charts) to view, understand, question, interpret and visualize Cupertino in ways that reveal relationships, patterns and trends. The GIS Division helps staff, citizens, business, and development communities answer questions and solve problems by looking at the data in a way that is quickly understood and easily shared.

Specifically, the GIS Division builds web applications for staff to use as a tool in their daily workflows. For example, the web application Property Information allows staff to review properties for development and access any related Laserfiche documents. GIS staff make improvements based on requests or new advancements in web development or available widgets. The GIS Division also creates a number of web applications for the public including a service finder that give residents a one stop shop of all Cupertino services to the CIP story map that gives the public a visually appealing way to quickly interpret what capital improvement projects are scheduled for the year, where the project is located, what the project entails and current status of the project.

The staff works with stakeholders to evaluate their use of the application and to implement ways to streamline workflow by reducing the number of steps to performing a task by configuring/coding applications to eliminate redundancies. The GIS Division also manages projects through all stages of project management: research and communications, project charter creation, scope of work creation, contractor research and selection process, activity and resource planning/work breakdown structure, team building and motivation, time management, deliverable management, ensuring customer satisfaction, risk management, communication management and project closeout process and documentation.

### Innovation and Technology – Infrastructure

This Infrastructure Division provides for all technology-related expenses for the citywide management of information technology services. This includes responsibility for the help desk, local area network, wide area network and Wi-Fi availability and performance, security and compliance, incident response, disaster recovery and business continuity, implementation and upgrade project management, purchasing and inventory control, technical training and maintenance contract negotiations.

The Infrastructure Division is responsible for the acquisition, maintenance, and support for all computer hardware necessary for network and end user services. Staff are also responsible for meeting business continuity and disaster recovery requirements. Finally, staff are responsible for ensuring City staff are trained and skilled at utilizing software efficiently and securely.

### Administrative Assistant



The Administrative Assistant provides a variety of office support activities to an assigned department, which may include word processing, data entry and organization, telephone and counter reception, processing of invoices, record keeping, statistical and technical report preparation and filing; and provides information and assistance to the general public. In addition, incumbents at this level are expected to possess a comprehensive understanding of all departmental functions and professional activities, provide support to professional-level staff in the completion of their duties and complete complex administrative support assignments including taking and transcribing meeting minutes and assisting in department-related projects and programs.

The incumbent in the Administrative Assistant position within the IT Department also handles coordination of citywide IT training efforts and delivers IT related training to other employees. Additionally, this position is tasked with maintaining, monitoring, and reporting on department budget. According to the market survey, the department is overstaffed by 0.9 FTE for this position. However, K&A does not recommend changing the FTE for this position as it performs key functions in support of the IT Department.

Innovation and Technology Manager, Business Systems Analyst, Engineering Technician, IT Assistant

The IT Department is staffed above the market by approximately 7.0 FTE, and more specifically is staffed above market staffing levels at every position. The management structure of the department includes a department head (CTO) and three division managers. There is at least one analyst and one to two technicians/assistants allocated to each division.

While the IT Department is not staffed in accordance with market staffing levels, in taking a closer look at the market, of the surveyed cities, the closest to Cupertino in terms of number of employees, organization structure and information technology systems, services and infrastructure, is Milpitas. At Milpitas, the Information Technology Department is its own department (only two surveyed cities was organized such that IT is its own department; at all other surveyed cities, IT was a division within a larger department, such as Administrative Services) and is staffed with one Director, three managers, four analysts, and two technicians. In addition, Milpitas has a GIS Technician allocated to the Engineering Department. The organization and staffing levels at Milpitas align with Cupertino. The other surveyed cities are smaller than Cupertino, in terms of number of staff supported and supplement staff with contracted services for IT support (ranging from approximately \$160,000 to \$310,000 per year).

Furthermore, based on information gathered through the focus group interviews, while Cupertino's preference is to purchase off-the-shelf applications and products, there is still a need for staff to ensure integration of applications with Cupertino's existing systems and infrastructure (such as networks, servers, security, etc.), and customize such applications to best meet the needs of Cupertino. In addition, there are custom solutions that the IT Department plans, designs,



implements and manages, such as the recently implemented bid management system. Finally, as quoted in the IT Strategic Plan, “the secret of success is not predicting the future; it is creating an organization that will thrive in a future that cannot be predicted (2015, Kotter).” Overwhelmingly, there was feedback from staff and management that before, and now during the COVID pandemic, Cupertino had information technology applications, systems, and infrastructure in place to support continuous operations. Staff and management were able to continue working remotely to provide services without stopping or pausing due to insufficient information technologies and systems. Cupertino and the IT Department were successful in ensuring the appropriate systems and infrastructure were in place, even in unprecedented events like the COVID pandemic.

Cupertino placed an emphasis on information technology starting in 2015 with the development of the IT Strategic Plan, recognizing Innovation and Technology as its own department and creating and filling the CTO position. Thus, while Cupertino’s IT Department staffing levels deviate from the market, we do not recommend any change to the staffing levels. The staffing levels are appropriate when taking into consideration that with the additional resources and staffing the Cupertino has invested in IT since 2015, the department has seen an increase in customer satisfaction (including faster response times), improvement in technology infrastructure performance and availability and increase in identified, planned and prioritized projects. In addition, there is an increased awareness and understanding, from a stakeholder perspective, of the alignment between Cupertino’s business objectives and IT Department projects. Finally, there are 39 projects identified in the 2017 IT Strategic Plan Update (planned over four fiscal years starting with fiscal year 2017-18 through fiscal year 2020-21), and six projects in the 2020 City’s Overall Work Program that the Innovation and Technology department are leading and/or supporting.

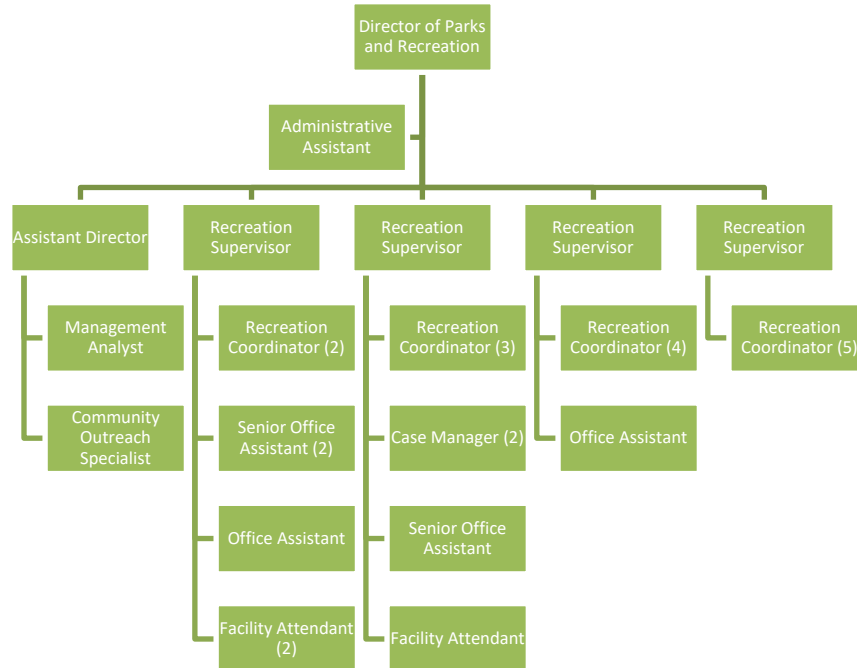
#### Organizational Structure Observations and Common Market Practices

The IT Department is its own department. This deviates from market practices in that five of the seven surveyed cities structurally organize information technology as a division within a larger department such as Administrative Services or City Manager’s Office. While market practices differ from Cupertino’s organizational structure, we do not recommend any changes because Cupertino deliberately and strategically reorganized IT from a division to a department in 2015. IT as its own department has led to increased efficiencies and effectiveness such as more stakeholder trust and collaboration, a better understanding of the role and responsibilities of the department, improved technology systems and infrastructure, increase in responsiveness to customer issues and transparency and availability of information (through data analytics and dashboards) and compliance with citywide information and technology standards, policies and practices.

#### Summary of Recommendations

- No changes recommended.

## Parks and Recreation Department



**Figure 6: Parks and Recreation Organizational Chart**

### Roles and Responsibilities of Parks and Recreation

The Parks and Recreation Department offers a wide variety of recreation, education, and fitness activities to the community. The department also offers preschool, youth camps, swim lessons, senior trips and community and cultural events and festivals. The Department also rents facilities and picnic sites, and issues permits for sports field use.

The Parks and Recreation Department offers programs at and operates the following facilities: Quinlan Community Center, Blackberry Farm, McClellan Ranch (with the Environmental Education Center, Nature Museum, and Community Gardens), Senior Center, Sports Center, Teen Center, Blackberry Farm Golf Course, Creekside Park Building, Monta Vista Recreation Center and Community Hall. Finally, the department rents out facilities, picnic sites and sports fields for community use.

The department is organized in four divisions: 1) Parks and Recreation Administration; 2) Business and Community Services; 3) Recreation and Education; and 4) Sports, Safety and Outdoor Recreation. The department is led by the Director of Parks and Recreation with support from the Assistant Director of Parks and Recreation, Management Analyst, Community Outreach Specialist (who reports to the Communications Officer in the City Manager’s Office) and Administrative Assistant.



Each division is overseen by a Recreation Supervisor with programs led and administered by Recreation Coordinators.

### Parks and Recreation Administration

The Parks and Recreation Administration provides overall department administration, project management, community outreach and support to the Parks and Recreation and Library Commissions. In addition, the division is responsible for administering the budget to augment existing library services currently provided through Santa Clara County (SCC) Library Joint Powers Authority. The objectives of this division include:

- Providing overall department administration, budget control, contract support, policy development and employee development and evaluation;
- Supporting the Planning and Public Works Departments in the development, renovation and improvements of parks and open spaces;
- Completing long-term and strategic plans for the department including the Parks and Recreation System Master Plan and 3 Year Strategic Plan; and
- Conducting outreach to the community and promotes and facilitates partnerships with SCC Library, Cupertino Union School District, Fremont Union High School District and De Anza College in alignment with the Parks and Recreation System Master Plan.

### Business and Community Services

The Business and Community Services Division supports department programs and services through provision of customer service and analytical support, development and administration of policies and administration of recreation management software. Staff collect and analyze data from customer satisfaction surveys and program and revenue reports to improve programs and services. The division is also responsible for the department's community outreach programs (including festivals and events) and managing the operations and rentals at Quinlan Community Center and Community Hall, as well as facility and park picnic sites. The division plans and produces the following events including (but not limited to):

- 4th of July festivities and Big Bunny 5K;
- Summer concert series;
- Cinema at Sundown;
- Shakespeare in the Park; and
- Tree Lighting.

### Recreation and Education

The Recreation and Education Division:

- Manages and operates the Senior Center and senior programs focusing on enhancing healthy lifestyles through quality education, recreation, travel, socials, volunteer opportunities and facility rentals. The Senior Center team leverages members to support



programs and services through 24,000 hours of volunteer service annually. Furthermore, the staff provide multi-lingual case management services and referrals to assist seniors to remain independent and safe in their own homes.

- Plans, develops, manages, and administers fee-based youth and teen programs such as academic and enrichment classes, Science, Technology, Engineering, Art, and Math (STEAM) programming, recreational camps, preschool program, cultural awareness initiatives and special events. The division collaborates with local school districts on select program offerings. In addition, the division plans, develops, manages, and administers enrichment classes for adults and special interest programming.
  - Teen programs and services include supervision and operation of two teen centers and supporting the Youth Activity Board, Cupertino Leadership Academy, and summer volunteer program.
  - Neighborhood programs include various summer events in neighborhood parks such as outdoor concerts, movies and performances and free arts and fitness programs. The programs require developing and maintaining partnerships with local agencies, businesses, and non-profits to better engage with the community.

### Sports, Safety and Outdoor Recreation

The Sports, Safety and Outdoor Recreation Division operates and manages:

- Cupertino Sports Center: Offers a variety of health and wellness activities including full fitness center, childcare and a wide assortment of fitness classes, youth sports classes and a variety of racquet sports.
- Blackberry Farm: Provides recreational space to swim, picnic, golf, enjoy ranger-led activities and the Stevens Creek Trail.
- McClellan Ranch Preserve: Offers environmental education classes/creek tours to school groups and nature programs and is the location of the Community Garden program and various non-profit operations. The Environmental Education Center and Blacksmith Shop are located at the Preserve.
- Creekside Park: Provides facility space that can be used for a variety of activities.
- Monta Vista Recreation Center: Home to a diverse array of recreational activities such as gymnastics classes and preschool programs.

The division offers recreation programs for all ages including sports leagues, camps/classes, nature programs, volunteer opportunities, drop-in activities, special events, aquatics, golf, and specialty classes.

### Staffing and Organizational Structure Observations and Common Market Practices





**Table 10. Staffing Analysis – Parks and Recreation**

Department/Divisions	Cupertino FTE	Market Average FTE
<b>PARKS AND RECREATION</b>	<b>29.0</b>	<b>22.6</b>
<b>ADMINISTRATION</b>	<b>4.0</b>	<b>3.4</b>
Director of Parks and Recreation	1.0	1.0
Assistant Director of Recreation Community Services	1.0	0.7
Management Analyst	1.0	0.9
Administrative Assistant	1.0	0.8
<b>BUSINESS AND COMMUNITY SERVICES</b>	<b>8.0</b>	<b>5.3</b>
Recreation Supervisor	1.0	0.9
Recreation Coordinator	1.0	1.8
Community Outreach Specialist	1.0	0.9
Facility Attendant	2.0	0.8
Senior Office Assistant/Office Assistant	3.0	0.9
<b>SPORTS AND OUTSIDE RECREATION</b>	<b>8.0</b>	<b>3.7</b>
Recreation Supervisor	1.0	0.9
Recreation Coordinator	6.0	2.3
Office Assistant	1.0	0.5
<b>RECREATION AND EDUCATION</b>	<b>9.0</b>	<b>5.2</b>
Recreation Supervisor	1.0	1.3
Recreation Coordinator	5.0	2.2
Case Manager	1.0	0.0
Facility Attendant	1.0	0.7
Senior Office Assistant	1.0	1.0
<b>OTHER</b>	<b>0.0</b>	<b>5.0</b>
Other	0.0	5.0

Rather than reviewing each division separately, the staffing analysis addresses the department holistically. The reason for looking at the staffing analysis on a department-wide basis (as opposed to a division-wide basis) is due to the differences in how agencies organize and structure their recreation programs and/or facilities. Thus, it was challenging to align the staffing allocation by division due to differences in programmatic/functional organization of Cupertino compared to the surveyed cities.



As compared to the market, the department is not staffed in alignment with the market in the following positions:

- Recreation Coordinator;
- Case Manager;
- Facility Attendant; and
- Office Assistant/Senior Office Assistant.

#### Recreation Coordinator

The Recreation Coordinator plans, coordinates, schedules, promotes, and evaluates a variety of programs which may include instructional classes, special events, trips and excursions, seasonal camps and aquatics and sports programs. The Recreation Coordinators also serve as a liaison between Cupertino, other public and private agencies, citizen groups and professional organizations on matters pertaining to assigned recreation services; prepare and/or coordinate the development of recreation program publicity; participate in preparing and monitoring program budgets; identify community leisure services needs and recommend appropriate programs; and recruit, select, train, schedule and evaluate part-time employees and volunteers.

As compared to the market, Cupertino has six more recreation coordinators than the market average. However, in looking closer at the market, as well as metrics on programs, facilities and events, the City offers a greater number and diversity of programs, operates some unique facilities (such as McClellan Ranch Preserve and Blackberry Farm Golf Course) and sponsors and coordinates a greater number and variety of events.

At Cupertino, Recreation Coordinators are typically assigned to a program/service area or a facility and supervise contractors, volunteers and/or full-time and/or part-time staff. Specifically:

- One Recreation Coordinator oversees department-run and community-sponsored events including serving as the liaison to ensure groups follow established policies and procedures and providing on-site support with facilities set-up. This position serves as the staff liaison to the Fine Arts Commission by working with the Commission chair to set meeting agendas, attending and recording meetings, serving as the contact for Public Works and conducting research on work program, budget and upcoming projects.
- One Recreation Coordinator oversees the preschool program and preschool adventures summer camp at two facilities.
- One Recreation Coordinator oversees teen programs including the teen center and summer team leadership academy. This position serves as staff liaison to the Youth Activities Board.
- One Recreation Coordinator is responsible for coordinating the senior citizens' travel program including marketing events and coordinating and scheduling educational lectures and seminars.
- One Recreation Coordinator oversees classes and programs at the senior center.



- One Recreation Coordinator oversees special events at the senior center.
- Two Recreation Coordinators oversee programs (education and fee-based programs) and events at McClellan Ranch Preserve.
- One Recreation Coordinator oversees the sports center.
- One Recreation Coordinator oversees youth and adult fitness classes including coordinating and scheduling use of athletic fields.
- One Recreation Coordinator oversees sports contractors, summer swim programs and community gardens.
- One Recreation Coordinator oversees the swim program (including aquatics/lifeguard training program), picnic areas and café operations and services.

The Recreation Coordinators are allocated to programs/facilities similar to how the surveyed cities allocate their coordinator positions in that typically a coordinator is assigned to a programmatic area and/or facility.

However, the one program/service area where Cupertino deviates from the market, more specifically, is in its senior center services and allocated positions. For those cities surveyed who also operate a senior center including providing education, recreation and social services to seniors, typically there is a Senior Center Supervisor or Recreation Supervisor supervising center operations and associated programs and services and one Recreation Coordinator assigned to coordinate and administer center programs and services; whereas Cupertino has three Recreation Coordinators assigned to the senior center (specifically one assigned to classes and programs, one assigned to special events and one assigned to travel program services) reporting to a supervisor that also oversees other Recreation and Education programs and services.

While we do not recommend that Cupertino adjust the staffing levels to be more in alignment with the market because Cupertino has a greater number and diversity of programming, services and events offered, as well as facilities, we do recommend Cupertino conduct further evaluation to assess if there is a need for three Recreation Coordinators to be allocated to the senior center to coordinate operations, programming, events and services. For example, Cupertino might explore opportunities to contract out travel program services and/or identify opportunities to consolidate senior program services such as travel program, case management and social services (as a note, the market also shows that Cupertino is staffed above market staffing levels for the Case Manager).

Alternatively, while there is one Recreation Coordinator assigned to plan, oversee and implement department- and community-sponsored events, the majority of Recreation Coordinators also have a role in planning, overseeing and implementing special events in their respective assigned programmatic area and/or facility. More specifically, there is one Recreation Coordinator assigned to the senior center who is responsible for planning and coordinating special events. There may be opportunity to move an allocated position from the senior center to add a second position responsible for department- and community-sponsored events (including senior center



events) and alleviating the other Recreation Coordinators of responsibilities for planning and implementing special events to focus on their assigned programs and/or facility.

In summary, Cupertino's staffing levels are reflective of the robust and diverse programs, services and events offered at Cupertino, as well as the diversity and unique facilities operated. In addition, like many of Cupertino's other departments, Cupertino is committed to providing high levels of engagement to meet community needs. The programs, activities, services, facilities, and events offered by the Parks and Recreation Department reflect this high level of engagement with the department receiving a rating of good or excellent from 98% of customers. Thus, while Cupertino's staffing levels deviate from the market, we do not recommend that Cupertino adjust staffing levels. Rather, we recommend that Cupertino focus on how the positions are allocated (i.e., to which programs/facilities), more specifically the positions allocated to the senior center, to identify opportunities, if any, to either contract out some of the services provided (such as travel program coordination) and/or reallocate a position to support other areas, such as special events, in the department.

#### Facility Attendant

The Facility Attendant opens and closes various Cupertino facilities; sets up and takes down rooms for recreation classes and public and private events; sets up, operates, and maintains audio-visual equipment; and performs light custodial work.

There are three full-time positions allocated to the Facility Attendant classification with one assigned to Community Hall, one assigned to McClellan Ranch Preserve and one assigned to the senior center. The market staffing average is 1.5 FTE, whereas Cupertino has 3.0 FTE allocated to the Facility Attendant. In taking a closer look at those surveyed cities with the number and diversity of facilities most similar to Cupertino (specifically cities of Dublin, Milpitas and San Ramon), each of these cities, like Cupertino, have at least 3.0 FTE allocated to the Facility Attendant; whereas the cities with fewer facilities have fewer positions allocated to the Facility Attendant. Thus, we do not recommend adjusting staffing levels for the Facility Attendant as staffing is in line with those cities with comparable number and variety of facilities.

#### Case Manager

The Case Manager performs professional social work with senior citizens and/or families to obtain health, financial and social services; and provides assessments and develops and implements case management plans. None of the surveyed cities had a comparable position to the Case Manager. While all of the cities operated a senior center offering programs, classes, activities and services, Cupertino is unique in having a full-time case manager on staff to provide case management services including conducting comprehensive client assessments to collect functional, environmental, psycho-social, financial, employment, housing, educational and health information as appropriate to develop and create a cost effective care plan, and conducting site visits to clients' homes. At the surveyed cities, this level of case management



services is not offered and/or is contracted out (like at San Ramon). The Case Manager typically carries a caseload of approximately 30 cases.

As a note, Cupertino used to have a second case manager position that also carried a caseload of approximately 30 cases. This position is currently vacant. There is also a part-time position who normally is responsible for conducting presentations and is now providing case management services with the vacancy in the second case manager position.

Finally, K&A received feedback from management and staff that the work performed by the case manager is different from other services offered at the senior center and by the department in general. This has resulted in lack of clarity and management of the scope of case management services provided and the intent and purpose of the program. Thus, while staffing levels are not in alignment with the market, K&A recommends that prior to making any staffing decisions and changes related to the case manager position, the department review the purpose and scope of the program and services offered and then align staff (in-house or contract; full-time or part-time) in accordance with the needs of the department and community served.

#### Office Assistant and Senior Office Assistant

The Office Assistant and Senior Office Assistant provide a variety of office support activities to an assigned department or function, which may include word processing, data entry and organization, telephone and counter reception, processing of documents, record keeping and filing; creates routine forms, memoranda, correspondence and/or reports; performs routine operation of equipment; and provides information and assistance to staff and the general public.

The Office Assistants and Senior Office Assistants assigned to the Parks and Recreation Department assist with program registrations, payment processing, rentals, answering phones, customer service, assisting with events and providing general office support. Cupertino is currently staffed with 5.0 FTE; whereas the market staffing average is 2.0 FTE. While Cupertino is staffed above market levels, we do not recommend that an adjustment to staffing levels at this time. Feedback from staff and management is that all the positions carry a full workload and efficiencies could be gained (not through adjustment of staffing) rather through review of processes, such as data entry processes. Specifically, staff are required to do double entry into two systems: program registration system and financial system, resulting in additional time to enter the same information in two systems. Ideally, the systems would be integrated to share information without requiring double entry. Furthermore, there was feedback that some of the work historically performed by the Recreation Coordinators are now being assigned to the Office Assistants and Senior Office Assistants due to the Recreation Coordinators and other positions in the department experiencing their own workload challenges. Thus, we recommend Cupertino review if efficiencies can be gained with systems integration to reduce the amount of time required for data entry, and then review staffing levels at the Office Assistant and Senior Office Assistant positions.



Organizational Structure Observations and Common Market Practices

The Parks and Recreation Department is organized appropriately. One issue raised regarding the department's organizational structure was the role of the Assistant Director. The role of the Assistant Director has changed over time from overseeing all department operations to overseeing budget, contracts, and insurance and back to overseeing all operations. This change in responsibility is partially due to this being a new position created in the last five years and due to changes in the department director position. The lack of clarity around this role has led to confusion amongst staff in the department. With the new Director of Recreation and Community Services there is opportunity to further clarify and define the role and responsibilities of this position. We recommend that this position be reviewed in more detail as to the purpose of the position and how can this position be best used to meet the needs of the Director, department, Cupertino, and community. For example, there is a need to complete the long-term and strategic plans for the department including the Parks and Recreation System Master Plan and 3 Year Strategic Plan and there are five projects identified in the City's Overall Work Program assigned to the department which this position could take the lead on (or alternatively the Director can take the lead on and the Assistant Director can focus on oversight of day-to-day operations).

As a final note, Cupertino currently has an unbudgeted, vacant Recreation Supervisor position. Historically, Cupertino had four Recreation Supervisor positions and currently there are three positions budgeted and filled. With 3.0 FTE filled positions Cupertino is in alignment with market staffing practices. However, feedback gathered from staff and management, was that there is a need for the fourth Recreation Supervisor position, specifically assigned to oversee the senior center. Currently, two of the Recreation Supervisors are sharing the responsibilities of the vacant fourth supervisor. This has presented challenges for the current supervisors and department management in that there is not a supervisor with the background and training specific to the administration of senior programs. The programs and services offered to seniors are different than programs offered to other community groups in that the programs and services focus not only on recreation and education activities, but also on social services related to daily living. The market supports having a supervisor specifically assigned to senior center and associated programs. Specifically, four of the surveyed cities had a dedicated senior center supervisor position (in addition to coordinators). Thus, while we do not make any recommendations to change staffing levels at this time for the Recreation Supervisor, if upon completion of the Director of Recreation and Community Services evaluation on the number, diversity and location of facilities, as well as the programming and resource needs of the department and community, consideration should be given that market practices support having a supervisor dedicated to supervise the operations, programs and services related to seniors.

Summary of Recommendations

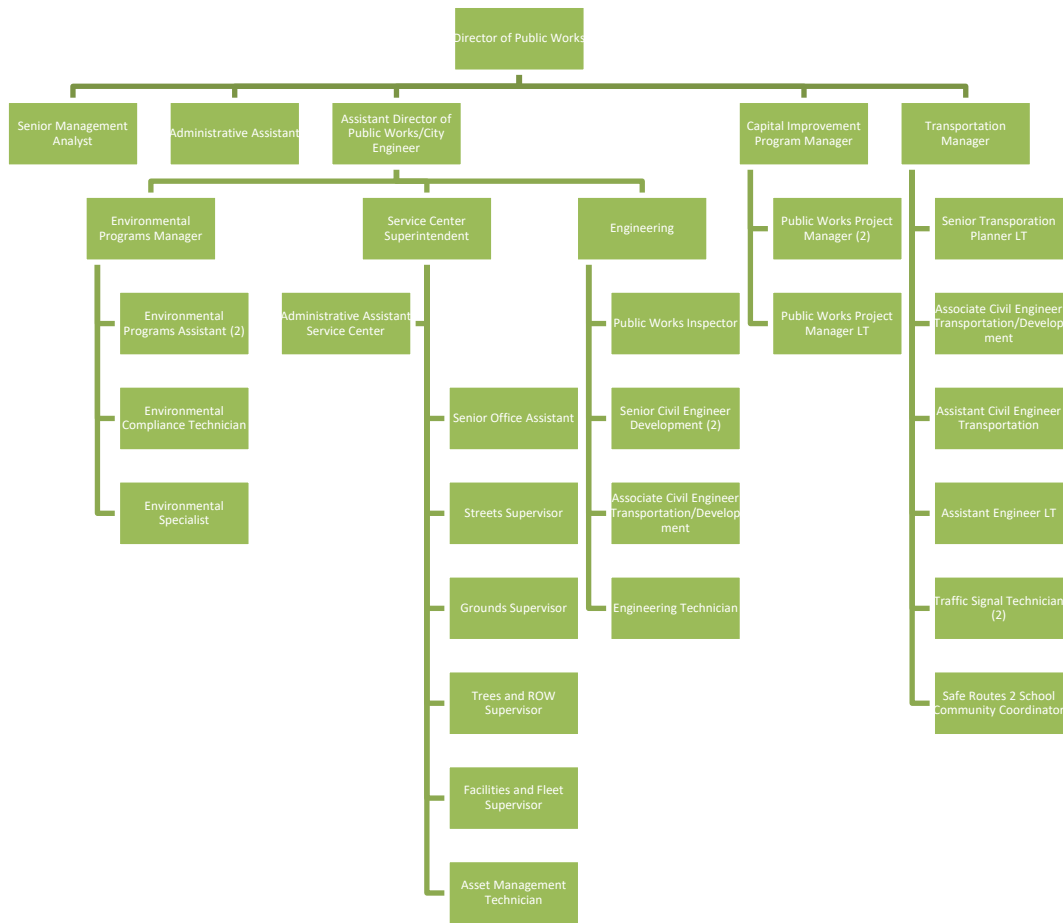
In summary, while the Parks and Recreation Department is not staffed in alignment with the market, rather than making changes in terms of the number of staff, there were other



opportunities identified to support operational efficiencies and effectiveness. There are four recommended changes:

- While Cupertino’s staffing levels deviate from the market, we do not recommend that Cupertino adjust staffing levels. Rather, we recommend that Cupertino focus on how the positions are allocated (i.e., to which programs/facilities), more specifically the positions allocated to the senior center, to identify opportunities, if any, to either contract out some of the services provided (such as travel program coordination) and/or reallocate a position to support other areas, such as special events, in the department.
- Prior to making any staffing decisions and changes related to the case manager position, the department review the purpose and scope of the program and services offered and then align staff (in-house or contract; full-time or part-time) in accordance with the needs of the department and community served.
- Cupertino’s review of systems to see if efficiencies can be gained with systems integration to reduce the amount of time required for data entry, and then review staffing levels at the Office Assistant and Senior Office Assistant positions in the Parks and Recreation Department.
- Review the Assistant Director position in more detail focusing on the purpose of the position and how can this position be best used to meet the needs of the Director, department, Cupertino, and community.

## Public Works Department



**Figure 7: Public Works Organizational Chart**

### Roles and Responsibilities of Public Works

The Public Works Department is responsible for the design, construction, and maintenance of city-owned facilities, including public streets, sidewalks, curbs and gutters, storm drains, city street trees, medians, streetlights, signs, and public buildings.

The department is organized into nine divisions/program areas:

1. Administration
2. Capital Improvement Program Administration
3. Development Services
4. Environmental Programs
5. Facilities and Fleet
6. Grounds
7. Streets





- 8. Transportation
- 9. Trees and Right of Way

Staffing and Organizational Structure Observations and Common Market Practices

**Table 11. Staffing Analysis – Public Works**

Department/Divisions	Cupertino FTE	Market Average FTE
<b>PUBLIC WORKS</b>	<b>89.0</b>	<b>49.1</b>
<b>ADMINISTRATION</b>	<b>4.0</b>	<b>4.0</b>
Director of Public Works	1.0	1.0
Senior Management Analyst	1.0	1.6
Administrative Assistant	1.0	1.3
Park Restoration and Improvement Manager	1.0	0.2
<b>ENGINEERING</b>	<b>17.0</b>	<b>12.3</b>
<b>DEVELOPMENT SERVICES</b>	<b>5.0</b>	<b>10.9</b>
Assistant Director Public Works/City Engineer	1.0	1.4
Senior Civil Engineer	2.0	2.9
Assistant/Associate Civil Engineer	0.0	4.1
Public Works Inspector	1.0	0.8
Engineering Technician	1.0	1.7
<b>CAPITAL IMPROVEMENT</b>	<b>5.0</b>	<b>0.4</b>
Capital Improvement Program Manager	1.0	0.3
Public Works Project Manager <sup>4</sup>	4.0	0.1
<b>TRANSPORTATION</b>	<b>7.0</b>	<b>1.0</b>
Transportation Manager	1.0	0.3
Senior Planner <sup>2</sup>	1.0	0.3
Assistant Civil Engineer	2.0	0.0
Environmental Programs Assistant	1.0	0.0
Traffic Signal Technician	1.0	0.2
Traffic Signal Tech-Apprentice	1.0	0.2
<b>ENVIRONMENTAL PROGRAMS</b>	<b>5.0</b>	<b>1.8</b>

<sup>4</sup> One position is a limited-term position.



Department/Divisions	Cupertino FTE	Market Average FTE
Environmental Programs Manager	1.0	0.6
Environmental Programs Assistant	2.0	0.0
Environmental Programs Compliance Technician	1.0	0.5
Environmental Programs Specialist	1.0	0.7
<b>SERVICE CENTER</b>	<b>3.0</b>	<b>1.9</b>
Service Center Superintendent	1.0	0.6
Administrative Assistant	1.0	0.7
Senior Office Assistant	1.0	0.6
<b>STREETS</b>	<b>12.0</b>	<b>7.0</b>
Public Works Supervisor	1.0	0.9
Public Works Inspector	1.0	0.8
Street Light Worker	1.0	0.2
Maintenance Worker III	1.0	1.0
Maintenance Worker I/II	8.0	4.1
<b>GROUNDS</b>	<b>20.0</b>	<b>9.1</b>
Public Works Supervisor	1.0	1.0
Maintenance Worker III	2.0	1.9
Maintenance Worker I/II	17.0	6.2
<b>TREES AND RIGHT OF WAY</b>	<b>17.0</b>	<b>3.7</b>
Public Works Supervisor	1.0	0.8
Maintenance Worker III	2.0	0.4
Maintenance Worker I/II	14.0	2.5
<b>FACILITIES AND FLEET</b>	<b>11.0</b>	<b>8.6</b>
Public Works Supervisor	1.0	1.2
Lead Equipment Mechanic	1.0	0.4
Equipment Mechanic	1.0	1.4
Maintenance Worker III	2.0	1.6
Maintenance Worker I/II	6.0	4.0
<b>OTHER</b>	<b>0.0</b>	<b>0.7</b>
Other	0.0	0.7



Note: Metrics were pulled from budget documents for fiscal years 2019-20 and 2020-21. Conversations occurred with PW management within Menlo Park, Milpitas, and from supervisor levels within Campbell and San Ramon on the metrics and performance standards. There were no responses from Newark and Gilroy declined to participate due to staffing and related issues.

### Public Works Administration

Public Works Administration provides overall department administration, budget control, contract support, policy development and employee development and evaluation. Furthermore, Public Works Administration also coordinates the construction of parks restoration and improvement projects.

The market staffing indicates that Public Works Administration is generally staffed in alignment with the market except for the Senior Management Analyst and Park Restoration and Improvement Manager.

### Senior Management Analyst

The Senior Management Analyst is responsible for a wide variety of analytical assignments and activities and provides staff support in the administration and implementation of Cupertino programs and policies. Senior Management Analyst positions are typically assigned to conduct analysis and develop and/or recommend processes, procedures or policies related to the work unit or area of assignment.

The Senior Management Analyst oversees, prepares, and monitors the public works operating budget (fiscal year 2021 = \$37,550,746) and assists in overseeing, preparing and monitoring the capital improvement program budget by preparing budget reports, coordinating department meetings, tracking and assisting in developing performance measures and attending budget-related Council meetings. The position also reviews and writes request for proposals, creates, maintains, and tracks agreements, oversees consultants, updates department policies, and manages assigned projects/programs. It was also observed that the position is spending considerable time, approximately 44%, reviewing and approving invoices, and entering invoice and staff time for billing. These are duties that would typically be performed at an administrative support level and might free up time for the incumbent to contribute to other areas more in line with the classification level.

While the current Senior Management Analyst provides support in these areas (specifically with request for proposals and agreements), there is no centralized position in the department responsible for all procurement and contracts. Feedback from staff and management was that there is a need for a dedicated position in the department to be responsible for procurement and contracts as currently the responsibilities are spread out amongst various positions within the department. The impact of not having a centralized position in the department has resulted in decreased efficiencies (taking time to work on procurement and contracts detracts time from assigned work) and inconsistent practices (due to multiple individuals involved and lack of



thorough procedures). The market supports at least another 0.5 FTE allocated to the analyst role and it is within the scope of a Management Analyst position to be responsible for administration, compliance and reporting for procurement and contracts for the department. Thus, K&A recommends reviewing the workload of the Management Analyst position, based on the significant time spent on invoice review and billing, look for opportunities to utilize other administrative support staff, and consider centralizing the contracts and procurement functions within the department to this position to gain operational efficiencies in Public Works program areas.

#### Park Restoration and Improvement Manager

The Park Restoration and Improvement Manager coordinates the construction and implementation of the Stevens Creek Corridor restoration project as well as other park improvement projects. This position is responsible for implementing an approved master plan for a large, complex project that includes relocation and restoration of a stream to its historic channel as well as other park improvement projects. This position coordinates with and obtains permits from the Department of Fish and Game, Fish and Wildlife, Army Corps of Engineers, Regional Water Quality Control Board, Air Resources Board, and the Santa Clara Valley Water District. Additionally, this position secures and administers grant funding awards for park projects.

This position reports to the Public Works Department, serving as key role in coordinating projects between the department and Parks and Recreation including administering the recently developed 20-Year Parks Master Plan. While the staffing analysis shows this position as being 0.8 FTE above the market, the position is essential to the implementation of the 20-Year Parks Master Plan and ensuring Cupertino's stewardship of federally designated rare species and their habitats. In addition, Cupertino provides its citizens and surrounding communities with several park amenities that are unique and/or different from other jurisdictions, such as Blackberry Farm and McClellan Ranch. Thus, K&A does not recommend adjusting the staffing levels for the Parks Restoration and Improvement Manager in order to retain the expertise and level of service consistent with community expectations and protected species laws.

#### Engineering

Cupertino separates out the engineering function into three divisions: Development Services, Capital Improvement Program Administration and Transportation. Whereas majority of the surveyed cities did not organize the engineering function into separate divisions. Specifically, three surveyed cities combined development services, capital improvement program administration and transportation under a general engineering division and the remaining four surveyed cities combined development services and capital improvement program administration under a general engineering division/department. It should be noted, as well, that



at four of the cities, the engineering department/division was also responsible for environmental programs.

This made it challenging to allocate positions at the other cities to reflect how Cupertino is organized. Thus, for market staffing comparison purposes, K&A looked at all three Cupertino engineering-related divisions holistically and separated out the analysis by level of responsibility (specifically, division manager, senior-level, entry and journey-level and engineering support staff). An overview of each division is presented below with the overall staffing analysis for all divisions following the overview of the Transportation Division.

### Development Services

The Development Services Division is comprised of two areas:

- Development services: review plans for private developments and utility encroachments to ensure conformance with Cupertino standards and policies.
- Inspection services: ensures compliance with Cupertino standards and approved plans on all public and private developments and utility projects.

Staff inspect utility encroachment permits for work within Cupertino’s right-of-way and return streets and sidewalks and works with other departments and divisions to facilitate private developments and private infrastructure projects. Staff also work closely with the Environmental Programs Division by inspecting job sites before, during and after rain events and conducting annual inspections of Post Construction Treatments and Stormwater Pollution Prevention Plan (SWPPP) compliance.

### Capital Improvement Program Administration

The Capital Improvement Program (CIP) provides design and construction administration for all CIP projects including streets, sidewalks, storm drainage, buildings, parks, bicycle and pedestrian improvements and other public facilities. In Fiscal Year 2019-20 there were 29 projects to be completed or beginning construction in the fiscal year, with the types of projects including 17 transportation, seven parks and five buildings and other infrastructure. The projects vary in terms of status with two under feasibility review, four in pre-design, seven under design, two in the bid/advertisement process, four in construction and 10 completed. The table below shows the number of CIP projects in contrast to the comparator agencies.



**Table 12. Number of Capital Improvement Projects**

City <sup>5</sup>	Number of CIP Projects FY2020 <sup>6</sup>	Number of CIP Projects FY2021
Cupertino	29	43
Campbell	18	24
Dublin	20	21
Gilroy	13	12
Menlo Park	24	24
Milpitas	53	37
Newark	15	35
San Ramon	44	40
<b>Averages</b>	<b>27</b>	<b>30</b>

Transportation

The Transportation Division oversees traffic operations, traffic studies, transportation planning and transportation capital improvements by responding to citizen requests and concerns, developing plans for installation of traffic signals, traffic signs and payment markings and developing design standards. The Division also assists in preparation of the General Plan, street plan lines and CIP related street improvements. Staff are actively involved in Santa Clara Valley Transportation Authority subcommittees and work groups. Finally, the Division participates in review of private development proposals to identify potential traffic impacts and to ensure necessary mitigations to maintain levels of service and safe and efficient traffic operations.

Staff continuously observes traffic patterns, signals and other control devices; reviews traffic collision reports and neighborhood issues and responds as needed; collaborates with neighboring jurisdictions on regional issues, encouraging use of alternate modes of transportation and supporting transit initiatives, rideshare programs, carpool programs and related transportation planning programs. For example, staff are responsible for administering the Safe Routes 2 School program by developing partnerships with school administrators, staff, parents, and children, encouraging alternative transit to school options and safety through outreach and education and adjusting signage and infrastructure surrounding schools.

Staff in the division also oversee the operation and maintenance of 60 traffic signals and traffic signal communication infrastructure (fiber optic network and traffic operation center hub). Staff provide 24-hour services by regularly performing preventative maintenance, diagnosing malfunctions and repairs, investigating citizen complaints, replacing, or upgrading hardware,

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<sup>5</sup> The comparators CIP project numbers are only for projects related to services comparable to Cupertino.

<sup>6</sup> The CIP project numbers represented were pulled from either the comparators budget documents or web content.



inspecting the work of contractors, responding to knockdowns and power outages, and adjusting signal timing parameters.

Division Manager: Assistant Director Public Works/City Engineer and Transportation Manager

The Assistant Director Public Works/City Engineer plans, organizes, manages, and provides direction and oversight for the operations and maintenance activities of the Public Works Department including elements of the Capital Improvement Program (CIP) planning, design and construction and the Environmental Programs division.

The Transportation Manager oversees, directs and participates in the transportation engineering functions of the Public Works Department, provides professional-level support to the Public Works Director in a variety of areas and serves as primary advocate and contact for regional transportation including transportation funding, congestion management, alternative modes and interagency coordination/negotiation. The position also plans, coordinates, and carries out a comprehensive citywide transportation system program, including traffic control, signaling and signage and alternative transportation and multi-modal accommodations and evaluates and initiates action on traffic suggestions and complaints.

These two classifications are both responsible for managing assigned divisions. Due to the differences in organizational structure at the surveyed cities with some cities incorporating all divisions/functions within engineering, K&A compared the market staffing levels of these positions together as “division managers.” Based on the market, Cupertino is staffed below the market for the Assistant Director Public Works/City Engineer (by 0.4 FTE) and the Transportation Manager is staffed above the market (by 0.7 FTE). However, when looking at the division managers together, Cupertino falls in alignment with the market.

In taking a closer look at the market, at two of the three of the cities, where transportation engineering functions were not allocated to a separate division, there were two positions allocated to engineering manager within the engineering division sharing responsibility for oversight of transportation, development and/or CIP administration. In addition, at three of the cities that separated out transportation engineering as its own division, each had at least 0.5 FTE allocated in a management position. Thus, while the Transportation Manager is staffed above the market, the market trend is to have at least 0.5 FTE allocated as a division manager overseeing transportation engineering and so K&A does not make any recommendation to adjust staffing for the Assistant Director Public Works/City Engineer and Transportation Manager.

Senior-Level Classifications: Senior Civil Engineer, Capital Improvement Program Manager and Transportation (Senior) Planner

The Senior Civil Engineer performs advanced journey registered professional engineering work in the planning, design, construction, and operation of public works projects. This level also serves in a lead role to other lower level engineering staff and provides guidance and direction on work assignments. Positions are responsible for project management, environmental review, project



design, transportation, development, and economic studies and must be registered as Civil Engineers in the State of California. Senior Engineer positions are typically assigned to Development Services or Transportation Division. Currently, there are two positions allocated to Development Services and none to Transportation.

The Capital Improvement Program Manager supervises the development and implementation of the CIP program, oversees engineering/construction project management work for capital projects and facility upgrades and ensures that project schedules, cost and overall quality performance objectives are met across a diverse range of capital improvement projects. In addition, this position coordinates, manages and monitors the progress of assigned projects and programs at all stages of development to ensure timely, efficient, and cost-effective projects.

The Transportation (Senior) Planner assists in planning and coordinating complex activities related to transportation planning; serves as project manager for complex transportation planning administration, environmental review, special projects and policy development; completes technical assessments and prepares written project analyses; and performs community outreach and education. This position is currently a limited-term position.

These classifications serve in a lead capacity responsible for managing assigned projects with comparable levels of responsibility, duties and responsibilities, complexity of work, decision-making, consequence of error and related whole job analysis factors. As compared to the market, Cupertino is staffed below the market by 0.8 FTE for the Senior Civil Engineer, 0.7 FTE above market for the Capital Improvement Program Manager and 0.7 FTE above the market for the Senior Planner; and when looking at these classifications together, Cupertino is staffed approximately 0.6 FTE above the market.

In taking a closer look at the market, all the surveyed cities combined development and CIP administration into engineering with four of the cities allocating at least 3.0 FTE to the senior-level. Three of the cities combined all three functions (development, CIP administration and transportation into engineering) and all three allocated at least 2.0 FTE to the Senior Engineer level. Thus, K&A does not make any recommendation to adjust staffing at this time because when excluding the limited-term Senior Planner position (with the assumption that is position will not be filled in the future), Cupertino is in alignment with the market.

#### Entry/Journey-Level Classifications: Assistant Engineer, Associate Civil Engineer and Public Works Project Manager

The Assistant Engineer and Associate Civil Engineer are responsible for planning, design, construction, and operation of public works projects. The Associate Civil Engineer differs from the Assistant-level in that the Associate requires Registration as a Civil Engineer in the State of California and performs additional transportation engineering related work, specifically:

- Assesses traffic emergency and safety needs and interests.





- Develops plans, specifications and instructions for the installation, operation and maintenance of traffic signals, signing, lighting, pavement marking and design standards.
- Prepares annual and long-range street and arterial development programs, need studies, cost estimates, accident statistics analysis, and traffic planning studies.

The Public Works Project Manager also manages public works projects including the planning, design and construction of buildings, parks, streets, utilities, and other facilities owned and operated by Cupertino. The Public Works Project Manager has a comparable level of responsibility for project management, complexity of work, minimum qualifications, and other job factors, to the Associate Civil Engineer, with the exception that the Associate Civil Engineer requires a PE registration.

Currently Cupertino has no Assistant or Associate Engineers allocated to the Development Division, 4.0 FTE allocated to Public Works Project Manager in the CIP Administration Division and 2.0 FTE allocated to Assistant Engineer in the Transportation Division, for a total of 6.0 FTE. The market, by comparison, allocates 4.1 FTE to an Assistant/Associate Engineer level, 0.1 to the Public Works Project Manager and none allocated to the Transportation Division for a total of 4.2 FTE. Overall, Cupertino is staffed above the market by approximately 2.0 FTE. As stated above, and shown in Table 10, Cupertino has 29 CIP projects in progress with a total of 6.0 FTEs allocated. In looking at the market in more detail, the market average staffing ratio is approximately 6.4 projects per FTE for 2020 and approximately 7 projects per FTE for 2021; whereas Cupertino is at a ratio of approximately 5 projects per position for 2020. When taking into consideration the number of projects (additional 14 projects for total of 63 projects) scheduled for fiscal year 2020-21, Cupertino's ratio will be in alignment with the market average at approximately 7 projects per position. While the market average shows Cupertino staffed above the market, in consideration of the number of projects Cupertino is working on or scheduled to work on for fiscal year 2020-21, Cupertino is in alignment with market average staffing ratio of number of projects per position. Therefore, K&A makes no recommendation to adjust staffing related to Assistant Engineer, Associate Civil Engineer, or Public Works Project Manager.

#### Engineering Technician and Environmental Programs Assistant

The Engineering Technician is assigned to the Development Division performs manual and computer drafting, records management, annexation processing, encroachment permit processing, retrieval of information, assistance with field surveys and assistance in the orderly administration of assigned projects and programs.

The Environmental Programs Assistant is responsible for program analysis, outreach and education and administrative duties to support assigned programs and activities. This position is responsible for overseeing all administrative services for the division; participates in interagency and stakeholder meetings and makes community presentations; provides incentive, support and technical assistance to the residential and business community; coordinates and hosts various



staff training meetings; implements projects such as litter cleanup, trash sorting, data collection and report writing to evaluate and demonstrate Cupertino's compliance with state mandates. In addition, this position represents Cupertino on regional environmental public education ad hoc and sub-groups to increase community awareness and participation in environmental stewardship. This position may also be tasked with participating in local, countywide, and regional events and festivals; capturing data and providing analysis; tracking community engagement and outreach visits for reporting; and assisting with preparation of required state, regional and city annual reports. There is 1.0 FTE assigned to the Transportation Division and this position is responsible for administering the Safe Routes 2 School program focusing on community outreach and education and working on encroachment impacts related to the program. Specifically, this position develops partnerships with school administrators, staff, parents, and children, encourages alternative transit to school options and safety through outreach and education and adjusts signage and infrastructure surrounding schools.

While this position has similar outreach components to the work, it is unusual that this position be allocated to an Environmental Programs Assistant classification since the focus of the program is transportation and not environmental compliance/services (which is emphasized in the classification specification). Furthermore, the work of this position, such as working on encroachment impacts, is typically assigned to other engineering or planning-related classifications (and not environmental programs) at other agencies. K&A recommends that Cupertino further evaluate this position to ensure the position is properly classified.

Also, upon further review of the surveyed cities, work performed in support of transportation engineering programs (such as performing or assisting in traffic studies, including review of simple traffic control plans, accident analysis, channelization, traffic volume and speed studies; and assisting the public in responding to complaints and answering questions related to traffic and traffic safety) was typically performed by Engineering Technician (or similar positions) further supporting the market staffing review of these positions together, as well as additional review of the allocation of the position to the appropriate classification.

Both the Engineering Technician and Environmental Programs Assistant provide programmatic and technical support to professional engineers. As compared to the market, Cupertino is staffed 0.7 FTE below the market for the Engineering Technician and 1.0 FTE above the market for the Environmental Programs Assistant, and overall is in alignment with the market. Thus, K&A does not make any recommendation to adjust staffing.

#### Traffic Signal Technician and Technician Apprentice

The Traffic Signal Technician Apprentice and Traffic Signal Technician perform electrical tasks in the maintenance and repair of traffic signal equipment. They inspect and troubleshoot traffic signal systems; adjust, repair, replace, modify, or remove defective equipment, electric or



electronic and mechanical components, controllers, relays, switches, fuses, timers, and other parts. This class may also assist in the design of electrical circuits and systems for traffic signals.

The market staffing average shows these positions are overstaffed at 1.6 FTE. Upon further review of the market, the work performed by the Traffic Signal Technician and the Technician Apprentice are typically contracted out, as is the case at Dublin, Menlo Park, and Newark, or performed by maintenance worker positions assigned to streets. The work is not allocated to a specific Traffic Signal classification and is incorporated into the work of broader maintenance classifications. For example, the Equipment Maintenance Worker at Milpitas performs various maintenance tasks within the equipment maintenance program including maintenance and repair of pumps, traffic signals and controllers and traffic lighting systems, as well as performing other maintenance, repair and adjustment of engines, gear boxes, clutches, pumps, valves, switches, street lights, traffic signals and poles. Thus, the Traffic Signal Technician and Traffic Signal Technician Apprentice will be included in the review and discussion on staffing in the Streets Division (see below).

### Environmental Programs

The Public Works Environmental Program performs two major functions, as described below:

1. The Non-Point Source program manages Cupertino's compliance with its state-mandated Municipal Regional Stormwater National Pollutant Discharge Elimination System (NPDES) permit; provides program and policy development and implementation of state-mandated activities including complaint response and enforcement programs; conducts annual interdepartmental staff training, scheduled business and construction site inspections and review of private development plans to ensure compliance with low impact development (LID); and new Green Infrastructure Plan development requirements. Staff are responsible for calculating storm drain fees annually to submit to the County for collection on property tax bills, writing an annual report to the Regional Water Quality Control Board to verify and document Cupertino's compliance with Clean Water Act mandates; and engaging and educating the public via articles in the Cupertino Scene, webpage development, visits to businesses and presentations at local schools and community events. Implementation and annual progress assessment of an eight-year litter reduction plan are among the requirements of the Cupertino's Non-Point Source program.

Staff are responsible for ensuring compliance with the Municipal Regional Stormwater Permit (MRP 2.0) by reviewing and processing permit applications and conditions of approval. Staff also coordinate urban runoff pollution and erosion prevention activities with other departments, divisions, and private businesses. The division is required to perform several mandated activities such as catch basin cleanings, post-construction oversight of permanent stormwater treatment measures installed at private new and redeveloped sites, oversight of construction best management practices during private and public construction, conducting inspections and investigations, responding to



complaints and educating staff and local businesses on best management practices. Staff also represent Cupertino on various county and regional committees.

2. The Resource Recovery program manages Cupertino’s garbage and recycling franchised hauler contract and provides garbage and recycling customer service for residents and business owners; develops and implements programs and policy to comply with AB 939 source reduction and recycling mandates; oversees the free compost giveaway at Stevens Creek Quarry and the associated property lease and trucking agreement for the compost site; and represents Cupertino on countywide committees. The public education and outreach programs led by this division include visits to businesses and apartment complexes to provide recycling instruction, kitchen containers, and visual materials; presentations at events and schools and employee training for businesses on-site as needed. The program coordinates many complimentary activities with the Sustainability Program in the Office of the City Manager.

Staff is tasked with meeting State AB 939 requirements to divert a minimum of 50% of citywide waste from landfill and achieve State AB 341 goal of 75% diversion by 2020. Staff are responsible for ensuring compliance with state requirements, providing community outreach and education (such as community events, working with the school district on projects and providing informational materials to property owners) to inform the community of requirements and programs, and conducting studies to evaluate future services and programs. Finally, staff are responsible for managing service contracts such as garbage and recycling collection.

The Environmental Services Division also maintains storm drain system including inlet and outfall structures, 2,216 storm drain inlets and collection system, provides annual cleaning and inspection of all inlets and ensures compliance with stormwater pollution prevention requirements.

#### Environmental Programs Manager

The Environmental Programs Manager is tasked with the oversight of Cupertino’s environmental programs and staff performing professional and technical support to those programs. The Environmental Programs Division includes stormwater pollution prevention, solid waste and recycling programs and related activities. This position collaborates with the Planning and Engineering Divisions on implementing a variety of projects, including installation of permanent treatment measures to meet low impact design requirements. This position also administers various contracts, handles rate setting, and monitors contract compliance and performance and ensures that franchise agreements for solid waste collection and disposal are followed per operations plans, policies and standards.

#### Environmental Program Specialist

The Environmental Program Specialist provides specialized professional and technical support related to all programs under the responsibility of the Environmental Programs Division,



including stormwater pollution prevention, solid waste and recycling programs, household hazardous waste and related activities; conducts field investigations and audits of residential and commercial facilities to determine compliance with applicable federal and state laws, codes, ordinances, specifications and departmental regulations; fosters cooperative working relationships with various public and private agencies, organizations and groups; conducts public outreach events and activities; and provides specialized and professional assistance to the Environmental Programs Manager.

#### Environmental Compliance Technician

This position is responsible for administering and managing Cupertino's stormwater Industrial/Commercial Discharger (IND) and Illicit Discharge Detection and Elimination (IDDE) inspection/enforcement programs including solid waste and recycling program compliance; performs inspection, enforcement and educational functions pertaining to compliance with the California State Municipal Regional Permit (MRP), Cupertino Municipal Code, ordinances and Cupertino policies in areas of stormwater, integrated solid waste, household hazardous waste and related environmental projects as assigned.

#### Environmental Program Assistant

Environmental Program Assistant performs program outreach and education and analytical and administrative duties to support assigned programs and activities. This position is responsible for overseeing all administrative services for the division; participates in interagency and stakeholder meetings and makes community presentations; provides incentive, support and technical assistance to the residential and business community; coordinates and hosts various staff training meetings; implements projects such as litter cleanup, trash sorting, data collection and report writing to evaluate and demonstrate Cupertino's compliance with the state's urban runoff and water quality mandates as well as its waste reduction mandates. In addition, this position assesses and measures Cupertino's progress on zero waste initiatives related to mandatory recycling and composting; minimal use and safe disposal of hazardous products; reduced use of disposable service ware and packaging citywide, especially related to food and beverages; and will represent Cupertino on regional environmental public education ad hoc and sub-groups to increase community awareness and participation in environmental stewardship. This position also may be tasked with monitoring solid waste agreements in adherence Cupertino procurement policies and state requirements; participating in city, countywide and regional events and festivals; capturing data and providing analysis; tracking community engagement and outreach visits for reporting; and assisting with preparation of required state, regional and city annual reports.

There are many laws that mandate environmental compliance standards and governmental agencies that require compliance reporting. A newer law that is coming into effect is the statewide effort is to reduce Short-Lived Climate Pollutants (SLCP). These SLCP reduction efforts



became mandated by law in 2016, through SB 1383. SB 1383 establishes targets to achieve a 50 percent reduction in the level of the statewide disposal of organic waste from the 2014 level by 2020 and a 75 percent reduction by 2025 (California Department of Resources Recycling and Recovery, 2019). With the SLCP reduction efforts becoming law, it will impact statewide reporting requirements and functions performed by the Environmental Programs Division staff.

The market data shows that Cupertino’s Environmental Program is staffed at higher levels in this area: 0.5 FTE above the market for the Environmental Program Manager, 0.5 FTE above the market for the Environmental Program Specialist, 0.5 FTE above the market for the Environmental Compliance Technician and 2.0 FTE above the market for the Environmental Programs Assistant.

Upon further review of the surveyed cities, at five of the cities the environmental program work was either performed by in-house engineering staff, contracted out and/or performed by agreement with a joint power authority (JPA). This is consistent with K&A’s market experience that most cities collaborate at the County level or with neighboring cities through JPA formation leveraging efforts related to environmental programs and services.

Furthermore, one city did have an environmental services division with 2.25 FTE allocated; however, this city also contracted approximately \$360,000 per year specifically for environmental programs. Another city had its own environmental services division (with limited contracted services) and staffed the division with 5.0 FTE, similar to Cupertino. Thus, while Cupertino is staffed above the market, when taking a closer look at the surveyed cities, there was only one city that provided a similar level of services in-house and the staffing at this city was in alignment with Cupertino. All the other cities utilized contractors and/or JPAs to support in-house environmental program staff. For this reason, K&A does not make any recommendations to adjust staffing levels for the Environmental Services Division.

#### **Maintenance Divisions – Streets, Grounds, Trees and Right of Way, and Facilities and Fleet**

The PW Service Center Administration program manages public works maintenance operations including major divisions of streets, grounds, trees and medians, and facilities and fleet and other divisions (signs/markings, storm drain, sidewalk, curb and gutter, overpasses and stormwater); provides administrative support to maintenance staff, supervisors and management; provides oversight of contracted services (street sweeping, janitorial and other maintenance and minor public works contracts); manages Sheriff’s Work Furlough Program; and collaborates with Engineering for asset improvements beyond routine maintenance. Finally, the division administers the environmental materials program at the Service Center including solid waste disposal, safety inspections and handling/disposal/reporting on city-generated hazardous waste and materials; and providing for street cleaning as needed.

Generally, Cupertino is staffed above the market in each of the Maintenance Divisions including Streets, Grounds, Trees and Right of Way, and Facilities and Fleet. Prior to the discussion that



follows on each division, the roles and responsibilities of the division and the specific positions where Cupertino deviates from the market, it is useful to have an understanding of the budget that each surveyed city has allocated to contract services for the Public Works Department. The budgeted amounts for contract services specific to Public Works is presented in the table below.

**Table 13. Contract Services Budget – Public Works**

City	2020 PW Contract Services Budget	2021 Contract Field Maintenance Services / Total PW Contract Budget
Cupertino	\$4,246,272	\$976k/\$4,292k
Campbell	\$1,694,216	\$709k/\$1,321k
Dublin	\$9,270,747	\$6,888k/\$9,552k
Gilroy	-----	----
Menlo Park	\$5,789,235	----
Milpitas	\$5,383,976	----/\$4,122k
Newark	\$6,403,000	\$2,818k/\$3,758k
San Ramon	\$15,301,714	\$13,464k/\$15,213k

The purpose of showing the contract services budget for each surveyed city provides some understanding as to why Cupertino’s staffing levels, specifically in the maintenance divisions, are in some areas significantly above the market average. The first column shows the total budget for public works contract services. Based on the table above, Cupertino has the second lowest budget for contract services. The second column shows the contract budget for field maintenance services (streets, grounds, trees and ROWs), which are the areas where Cupertino is most significantly higher staffed. Looking specifically at field maintenance services contracted out, the contact spending was in line with Campbell and Newark but significantly less than Dublin and San Ramon. Through conversations with comparator public works management staff we obtained more detail about contracted services:

- Campbell budgeted \$457,000 for contracted services including centerline striping, sidewalk and receptacle cleaning, specialized/emergency street repairs and traffic work orders, storm drain repairs, parking lot and garage cleaning, sidewalk, emergency curb and gutter repair, storm drain filter and interceptor cleaning, trash capture devices, and traffic improvements. Grounds and ROW contracted services of \$252,000 included downtown tree treatments, landscape maintenance, park maintenance, scheduled tree pruning and maintenance, tree replacements, and emergency tree work. Facilities maintenance was also contracted out.
- Dublin maintenance services are provided to the City under several contracts with private companies. The largest and primary maintenance contract is with MCE Corporation which provides concrete, paving and landscaping services. Contract maintenance includes streets, street landscaping, facilities, and parks. Dublin did not provide any performance





metrics to evaluate the state of their infrastructure. Accordingly, we did not include their staffing numbers in the averages.

- Menlo Park and Newark contract out streetlights and traffic signal maintenance and signage and pavement markings (Newark at a cost of \$509,000). Both cities also contract out tree maintenance.
- Menlo Park contracts out asphalt and concrete.
- Milpitas contracts out park maintenance.
- Newark contracts out tree, median, and landscape maintenance services contracted at a cost of \$478,000.
- San Ramon contracts out storm drain maintenance, major asphalt and concrete repairs, all tree maintenance, and landscaping.

### Service Center Superintendent

The Service Center Superintendent is the management level classification that plans, organizes, oversees, coordinates and reviews the work of staff performing difficult and complex professional, technical and administrative support within the operation and maintenance divisions of the Public Works Department which includes the streets, trees/right of way, grounds, facilities and fleet divisions. This position oversees the operation and maintenance of a wide variety of public works infrastructure and other programs and coordinates assigned activities with other departments and outside agencies and provides complex and responsible support to the Assistant Director of Public Works, Director of Public Works and others in areas of expertise.

Based on the market, Cupertino is staffed 0.4 FTE above the market. In taking a closer look at the market, three cities, Campbell, Newark, and San Ramon, had a similar management structure to Cupertino with supervisors overseeing each division and reporting to 1.0 FTE allocated to a higher-level management position, like the Superintendent. It should be noted that Newark did not utilize the lead worker level and San Ramon is the comparator most in line with Cupertino's internal PW staffing levels. Dublin, which contracted out all of their individual contributor maintenance work, allocated 0.5 FTE to a higher-level management position to oversee assigned supervisors, and the remaining cities did not have a higher-level management position. Based on the staffing levels within Cupertino, the allocation of this resource, to ensure that expected service levels are met, overall policies and procedures are adhered to, purchases and contracts are administered appropriately, and process improvements are continually assessed and recommended, seems appropriate.

There was feedback from management and staff that there is a lack of clarity around the role and responsibilities of the Service Center Superintendent and overlap in the role and responsibilities with the Public Works Supervisors. Thus, K&A recommends that Cupertino further define and communicate the role of the Superintendent to ensure that maximum value is obtained from the position, particularly as it comes to planning for city initiatives, continual process improvement, and developing performance metrics.





## Streets

The Street Maintenance Division is responsible for 142 miles of streets, 2,200 storm drain inlets, 2,920 city-owned streetlights, parking lot lights and park lighting, street barricades, graffiti cleanup, street sweeping of residential and commercial areas and urban runoff pollution prevention. Staff also maintain sidewalks, curbs, and gutters by maintaining concrete improvement in response to complaints and coordinating with scheduled asphalt improvements. Staff also are responsible for the preventative maintenance of street pavement program including performing stop-gap maintenance of arterial, collector and residential streets and oversight and management of contracted pavement maintenance projects.

The Streets Division also maintains street regulatory and informational signs, street striping, markings, and legends by coordinating and responding to work orders from the Traffic Engineer and maintaining assets in compliance with the Manual of Uniform Traffic Control Devices. Staff also are responsible for removing graffiti in street right-of-way. Staff are responsible for ensuring proper documentation and inventory of trees, sidewalk repair, vehicle and equipment, streetlights and stormwater pollution; maintains records of complaints and requests for services (by tracking responses through computer programs and written service request forms); processing payments for services and materials; supporting the Engineering Division in collection of field data, review of improvement drawings and development of capital improvement projects; and maintaining, leading and implementing the Injury and Illness Prevention Program.

The Sheriff's Work Furlough Program supplements existing Service Center staffing and reduces the number of full-time maintenance workers required. Individuals in the program perform manual labor duties including trash pick-up, weed control, right-of-way maintenance and sandbag filling. We did not find that many other cities availed themselves of this type of program but did utilize temporary or seasonal workers, which have all been curtailed this year due to the pandemic.

### Street Lighting Worker

The Street Lighting Worker performs maintenance and repair of the City's street lighting system including troubleshooting and repair of streetlight ballasts, capacitors, photocells, and related circuits. We found that at least half of the comparators contracted out this work with only one comparator utilizing this specialized classification utilized at Cupertino.

### Maintenance Worker I/II

The Maintenance Worker I/II assigned to Streets perform the following duties:

- Performs construction, maintenance, and repair activities of City streets and roadways to ensure safe and efficient access for the public, including alleys, sidewalks, curbs and gutters, roadway base and sub-base, guard rails, asphalt pavement, crack seal application,



concrete repair, traffic and street sign installation, repair, and reflectivity, and pavement markings.

- Provides installation, maintenance, and repair of traffic signs, including making signs, and installing signposts and signs in accordance with federal, state, and City codes.
- Participates in the fabrication and repair of City signs including street name signs and signposts; installs and maintains municipal signposts, signs, and pavement markings. Performs legend painting and striping of City streets and parking lots using appropriate materials.
- Performs inspection, maintenance, and repair activities of City storm drain and sanitation systems and facilities to ensure safe and efficient access for the public, including concrete and open channels, creeks, pipes, drains, detention basins, and drop inlets.
- Operates construction and concrete cutting and breaking equipment such as a jackhammer; constructs concrete forms, places concrete, and assists in finishing concrete and masonry work.

Traffic Signal Technician and Apprentice

Finally, the Traffic Signal Technician and Apprentice perform electrical tasks in the maintenance and repair of traffic signal equipment. They inspect and troubleshoot traffic signal systems; adjust, repair, replace, modify, or remove defective equipment, electric or electronic and mechanical components, controllers, relays, switches, fuses, timers, and other parts. This class may also assist in the design of electrical circuits and systems for traffic signals. The reason for including the Traffic Signal Technician and Apprentice under the discussion of the Streets Division is because it was difficult to separately allocate positions to Traffic Signal maintenance as the work was often performed by broader maintenance workers responsible for other aspects of streets and street light maintenance. For example, the Equipment Maintenance Worker at Milpitas performs various maintenance tasks within the equipment maintenance program including maintenance and repair of pumps, traffic signals and controllers and traffic lighting systems, as well as performing other maintenance, repair and adjustment of engines, gear boxes, clutches, pumps, valves, switches, street lights, traffic signals and poles. Additionally, half of the comparators contract out these services.

**Table 14. Workload Metrics – Streets Division**

City	Miles of Centerline Streets	Number of Storm Drain Inlets	Number of Traffic Signs	Number of Street Lights	Number of Park Lights
Cupertino	142	2216	9645	3200	480
Campbell	95	-----	-----	2000	700
Dublin*	151.3	3303	3000	4800	600
Gilroy	-----	-----	-----	450	-----
Menlo Park*	97	-----	4000	2200	-----



City	Miles of Centerline Streets	Number of Storm Drain Inlets	Number of Traffic Signs	Number of Street Lights	Number of Park Lights
Milpitas	298	2999	6000	5141	159
Newark	100	-----	-----	2850	-----
San Ramon	240	4574	4692	7000	295
<b>Averages</b>	<b>160</b>	<b>3273</b>	<b>5467</b>	<b>3455</b>	<b>447</b>

\*Comparator contracts majority or all this work.

Based on the market, in looking at all the positions together, Cupertino has 14 FTE allocated whereas the market staffing average for all these positions is approximately 7.4 FTE including traffic signals maintenance. The City’s performance measures related to streets infrastructure are captured in Table 15. There were noticeable differences in performance and response times with Cupertino’s performance leading the group.

**Table 15. Performance Metrics – Streets Division**

City	Maintenance Worker I/II/III FTE	Storm Drain Inspections / Clean Outs	LED Lighting Y/N	Sidewalk / Pathway Repair	Streetlight Repair	Pavement Condition Index
Cupertino	9.0	100% / 100% annually	Yes	2 days	3 days	85
Campbell	6.0	100% / 100% annually	Yes - Partial	5 days	10 days	70
Dublin	-----	NPG	Yes - Partial	NPG	3-5 days	86
Gilroy	9.0	NPG	Yes - Partial	NPG	NPG	NPG
Menlo Park	3.25	100% / 33.3% annually	Yes - Partial	NPG	10 days	78
Milpitas	8.0	----- / 100% annually	Yes - Partial	1 day	5 days	NPG
Newark	5.0	NPG	No	NPG	NPG	75
San Ramon	9.0	At least 100%/ 100% annually	Yes - Partial	10 days	NPG	78
<b>Averages</b>	<b>7.0</b>	<b>100% / 83%</b>	<b>Yes - Partial</b>	<b>4.5 days</b>	<b>7 days</b>	<b>79</b>

*Orange fill indicates the comparator contracts out for the majority of, or all this work.*

Based on conversation with public works management and review of budget documents we found specific information revealing operational differences as follows:

**Storm Drain Clean Outs:** The City of Cupertino inspects and cleans 100% of their inlets annually. Trash capture devices are cleaned more frequently. The City also has a vactor truck and systematically cleaned lines eliminating root mass. The community approved a ballot measure



assessing an additional storm drain fee to facilitate storm drain backflow maintenance. All of this work is done in house. We found that within the comparator group:

- San Ramon contracts out the entirety of this work and they inspect and clean 100% of these inlets at least annually.
- Campbell inspects and cleans 100% of their inlets annually.
- Dublin just accomplished an 80% trash load reduction through the installation of full stormwater trash capture devices in the past year.
- Milpitas has no performance measurements related to storm drain except that they are all cleaned at least annually.
- Menlo Park strived to inspect all storm drains annually with only 1/3 cleaned, based on need.

Asphalt/Concrete: Cupertino contracts this work out at an annual cost of \$4M (\$3M asphalt, \$1M concrete).

- Dublin and San Ramon contract out this work.
- Campbell and Milpitas complete asphalt work internally and contracts out Concrete.
- Newark and Menlo Park contract out asphalt and concrete. All pothole repairs are done in house.

Centerline Striping: All striping and reflectors in the road are inspected and replaced as needed on an annual basis by maintenance staff.

- Campbell, Menlo Park, and San Ramon contract this work out.

Roadway Signs Repaired: Cupertino responds to issues within 4 working days. Also unique in that it makes signs in house.

- San Ramon has a 10-day response time.
- Milpitas has a sign shop.
- Menlo Park contracts this work out.

Sidewalk/Pathway: Cupertino responds to a complaint within 2 working days and strives to resolve issues within 5 working days with at least a temporary fix.

- San Ramon has a 10-day response time and strives for addressing within 5 days.
- Campbell has accomplished sidewalk repair requests being inspected and marked within 5 working days.
- Milpitas contracts out sidewalk repairs but considering bringing in house next year. Responds as able.
- Menlo Park contracts this work out.

Streetlight Repair: Cupertino has a 3-day response time. Significant number of lights, including parks and trail lights, were replaced 10 years ago to LED therefore failure rate has been



historically low. Smart streetlights are not established yet but are a future goal. Starting to see more failures on photocells.

- San Ramon has a 2-week response time; half of their streetlights are new.
- Campbell strives to have 85% of their streetlight outages repaired within 10 working days. They are in the process of converting street lighting to LED.
- Dublin is planning on piloting a “Smart City” streetlight project.
- Newark is looking for opportunity to convert lighting to LED. Newark contracts out the majority of streetlight and traffic signal maintenance and is in the process of implementing a Streets Policy. Goal is to maintain assets within budget limitations with no specific performance measures provided.
- Milpitas assesses their streetlight assets to be in fair to good condition. Started LED conversion 5 years ago but grant money has been depleted so conversion slowed. Contracting out street and light maintenance. There is no goal for streetlight repair response time; these are handled as they are able.
- Campbell strives to complete 80% of traffic work orders within 20 days.

Pavement Condition Index (PCI): Cupertino goal is to keep an 82 PCI which is the standard set by the Metropolitan Transportation Commission (MTC) required in order to receive federal funds. If an agency falls below 70 they would lose flexibility in how federal funds could be spent. However, the City is currently operating above standards at 85.

- San Ramon maintains at 78.
- Campbell’s average is 73 with 61% of their total pavement infrastructure at a PCI of 70 or greater.
- Dublin maintains an 85 PCI and has a goal of establishing a policy in this upcoming fiscal year.
- Newark expressed a goal of improving their PCI.

Cupertino is most similar to Milpitas and San Ramon, in terms of miles and infrastructure maintained and each of the cities have comparable staff levels at the Maintenance Worker I/II/III levels; Cupertino at 9.0 FTE and the comparators at 9.0 and 8.0 FTEs respectively. Considering the superior service levels, measured by response time and above average asset conditions, Cupertino is appropriately staffed in this division.

### Trees and Right of Way

The Trees and Right of Way Division is responsible for the maintenance of 31.54 developed acres of median island hardscapes and softscapes and 21.69 undeveloped acres of city right-of-way (ROW), landscaped area of the Lawrence trail and landscaped areas of the Don Burnett Bridge. Staff also maintain and improve water efficient programming of irrigation systems and ensure compliance with Department of Pesticide Regulation requirements for weed and pest control. The Division also maintains approximately 23,300 street and ROW trees including trimming,



spraying, staking, pest management and other tree care and maintenance services. Staff respond to community requests for trimming and maintenance services, remove diseased and damaged trees, plant replacement trees and ensures Cupertino’s standing as a Tree City USA program. Finally, staff are responsible for updating the annual forestry work plan and overseeing street tree maintenance and removal contracts.

The Maintenance Worker I/II assigned to Trees and Right of Way perform the following duties:

- Performs maintenance of trees and shrubs, including pruning branches and removing trees safely and efficiently.
- Performs construction and maintenance of right of way hardscapes and irrigation systems.
- Operates various power tree equipment, including but not limited to aerial tree trucks, power pruners, chain saws, chippers, blowers, traffic control equipment and related equipment as required.
- Performs the installation and maintenance of median improvements, planting and trimming of trees.
- Perform a wide variety of skilled tasks involving the use of power equipment and hand tools in the areas of grounds maintenance, irrigation system installation and maintenance, tree / shrub trimming maintenance and traffic control.
- Receives and responds to requests from other City Departments, City staff, and the public for emergency clean-up, including requests to remove debris, garbage, glass, and other materials from accident sites and other areas
- Ensures compliance with safety regulations.

The Maintenance Worker III leads, trains, oversees, sets priorities, and directs the work of assigned staff on a project or day-to-day basis.

**Table 16. Workload Metrics – Trees and Right-of-Way (Medians) Division**

City	Maintenance Worker I/II/III FTE	Number of Trees Maintained	Acres of Medians Maintained
Cupertino	16.0	23,000	53
Campbell	1.0	-----	-----
Dublin*	-----	13,000	32.9
Gilroy	9.0	-----	-----
Menlo Park	3.25	20,000	-----
Milpitas	4.0	15,400	125
Newark	0.0	18,000	-----
San Ramon*	9.0	45,505	420
<b>Averages</b>	<b>6.0</b>	<b>22,484</b>	<b>158</b>

\*Comparator contracts out majority or all this work.



Based on the market staffing analysis, focusing on the Maintenance Worker I/II/III level, Cupertino is staffed above the market by 10.0 FTE. Cupertino measures its performance related to tree maintenance by the number of trees maintained and number of trees planted and removed.

Number of Trees Maintained: Cupertino had a complete inventory and preventative maintenance plan for all trees based on the needs of each species, which have variable timelines and prescribed maintenance. Accordingly, its goal is to maintain 100% of their trees according to this schedule. Cupertino contracts out any tree work involving high voltage lines. Notable metrics related to the comparators are:

- Campbell is still in the process of completing its citywide tree inventory.
- Dublin contracts out this work.
- Menlo Park has a goal to trim trees every five years but is not species specific. Expressed difficulty filling positions in house due to prevailing wage. City arborist and 3 individuals supplemented by seasonal workers. The city has made good progress the last two years but are still way behind. Median/ROW maintenance is contracted out.
- Milpitas has a back log of roughly 60 tree trimming requests. They contract out block/grid pruning and an internal crew that does emergency or individual requests.
- San Ramon contracts out the tree maintenance and uses grid pruning as a 4-year cycle with no indication that pruning is species specific. They are not currently a Tree City but are planning on obtaining this certification within the year. The City is experiencing significant challenges and costs related to the historical placement of water meters near trees in right of ways causing regular damage due to root invasion.

Trees planted/Trees Removed: Cupertino planted approximately 192 trees and removed approximately 155. Notable metrics related to the comparators are:

- Dublin is compliant with Tree City USA standards.
- Menlo Park reported 350 tree removal permits last year. Trees are deteriorating as a result of the drought. Heritage tree removal is a 2 to 1 replant ratio and is now focused on value of the tree. Removed trees are appraised and replanting is comparable in value. This policy has been in place since July 1st.
- Milpitas completed their Urban Forest Plan a year ago. A consultant performed an inventory and health assessment. This plan covered what to plant, where to plant and what to remove. Their tree planting program was just established an up to this point and they have not planted many trees.
- San Ramon does not have an Urban Forest Plan and has a 2 to 1 replacement ratio in the Dougherty Valley area with a 1 to 1 replacement ratio in the rest of the City.

In looking at the table, Cupertino maintains approximately the same number of trees as Menlo Park and more trees and less acres of medians than Milpitas. Menlo Park and Milpitas staff the



function at 3.25 and 4.0 FTE, respectively. However, both comparator city programs are far behind in their tree maintenance backlog and in proactive operations with a well-established Urban Forest plan. In addition, some of the services, such as median maintenance is contracted out. San Ramon has considerably greater infrastructure within their Tree and Median operations than Cupertino and staffs at 9.0 FTEs. San Ramon 9 FTEs are primarily focused on the irrigation issues with many of them originating from the installation of water meters too close to the trees. However, as indicated, the City contracts out all of their tree maintenance work. Due to the inordinate tree root issues that San Ramon is dealing with, Cupertino could evaluate their staffing in this service area is appropriate relative to other competing demands.

### Grounds

The Grounds Division is responsible for daily, weekly, quarterly, semi-annual and/or annual maintenance such as mowing, irrigation of parks and open space areas, sports field preparation, opening of public restrooms at park sites, playground maintenance, graffiti abatement, pond/fountain maintenance and waterfowl management at:

- 15 parks totaling 88 acres;
- 9 open space/sport field areas totaling 52 acres at select Cupertino Unified School District sites (through a joint use agreement);
- Landscape maintenance of 13 City of Cupertino public buildings totaling 52 acres; and
- Nature-scape maintenance of McClellan Park and Blackberry Farm.

The division coordinates with the Parks and Recreation Department to accommodate public/youth sports groups and other service requests.

The Maintenance Worker I/II assigned to Grounds perform the following duties:

- Performs preventative landscape, turf, parks, grounds, and sports field maintenance on a scheduled basis; including litter removal, graffiti abatement, hard surface sweeping/blowing, leaf removal, mulching, planting, trimming, edging, fertilizing and mowing, and integrated pest management.
- Installs, repairs, and replaces landscape irrigation systems; installs, adjusts, maintains, and repairs electronic timers, and repairs electronic and hydraulic valves and controllers; replaces and repairs a wide variety of sprinkler heads and lines by removing, disassembling, and replacing worn or broken parts.
- Repairs and constructs, structures, and retaining walls; repairs, fabricates, and replaces park and playground equipment.
- Inspects City premises for graffiti vandalism; uses appropriate equipment to remove graffiti.
- Operates and maintains a variety of hand and power landscaping tools and equipment, including hand and power mowers, small tractors, spreaders, edgers, blowers, hedge trimmers, weed eaters, chainsaws, rakes, shovels, brooms, and other tools.





- Maintains accurate logs and records of work performed and materials and equipment used.
- Ensures compliance with safety regulations.

**Table 17. Workload Metrics – Grounds Division**

City	Maintenance Worker I/II/III FTE	Acres of Park and Landscape Maintained	Number of Sports Fields	Number of Parks and Open Spaces
Cupertino	19.0	140	9	15
Campbell	9.0	-----	14	13
Dublin*	----	211	25	21
Gilroy	9.0	-----	14	29
Menlo Park	3.3	250	9	16
Milpitas	4.0	195	15	36
Newark	10.0	156	1	9
San Ramon*	29.0	372	81	63
<b>Averages</b>	<b>12.0</b>	<b>221</b>	<b>21</b>	<b>25</b>

\*Comparator contracts majority or all this work.

The market staffing average shows the Grounds Division as being overstaffed by 7.0 FTE at the Maintenance Worker I/II/III level. When looking at the workload metrics, Cupertino does not maintain as much acreage of parks and landscape, as well as the number of sports fields, parks and open spaces as compared to the surveyed cities. However, the grounds work, including pesticide application, is done in house. In addition, backflow prevention inspections and related compliance work is done in house. Playgrounds and related inspections are occasionally contracted out to a third party. Notable metrics related to the comparators are:

- San Ramon contracts out all landscaping, including pesticide application, without overall performance metrics to compare. Playground inspections occur monthly.
- Milpitas splits up Park maintenance with most contracted out. Milpitas has 38 parks of which 27 are managed by contractor. The remaining 11 are city maintained and they do not perform inspections due to resources.
- Campbell strives to maintain 90% of its landscaped medians, parks, and civic grounds at a rating of 3 out of 4 and has achieved 88% of this goal. Campbell contracts out some landscape maintenance services totaling \$12k.
- Menlo Park performs mowing and street sweeping in house, but other parks maintenance is contracted out.

Cupertino is most like Menlo Park and Milpitas in terms of infrastructure and the cities are staffed with 3.25 FTE and 4.0 FTE, respectively. However, both of these cities contract out significant services. Cupertino’s staffing levels are again most in line with San Ramon, which has 10 more FTEs. The City of San Ramon does have significantly greater infrastructure to maintain but does



also contract out landscaping services that are performed in house within Cupertino. Once again, the maintenance standards are at a higher level within the City of Cupertino than most of the comparators, although the performance metrics are not as clearly defined as the other service areas. Overall, the staffing level differences are more in line with market practices than the numbers indicate. The City should further define performance metrics and evaluate efficiencies in this division to ensure that staffing is providing appropriate value relative to other competing service demands within the City.

**Facilities and Fleet**

The Facilities and Fleet Division maintain all fleet equipment including vehicles (103), rolling stock (10), trailers (28), riding mowers (16) and all power equipment (357). The division also manages the above ground fuel storage tank by maintaining and inspecting tanks at the Service Center. Staff perform fabrication, welding, and repair of all fleet equipment; develop specifications and bids for purchase of fleet equipment; ensure vehicles conform to State emission regulations; and maintain inventory and surplus of fleet equipment.

The Facilities and Fleet Division also maintains public buildings and facilities at parks including water displays, pool maintenance and equipment maintenance. Maintenance responsibilities include heating, ventilation, and air conditioning, building equipment, emergency generators, communication, and security systems.

**Table 18. Workload Metrics – Facilities and Fleet Division**

City	Maintenance Worker I/II/III FTE	Number of Vehicles / Equipment	Number of City Buildings	Square Ft. of Buildings Maintained
Cupertino	8.0	103 / 411	43	205,000 sf
Campbell	3.0	-----	7	-----
Dublin*	-----	7	15	250,000 sf
Gilroy	14.0	186 / 250	57	306,867 sf
Menlo Park	5.25	200 / 50	26	250,000 sf
Milpitas	9.0	606	20	501,000 sf
Newark	4.0	190	35	212,000 sf
San Ramon*	11.0	201	15	299,886 sf
<b>Averages</b>	<b>7.8</b>	<b>213 / 237</b>	<b>27</b>	<b>289,250 sf</b>

\*Comparator contracts majority or all this work.

Equipment Mechanic and Lead Equipment Mechanic

The Equipment Mechanic and Lead Equipment Mechanic perform inspection, repair and/or overhaul of wide variety of city-owned or operated heavy and light and small equipment, their components, systems, and accessories. The Lead Equipment Mechanic provides lead supervision over assigned vehicle/equipment maintenance personnel and advises the Public Works



Supervisor of the need to outsource repairs and the need for new vehicle/equipment procurement.

As compared to the surveyed cities, excluding Dublin and San Ramon (both cities contract out a significant portion of the work), Cupertino is staffed in alignment with the market. Specifically, based on the workload metrics of number of vehicles/equipment maintained and the number of mechanics allocated, on average one mechanic is responsible for approximately 175 vehicles/equipment. At Cupertino, the ratio is 257 per mechanic which is higher than the market; and based on the market ratio of mechanic to equipment/vehicle and total number of equipment/vehicles maintained, Cupertino should be at 3.0 FTE. Thus, while the market average numbers show that Cupertino is aligned with the market, when considering the number of vehicles and equipment maintained by staff, Cupertino might consider adding an Equipment Mechanic.

#### Maintenance Worker I/II

The Maintenance Worker I/II performs a variety of skilled maintenance work in the construction, modification, maintenance, repair and operation of City fleet and other City facilities; and uses and operates a variety of manual and power tools and light to heavy power-driven equipment. When assigned to Facilities and Fleet, the positions perform the following duties:

- Performs maintenance activities of all municipal facilities including buildings, parks, fields, and the Community Pool including mechanical, plumbing, electrical and security systems.
- Performs custodial activities including sweeping, scrubbing, mopping, stripping, waxing and polishing floors; vacuums and sweeps rugs and carpets.
- Locks and unlocks doors, gates, and windows as appropriate; turns lights on and off as needed; maintains security of assigned areas according to established guidelines; sets alarms as appropriate.
- Reports safety, sanitary, and fire hazards to appropriate personnel; reports need for maintenance and repairs to appropriate authority.
- Assists other maintenance and mechanical personnel in the performance of minor or emergency duties.
- Fuels equipment and checks fluid levels; lubricates vehicles and equipment; inspects brakes; inspects steering and suspension systems.
- Installs warning beacons, headlights, taillights, and minor electrical devices.
- Picks up and delivers parts and makes service calls.
- Washes or steam cleans autos, trucks, and heavy equipment.

As compared to the market Cupertino is staffed approximately 2.4 FTE above the market and when, excluding Campbell and Dublin (both cities contract out a significant portion of the work), Cupertino is staffed approximately 1.0 FTE above the market. When looking at the number of facilities and square footage maintained, Cupertino staff maintain more facilities (average is



approximately 27 facilities) and less square footage (average is approximately 317,500 square feet). Although Cupertino staff are responsible for a smaller area (square footage), the number and diversity of facilities maintained are greater than the surveyed cities and so K&A does not recommend any adjustment to staffing levels for the Maintenance Worker I/II.

### Public Works – Other

Based on the staffing analysis, there is approximately 0.7 additional FTE, on average, allocated to the Public Works Department at the surveyed cities. The other FTEs reflects positions that Cupertino currently does not have and/or allocate staff to. For example, of the surveyed cities with “other” positions in the Public Works Department, one city had Contracts Specialist and Custodial Services Supervisor classifications, one city had a Landscape Inspector and another city had Maintenance Coordinator and Program Manager classifications.

K&A does not recommend that Cupertino add these additional positions as some of these functions are currently contracted out or are performed by different classifications at Cupertino. However, with regard to comparator cities having a centralized contract administration and/or procurement position, Cupertino might further evaluate the effectiveness and efficiency of having various staff performing procurement and contract management duties versus a single position within Public Works to gain operational efficiencies (see discussion under Senior Management Analyst in Public Works Department above).

### Organizational Structure Observations and Common Market Practices

Generally, the Public Works Department is organized appropriately. Cupertino deviates from the market by organizing the department into specific divisions (such as Development, Capital Improvement and Transportation); whereas at the surveyed cities, the divisions are broader like having an Engineering Division that includes development, CIP administration and transportation. Specifically, at the other cities, the Public Works department divisions were organized as follows:

- Campbell: Traffic Engineering, Engineering (including development, CIP administration and environmental programs) and Maintenance
- Dublin: Engineering (including development and CIP administration), Environmental Services, Maintenance and Transportation
- Gilroy: Engineering (including development, CIP administration, traffic, and environmental programs) and Operations
- Menlo Park: Engineering (including development, CIP administration and environmental programs), Maintenance and Transportation
- Milpitas: Environmental Programs, Utility Operations and Maintenance, Fleet and Facilities and Streets, Landscape and Parks; Note: Engineering is a separate department.
- Newark: Building Inspection, Engineering Services (development, CIP administration and environmental programs) and Maintenance



- San Ramon: Engineering (including development, CIP administration and environmental programs), Public Services and Transportation.

Although Cupertino is more specific in how divisions are organized, in the future, there may be opportunity to reorganize the department into broader divisions which could increase efficiencies in processes (more centrally shared resources), opportunities for cross-training and decrease in interdivisional communications and processes.

Another issue raised regarding the department’s organizational structure was the role of the Maintenance Worker I/II/III, Public Works Supervisor and Service Center Superintendent. Management and staff feedback was that the Maintenance Worker II’s are providing lead direction to assigned staff in the field, that Maintenance Worker III’s are performing more administrative and supervisory functions and less advanced journey lead functions and that the Public Works Supervisors were performing less supervision of day-to-day functions and spending more time performing higher-level administrative and managerial functions. These functions overlap with the role and responsibilities of the Service Center Superintendent. We recommend Cupertino further evaluate the current classification structure of Maintenance Worker I/II/III, Public Works Supervisor and Service Center Superintendent to ensure that the work is organized properly and the work performed is allocated to the proper classification levels within the Service Center.

It was further suggested that the Maintenance Worker I/II classifications should be evaluated to consider a less broad classification series and perhaps separate out the various functions into a more specialized and narrow classification structure. However, this is not in alignment with market practices (it should be noted that this type of class structure was only found in one of the surveyed cities and the remaining cities either contract out their maintenance functions or have a broad and general maintenance worker classification series similar to Cupertino’s Maintenance Worker I/II structure) and would not support any potential restructuring in the future to broader divisions.

### Performance Standards

As revealed above, Cupertino is not above average in the volume of infrastructure maintained but the performance standards and cutting-edge practices related to public works asset management was found to be superior. Cupertino has a complete and accurate inventory of all public works assets and their related location and condition, an established and consistently achieved preventive maintenance program, as well as an above average response time related to unplanned work orders. Their use of technology is advanced over the comparators with examples such as all maintenance staff were equipped with tablets in the field to record in real time their progress in maintaining Cupertino’s infrastructure and all city trees are QR coded for community access. No other comparator was as sophisticated. Cupertino regularly achieves goals that are aspirational to the comparator cities. Their streets have been assessed to be the



best in the Bay Area, their sports fields are considered the best in Silicon Valley, and their pavement conditions were maintained at an above expected level.

We found that in comparison, the comparator cities' public works systems were not as comprehensive or reliable, with several at the infancy stages. For example, Dublin just completed a condition assessment of facilities and parks. Dublin has established a future goal of developing a preventative maintenance and capital replacement schedules for buildings and parks. Milpitas' asset management program is in an infancy stage. Menlo Park indicated a recent accomplishment of an asset inventory by location but was still assessing asset condition and have not yet established performance metrics. San Ramon just switched to a new asset management program and is in the process of assessing the condition of all assets.

The American Public Works Association (APWA) recommends that local governments initiate programs to enhance the quality of management for their facilities and grounds by centralizing property management responsibilities, inventorying all assets, including condition assessments of all structures, facilities and assets, the results of which would be used in planning needed maintenance and construction programs. The City of Cupertino has accomplished this and has developed a plan to ensure proactive asset maintenance at a level not accomplished by the comparator cities.

The use and condition standards of infrastructure assets are relative to the subjective view of the community. The City's approach to asset management should be focused on the goals of the community and do not directly transfer from community to community. The key question for Cupertino is to determine the standards that are acceptable to their community and manage accordingly. The current performance standards have been set based on accomplishment, not necessarily based on community expectations.

Cupertino's Public Works staffing is significantly higher than that of the comparator group but through further research and evaluation, the higher staffing numbers reveal a superior and best practice maintenance function. It should also be noted that since the pandemic, Cupertino has experienced a quadruple increase in the number of work orders received from the public. The City should continue to assess if there is an optimal sweet spot between staffing, response times, and asset condition standards, considering the threshold of tolerance in deferring maintenance and competing staffing demands of other City operations. Cupertino may want to review performance metrics, such as evaluating response times for greater efficiencies, particularly in the Trees, ROW, and Grounds maintenance area, to ensure maximum return on investment and community expectations. Reduction in staff may impact performance, which could be acceptable considering the high level that exists. Cupertino should and redefine performance goals to reflect community expectations and determine staffing levels accordingly.



### Summary of Recommendations

In summary, there are six recommended changes for the Public Works Department for Cupertino to consider:

- Review the responsibilities and duties of the Senior Management Analyst position, consider reallocation of duties and centralizing the contracts and procurement functions within the department to this position to gain operational efficiencies in Public Works program areas.
- Evaluate if the Environmental Program Assistant in Transportation providing support to the Safe Routes 2 Schools program is properly classified.
- Define and distinguish the role and responsibilities of the Superintendent position from the Supervisors to reduce redundancy and increase efficiency of operations.
- Continue to establish production metrics to further evaluate return on staffing levels in the Streets, Trees and Right of Way, and Grounds Divisions.
- Cupertino might consider adding an Equipment Mechanic to the Fleet Division when considering the number of vehicles and equipment maintained by staff.
- Evaluate the current classification structure of Maintenance Worker I/II/III, Public Works Supervisor and Service Center Superintendent to ensure that the work is organized properly, and the work performed is allocated to the proper classification levels within the Service Center.

### Department Culture

Cupertino is organized such that there are several departments responsible for a wide diversity of services and/or programs that are separated into different divisions or program areas. This has an unintended impact on the department, resulting in a lack of cohesive departmental culture and decreased interdepartmental coordination, which consequently leads to unintended workflow and organizational issues within the department.

One way to address organizational culture issues within a department (i.e., between divisions/programs), is to increase communication between divisions and programs. Interdepartmental and interdivisional communication problems often result from information gaps which can only be rectified by communication. Each department and division could identify what information they feel is necessary for others to know. Information should be separated out into two categories: need to know and nice to know (Katcher, 2013). Interdepartmental (and interdivisional) processes can be documented and include when and how information flows between departments (and divisions) (Katcher, 2013).

Furthermore, department management meetings (including division and program managers and supervisors) should be held on a regular, on-going basis. There can be two types of meetings: 1)





monthly meetings to discuss department initiatives and performance-based budget monitoring (i.e., discuss, learn about, and debate department strategy and goals encompassing clearly articulated action plans, outcomes, deadlines and accountability); and 2) weekly or biweekly meetings to discuss day-to-day operational and tactical issues with the agenda of these meetings including status updates but also time allocated to discuss department-wide issues and/or work on problem-solving. Information discussed at these meetings should then be filtered down to staff as appropriate.

There are also various mechanisms that can be used to encourage feedback and communication from employees to management (bottom-to-top), such as employee attitude surveys and face-to-face meetings with supervisors to discuss matters regularly or as needed. The “employee voice” is the expression of opinions, suggestions, and concerns about organizational practices, policies, and strategy. Related to employee engagement, employee voice warrants focus and awareness by organizational leaders. Participatory management practices create opportunities for employee voice by encouraging upward communication and incorporating employee input into organizational decisions.

Management should continue soliciting employee input in its daily operations recognizing that this requires commitment by management to follow up on suggestions from employees. By not following-up, employees may begin to feel that management is only asking for appearance purposes but do not really value the employees’ input. Although employees may not agree with the decisions, they will have an understanding as to why decisions are made, and actions taken. The reason for having this follow-up before the action is taken is so that employees are not caught off guard and feel informed prior to any changes. Taking these steps will help to build and sustain trust between management and employees.

Deliberate open communication has an enormous impact on organizational culture, employee engagement and productivity. More than ever before, knowledge, learning and innovation are critical to an agency’s sustainability. Effective organizational communication contributes to cohesive organizational culture, higher levels of employee engagement and morale, learning, teamwork, safety, innovation, and quality of decision-making. Cupertino management and staff have and should continue to embrace these concepts by making communication a top priority.

## CONCLUSION

Based upon the data collected from management, staff and the market survey, K&A identified various options for staffing changes to be implemented (and not implemented) to continue and improve operational efficiencies and the provision of outstanding service to Cupertino’s community, and the city’s sustainability. The current social and economic environment, including the COVID pandemic, has impacted the roles and responsibilities of staff and management and created uncertainty in terms of future operations and services to some respect. With this in mind, the purpose and focus of this report is to assist the leadership team to identify priority staffing





areas of focus to enable organizational improvements with the goal of sustaining the quality of services and programs and identifying, developing and implementing innovative changes for improvement.

It has been a pleasure working with the City of Cupertino on this critical project. Please do not hesitate to contact us if we can provide any additional information or clarification regarding this report.



## Appendix I

### Summary of Recommendations



Appendix I
Summary of Recommendations

Table with 2 columns: Recommendation ID and Recommendation Description. Rows include City Manager's Office (Recommendations #1-6) and Administrative Services.



<b>COMMUNITY DEVELOPMENT AND PLANNING DEPARTMENT</b>	
Recommendation #7	Based on the staffing analysis and further review of performance metrics, K&A recommends that Cupertino consider reducing the number of building inspectors from 4 FTE to 3 FTE.
Recommendation #8	Based on the staffing analysis and further review of performance metrics, K&A recommends that Cupertino consider reducing the number of permit technicians from 3.0 FTE to 2.0 FTE. The third FTE could be allocated to a Planning Technician position as there was feedback received that there is a need for additional technical support for the Planning Division and to be in alignment with market practices. <ul style="list-style-type: none"> <li>• Alternatively, Cupertino might consider creating a broader Community Development Technician to incorporate both permit technician and planning technician duties. Two positions could be assigned to perform permit technician work and one position could be assigned to planning technician work.</li> </ul>
Recommendation #9	For the Office Assistant and Administrative Assistant, based on the market information, K&A recommends that Cupertino consider either maintaining the current number of FTE and/or reallocating one FTE to a Planning Technician position. If Cupertino were to maintain the current number of FTE, there is opportunity for either the Office Assistant and/or Administrative Assistant to provide administrative support to the code enforcement staff including receiving and tracking incoming calls and complaints and writing reports, and alleviate some of the staffing and resource challenges experienced by the Senior Code Enforcement Officer staff.
Recommendation #10	Cupertino should further evaluate the need for an additional code enforcement officer; and as part of this evaluation, Cupertino should consider that there is an opportunity to reallocate the Office Assistant's and/or Administrative Assistant's time to provide additional administrative support to the Senior Code Enforcement Officers by receiving and tracking incoming calls and complaints and writing reports.
Recommendation #11	For the Deputy City Clerk, there is no recommendation to change staffing levels. There is a recommendation for Cupertino to conduct a classification review of the Deputy City Clerk position to classify the position to align with best practices.



<b>INNOVATION AND TECHNOLOGY</b>	
	No changes recommended.
<b>PARKS AND RECREATION</b>	
Recommendation #12	While Cupertino's staffing levels deviate from the market, we do not recommend that Cupertino adjust staffing levels. Rather, we recommend that Cupertino focus on how the positions are allocated (i.e., to which programs/facilities), more specifically the positions allocated to the senior center, to identify opportunities, if any, to either contract out some of the services provided (such as travel program coordination) and/or reallocate a position to support other areas, such as special events, in the department.
Recommendation #13	Prior to making any staffing decisions and changes related to the case manager position, the department review the purpose and scope of the program and services offered and then align staff (in-house or contract; full-time or part-time) in accordance with the needs of the department and community served.
Recommendation #14	Cupertino review if efficiencies can be gained with systems integration to reduce the amount of time required for data entry, and then review staffing levels at the Office Assistant and Senior Office Assistant positions in the Parks and Recreation Department.
Recommendation #15	Review the Assistant Director position in more detail focusing on the purpose of the position and how can this position be best used to meet the needs of the Director, department, Cupertino and community.
<b>PUBLIC WORKS</b>	
Recommendation #16	Review the responsibilities and duties of the Senior Management Analyst position, consider reallocation of duties and centralizing the contracts and procurement functions within the department to this position to gain operational efficiencies in Public Works program areas.
Recommendation #17	Evaluate if the Environmental Program Assistant in Transportation providing support to the Safe Routes 2 Schools program is properly classified.



Recommendation #18	Define and distinguish the role and responsibilities of the Superintendent position from the Supervisors to reduce redundancy and increase efficiency of operations.
Recommendation #19	Continue to establish production metrics to further evaluate return on staffing levels in the Streets Trees and Right of Way and Grounds Divisions.
Recommendation #20	Cupertino might consider adding an Equipment Mechanic to the Fleet Division when considering the number of vehicles and equipment maintained by staff.
Recommendation #21	Evaluate the current classification structure of Maintenance Worker I/II/III, Public Works Supervisor and Service Center Superintendent to ensure that the work is organized properly, and the work performed is allocated to the proper classification levels within the Service Center.



## Appendix II

### Staffing Analysis

**Appendix II  
City of Cupertino  
Staffing Analysis**

City of Cupertino Department & Divisions	Cupertino	Campbell	Dublin	Gilroy	Menlo Park	Milpitas	Newark	San Ramon	Market Average	% of Market Total Staffing
<b>Administration - City Manager's Office</b>	<b>16.75</b>	<b>8.00</b>	<b>11.45</b>	<b>8.00</b>	<b>8.00</b>	<b>14.00</b>	<b>9.40</b>	<b>10.00</b>	<b>9.7</b>	<b>7.9%</b>
CITY MANAGER	1.0	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.0	0.8%
ASSISTANT CITY MANAGER	1.0	0.33	0.85	1.00	1.00	1.00	1.00	0.00	0.8	0.6%
EXECUTIVE ASSISTANT TO THE CITY MANAGER	0.0	1.00	1.50	0.00	1.00	1.00	1.00	1.00	1.0	0.8%
ASSISTANT TO THE CITY MANAGER	1.0	0.33	1.00	1.00	1.00	1.00	1.00	0.50	0.8	0.7%
SUSTAINABILITY MANAGER	1.0	0.00	0.00	0.00	1.00	0.00	0.00	0.00	0.1	0.1%
MANAGEMENT ANALYST	1.0	1.00	1.00	1.00	0.00	0.00	0.00	0.00	0.5	0.4%
EMERGENCY SERVICES COORDINATOR	1.0	0.00	0.25	0.00	0.00	1.00	0.00	0.00	0.1	0.1%
SENIOR OFFICE ASSISTANT	0.0	0.00	0.50	0.00	0.00	1.00	0.00	0.00	0.2	0.2%
<b>COMMUNICATIONS</b>										
PUBLIC INFORMATION OFFICER	1.0	0.33	0.15	1.00	1.00	1.00	0.00	0.50	0.5	0.4%
COMMUNITY OUTREACH SPECIALIST	1.0	0.00	1.00	0.00	0.00	0.00	0.00	1.00	0.3	0.2%
COMMUNITY RELATIONS COORDINATOR	0.75	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0	0.0%
MULTIMEDIA COMMUNICATIONS SPECIALIST	3.0	0.00	0.00	0.00	0.00	1.00	0.00	0.00	0.1	0.1%
SENIOR OFFICE ASSISTANT	1.0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0	0.0%
<b>CITY CLERK'S OFFICE</b>										
CITY CLERK	1.0	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.0	0.8%
DEPUTY CITY CLERK	1.0	1.00	1.00	1.00	1.00	1.00	0.00	1.00	0.8	0.7%
SENIOR OFFICE ASSISTANT	1.0	0.00	0.50	1.00	0.00	1.00	0.00	1.00	0.4	0.3%
<b>CITY ATTORNEY'S OFFICE</b>										
LEGAL SERVICES MANAGER	1.0	0.00	0.00	0.00	0.00	0.00	1.00	1.00	0.3	0.2%



**Appendix II  
City of Cupertino  
Staffing Analysis**

City of Cupertino Department & Divisions	Cupertino	Campbell	Dublin	Gilroy	Menlo Park	Milpitas	Newark	San Ramon	Market Average	% of Market Total Staffing
OTHER	0.0	2.00	1.70	0.00	0.00	3.00	3.40	2.00	1.8	1.5%

**Appendix II  
City of Cupertino  
Staffing Analysis**

<b>City of Cupertino Department &amp; Divisions</b>	<b>Cupertino</b>	<b>Campbell</b>	<b>Dublin</b>	<b>Gilroy</b>	<b>Menlo Park</b>	<b>Milpitas</b>	<b>Newark</b>	<b>San Ramon</b>	<b>Market Average</b>	<b>% of Market Total Staffing</b>
<b>Innovation and Technology</b>	<b>12.0</b>	<b>4.00</b>	<b>3.00</b>	<b>4.00</b>	<b>7.00</b>	<b>12.00</b>	<b>2.85</b>	<b>6.00</b>	<b>4.8</b>	<b>3.9%</b>
CHIEF TECHNOLOGY OFFICER	1.0	0.00	0.00	1.00	1.00	1.00	1.00	0.00	0.5	0.4%
ADMINISTRATIVE ASSISTANT	1.0	0.00	0.00	0.00	0.00	1.00	0.00	0.00	0.1	0.1%
<b>APPLICATIONS</b>										
INNOVATION AND TECHNOLOGY MGR	1.0	0.33	0.33	0.00	0.33	1.00	0.00	0.33	0.3	0.2%
BUSINESS SYSTEMS ANALYST	2.0	1.00	0.00	1.00	1.00	4.00	0.00	0.00	0.8	0.6%
<b>GIS</b>										
INNOVATION AND TECHNOLOGY MGR	1.0	0.33	0.33	0.00	0.33	1.00	0.00	0.33	0.3	0.2%
BUSINESS SYSTEMS ANALYST	1.0	1.00	0.00	0.00	1.00	0.00	0.00	0.00	0.3	0.2%
ENGINEERING TECHNICIAN	1.0	0.00	0.00	0.00	0.00	1.00	0.00	1.00	0.2	0.2%
<b>INFRASTRUCTURE</b>										
INNOVATION AND TECHNOLOGY MGR	1.0	0.33	0.33	0.00	0.33	1.00	0.00	0.33	0.3	0.2%
BUSINESS SYSTEMS ANALYST	1.0	1.00	1.00	1.00	0.00	0.00	0.00	1.00	0.6	0.5%
I.T. ASSISTANT	2.0	0.00	1.00	1.00	3.00	2.00	1.85	2.00	1.4	1.2%
OTHER	0.0	0.00	0.00	0.00	0.00	0.00	0.00	1.00	0.1	0.1%
<b>Administrative Services</b>	<b>16.0</b>	<b>11.80</b>	<b>12.35</b>	<b>19.00</b>	<b>12.50</b>	<b>29.00</b>	<b>11.00</b>	<b>14.00</b>	<b>14.5</b>	<b>11.8%</b>
DIRECTOR OF ADMIN SERVICES	1.0	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.0	0.8%
ADMINISTRATIVE ASSISTANT	1.0	1.80	1.10	0.00	0.00	1.00	0.00	0.00	0.6	0.5%
SENIOR MANAGEMENT ANALYST	1.0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0	0.0%

**Appendix II  
City of Cupertino  
Staffing Analysis**

City of Cupertino Department & Divisions	Cupertino	Campbell	Dublin	Gilroy	Menlo Park	Milpitas	Newark	San Ramon	Market Average	% of Market Total Staffing
<b>FINANCE</b>										
FINANCE MANAGER	1.0	1.00	1.00	2.00	1.00	2.00	1.00	1.00	1.2	1.0%
SENIOR MANAGEMENT ANALYST	1.0	0.00	0.00	0.00	1.00	0.00	0.00	0.00	0.1	0.1%
SENIOR ACCOUNTANT	1.0	0.00	1.00	1.00	0.00	6.00	0.00	1.00	1.0	0.8%
ACCOUNTANT II	2.0	2.00	3.00	1.00	2.00	2.00	1.00	2.00	1.9	1.5%
ACCOUNTING TECHNICIAN	1.0	1.00	2.00	3.00	3.50	3.00	2.00	2.00	2.2	1.8%
ACCOUNT CLERK I/II	3.0	2.00	0.00	6.00	0.00	5.00	2.00	2.00	2.1	1.7%

**Appendix II  
City of Cupertino  
Staffing Analysis**

City of Cupertino Department & Divisions	Cupertino	Campbell	Dublin	Gilroy	Menlo Park	Milpitas	Newark	San Ramon	Market Average	% of Market Total Staffing
<b>HUMAN RESOURCES</b>										
HUMAN RESOURCES MANAGER	1.0	1.00	0.75	1.00	1.00	2.00	1.00	1.00	1.0	0.8%
HUMAN RESOURCES ANALYST II	2.0	1.00	1.00	2.00	2.00	2.00	1.00	1.00	1.3	1.1%
HUMAN RESOURCES TECHNICIAN	1.0	1.00	1.50	2.00	1.00	3.00	2.00	3.00	1.8	1.5%
OTHER	0.0	0.00	0.00	0.00	0.00	2.00	0.00	0.00	0.2	0.1%
<b>Parks and Recreation</b>	<b>29.0</b>	<b>19.25</b>	<b>23.10</b>	<b>13.00</b>	<b>39.91</b>	<b>20.75</b>	<b>15.50</b>	<b>33.00</b>	<b>22.4</b>	<b>18.3%</b>
DIRECTOR OF PARKS REC	1.0	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.0	0.8%
ASST DIR RECREATION COMM SVCS	1.0	1.00	1.00	1.00	1.00	0.00	0.00	1.00	0.7	0.6%
MANAGEMENT ANALYST	1.0	0.00	2.00	2.00	0.00	0.00	0.00	2.00	0.9	0.7%
ADMINISTRATIVE ASSISTANT	1.0	1.00	0.00	0.00	0.00	0.00	2.50	1.00	0.8	0.6%
<b>BUSINESS AND COMMUNITY SERVICES</b>										
RECREATION SUPERVISOR	1.0	0.75	1.00	0.67	0.60	1.00	0.67	1.67	0.9	0.7%
RECREATION COORDINATOR	1.0	2.00	2.33	1.33	1.90	1.00	1.00	3.33	1.8	1.5%
COMMUNITY OUTREACH SPECIALIST	1.0	1.00	1.00	0.00	0.00	1.00	0.00	0.00	0.5	0.4%
FACILITY ATTENDANT	2.0	0.00	1.50	0.50	0.40	3.00	0.00	1.50	0.8	0.7%
SENIOR OFFICE ASSISTANT/OFFICE ASSISTANT	3.0	0.00	1.55	0.33	0.75	2.00	0.00	2.33	0.9	0.7%
<b>SPORTS AND OUTSIDE RECREATION</b>										
RECREATION SUPERVISOR	1.0	1.00	1.00	0.67	0.90	1.00	0.67	1.67	0.9	0.8%
RECREATION COORDINATOR	6.0	2.00	2.33	1.33	1.60	2.00	3.00	3.33	2.3	1.8%
OFFICE ASSISTANT	1.0	0.00	0.55	0.33	0.00	1.75	0.00	2.33	0.5	0.4%

**Appendix II  
City of Cupertino  
Staffing Analysis**

<b>City of Cupertino Department &amp; Divisions</b>	<b>Cupertino</b>	<b>Campbell</b>	<b>Dublin</b>	<b>Gilroy</b>	<b>Menlo Park</b>	<b>Milpitas</b>	<b>Newark</b>	<b>San Ramon</b>	<b>Market Average</b>	<b>% of Market Total Staffing</b>
<b>RECREATION AND EDUCATION</b>										
RECREATION SUPERVISOR	1.0	3.00	1.00	0.67	1.50	1.00	0.67	1.67	1.3	1.1%
RECREATION COORDINATOR	5.0	4.00	2.33	2.33	1.50	3.00	1.00	3.33	2.4	2.0%
CASE MANAGER	1.0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0	0.0%
FACILITY ATTENDANT	1.0	1.00	1.50	0.50	0.00	0.00	0.00	1.50	0.7	0.6%
SENIOR OFFICE ASSISTANT	1.0	1.00	1.00	0.33	2.76	1.00	0.00	2.33	1.1	0.9%
OTHER	0.0	0.50	2.00	0.00	26.00	2.00	5.00	3.00	5.0	4.1%
<b>Community Development and Planning</b>	<b>29.0</b>	<b>17.75</b>	<b>17.65</b>	<b>31.00</b>	<b>26.75</b>	<b>46.00</b>	<b>12.60</b>	<b>17.00</b>	<b>21.9</b>	<b>17.9%</b>
DIRECTOR OF COMM DEVELOPMENT	1.0	1.00	1.00	1.00	1.00	2.00	1.00	1.00	1.1	0.9%
ASSISTANT DIRECTOR COMM DEV/BUILDING OFFICIAL	1.0	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.0	0.8%
<b>BUILDING</b>										
DEPUTY BUILDING OFFICIAL	1.0	0.00	0.00	1.00	0.00	1.00	1.00	0.00	0.4	0.3%
SENIOR BUILDING INSPECTOR	1.0	0.50	0.00	0.00	2.00	3.00	1.00	1.00	0.9	0.7%
BUILDING INSPECTOR	4.0	3.00	0.00	4.00	2.00	9.00	1.00	2.00	2.4	2.0%
PLAN CHECK ENGINEER	1.0	0.50	1.00	0.00	0.00	5.00	0.00	1.00	0.8	0.7%
PERMIT CENTER MANAGER	1.0	0.00	1.00	0.00	1.00	1.00	0.00	1.00	0.5	0.4%
PERMIT TECHNICIAN	3.0	1.00	1.00	2.00	4.00	2.00	1.00	2.00	1.7	1.4%
SENIOR CODE ENFORCEMENT OFFICER	3.0	0.00	1.00	0.00	0.00	1.00	0.00	0.00	0.3	0.2%
CODE ENFORCEMENT OFFICER	0.0	3.75	0.00	6.00	1.00	5.00	4.00	1.00	2.8	2.3%
OFFICE ASSISTANT	1.0	0.00	1.00	1.00	1.00	1.00	0.00	0.00	0.5	0.4%
ADMINISTRATIVE ASSISTANT	1.0	0.00	1.75	0.00	0.00	1.00	0.00	0.00	0.5	0.4%

**Appendix II  
City of Cupertino  
Staffing Analysis**

<b>City of Cupertino Department &amp; Divisions</b>	<b>Cupertino</b>	<b>Campbell</b>	<b>Dublin</b>	<b>Gilroy</b>	<b>Menlo Park</b>	<b>Milpitas</b>	<b>Newark</b>	<b>San Ramon</b>	<b>Market Average</b>	<b>% of Market Total Staffing</b>
<b>PLANNING</b>										
PLANNING MANAGER	2.0	0.20	1.30	2.00	3.00	2.00	0.00	1.00	1.2	1.0%
MANAGEMENT ANALYST	1.0	0.00	0.00	2.00	2.00	1.00	0.00	0.00	0.6	0.5%
SENIOR PLANNER	2.0	2.80	3.00	2.00	3.00	4.00	0.00	1.00	2.1	1.8%
ASSISTANT/ASSOCIATE PLANNER	5.0	2.00	2.00	2.00	3.75	5.00	2.00	3.00	2.6	2.1%
DEPUTY CITY CLERK	1.0	1.00	2.60	1.00	0.00	1.00	0.60	1.00	1.1	0.9%
OTHER	0.0	1.00	0.00	6.00	2.00	1.00	0.00	1.00	1.3	1.1%

**Appendix II  
City of Cupertino  
Staffing Analysis**

City of Cupertino Department & Divisions	Cupertino	Campbell	Dublin	Gilroy	Menlo Park	Milpitas	Newark	San Ramon	Market Average	% of Market Total Staffing
<b>Public Works</b>	<b>89.0</b>	<b>45.90</b>	<b>16.70</b>	<b>65.00</b>	<b>55.00</b>	<b>70.00</b>	<b>36.88</b>	<b>102.75</b>	<b>49.1</b>	<b>40.1%</b>
DIRECTOR OF PUBLIC WORKS	1.0	1.00	1.00	1.00	1.00	1.00	1.00	1.00	1.0	0.8%
SENIOR MANAGEMENT ANALYST	1.0	0.00	1.00	2.00	2.00	2.00	1.00	5.00	1.6	1.3%
ADMINISTRATIVE ASSISTANT	1.0	1.00	2.45	0.00	1.00	1.00	1.44	1.00	1.3	1.0%
PARK RESTORATION IMPV MGR	1.0	0.00	1.00	0.00	0.00	0.00	0.00	0.00	0.2	0.2%
<b>ENVIRONMENTAL PROGRAMS</b>										
ENVIRONMENTAL PROGRAMS MANAGER	1.0	1.00	0.25	1.00	0.00	2.00	0.00	1.00	0.6	0.5%
ENVIRONMENTAL PROGRAMS ASSISTANT	2.0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0	0.0%
ENV. PROG. COMPLIANCE TECHNICIAN	1.0	1.00	1.00	0.00	0.00	1.00	0.00	0.00	0.5	0.4%
ENV. PROGRAMS SPECIALIST	1.0	2.00	1.00	0.00	0.00	2.00	0.00	0.00	0.7	0.6%
<b>ENGINEERING</b>										
ASST DIR PUBLIC WORKS/CITY ENGINEER	1.0	1.00	1.00	2.00	2.00	2.00	1.00	2.00	1.4	1.2%
SENIOR CIVIL ENGINEER	2.0	1.00	1.00	2.00	7.00	8.00	2.00	3.00	2.9	2.3%
ASSISTANT/ASSOCIATE ENGINEER	0.0	2.00	1.70	5.00	11.00	6.00	2.00	6.00	4.1	3.4%
ENGINEERING TECHNICIAN	1.0	1.00	1.00	3.00	3.00	2.00	1.00	2.00	1.7	1.4%
PUBLIC WORKS INSPECTOR	1.0	0.50	0.50	0.00	1.50	1.50	0.50	2.50	0.8	0.7%
<b>CAPITAL IMPROVEMENT</b>										
CAPITAL IMPV PROGRAM MGR	1.0	0.00	1.00	0.00	0.00	1.00	0.00	0.00	0.3	0.2%
PUBLIC WORKS PROJECT MANAGER (1 position is LT)	4.0	0.00	0.00	0.00	1.00	0.00	0.00	0.00	0.1	0.1%
<b>TRANSPORTATION</b>										

**Appendix II  
City of Cupertino  
Staffing Analysis**

<b>City of Cupertino Department &amp; Divisions</b>	<b>Cupertino</b>	<b>Campbell</b>	<b>Dublin</b>	<b>Gilroy</b>	<b>Menlo Park</b>	<b>Milpitas</b>	<b>Newark</b>	<b>San Ramon</b>	<b>Market Average</b>	<b>% of Market Total Staffing</b>
TRANSPORTATION MANAGER	1.0	0.00	0.50	0.00	0.00	1.00	0.00	1.00	0.3	0.2%
SENIOR PLANNER (Position is LT Transportation Planner)	1.0	1.00	0.30	0.00	1.00	0.00	0.00	0.00	0.3	0.3%
ASSISTANT ENGINEER	2.0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0	0.0%
TRAFFIC SIGNAL TECHNICIAN	1.0	1.00	0.00	0.00	0.00	0.00	0.00	0.00	0.2	0.1%
TRAFFIC SIGNAL TECH-APPRENTICE	1.0	1.00	0.00	0.00	0.00	0.00	0.00	0.00	0.2	0.1%
ENVIRONMENTAL PROGRAMS ASSISTANT	1.0	0.00	0.00	0.00	0.00	0.00	0.00	0.00	0.0	0.0%



**Appendix II  
City of Cupertino  
Staffing Analysis**

City of Cupertino Department & Divisions	Cupertino	Campbell	Dublin	Gilroy	Menlo Park	Milpitas	Newark	San Ramon	Market Average	% of Market Total Staffing
<b>SERVICE CENTER</b>										
SERVICE CENTER SUPERINTENDENT	1.0	1.00	0.50	0.00	0.00	0.00	1.00	1.00	0.6	0.5%
ADMINISTRATIVE ASSISTANT	1.0	1.00	0.00	0.00	0.00	0.00	1.44	2.75	0.7	0.6%
SENIOR OFFICE ASSISTANT	1.0	2.00	0.00	0.00	0.00	2.00	0.00	1.00	0.6	0.5%
<b>STREETS</b>										
PUBLIC WORKS SUPERVISOR	1.0	2.00	0.25	1.00	1.00	0.33	0.50	2.00	0.9	0.8%
PUBLIC WORKS INSPECTOR	1.0	0.50	0.50	0.00	1.50	1.50	0.50	2.50	0.8	0.7%
STREET LIGHT WORKER	1.0	0.00	0.00	0.00	0.00	2.00	0.00	0.00	0.2	0.1%
MAINTENANCE WORKER III	1.0	2.00	0.00	1.25	1.25	1.00	0.00	3.00	1.0	0.8%
MAINTENANCE WORKER I/II	8.0	4.00	0.00	7.75	2.00	7.00	5.00	6.00	4.1	3.3%
<b>GROUNDS</b>										
PUBLIC WORKS SUPERVISOR	1.0	1.00	0.25	1.00	1.00	0.33	0.50	4.00	1.0	0.8%
MAINTENANCE WORKER III	2.0	3.00	0.00	1.25	1.25	0.50	2.00	7.00	1.9	1.6%
MAINTENANCE WORKER I/II	17.0	6.00	0.00	7.75	2.00	3.50	8.00	22.00	6.2	5.1%
<b>TREES AND RIGHT OF WAY</b>										
PUBLIC WORKS SUPERVISOR	1.0	1.00	0.25	1.00	1.00	0.33	0.00	3.00	0.8	0.6%
MAINTENANCE WORKER III	2.0	0.00	0.00	1.25	1.25	0.50	0.00	1.00	0.4	0.4%
MAINTENANCE WORKER I/II	14.0	1.00	0.00	7.75	2.00	3.50	0.00	8.00	2.5	2.0%
<b>FACILITIES AND FLEET</b>										
PUBLIC WORKS SUPERVISOR	1.0	2.00	0.25	2.00	2.00	1.00	0.00	3.00	1.2	1.0%

**Appendix II  
City of Cupertino  
Staffing Analysis**

City of Cupertino Department & Divisions	Cupertino	Campbell	Dublin	Gilroy	Menlo Park	Milpitas	Newark	San Ramon	Market Average	% of Market Total Staffing
LEAD EQUIPMENT MECHANIC	1.0	0.00	0.00	0.00	1.00	1.00	1.00	0.00	0.4	0.3%
EQUIPMENT MECHANIC	1.0	1.90	0.00	3.00	0.00	4.00	2.00	0.00	1.4	1.2%
MAINTENANCE WORKER III	2.0	1.00	0.00	4.25	3.25	1.00	1.00	2.00	1.6	1.3%
MAINTENANCE WORKER I/II	6.0	2.00	0.00	9.75	2.00	8.00	3.00	9.00	4.0	3.2%
OTHER	0.0	0.00	0.00	0.00	2.00	2.00	1.00	1.00	0.7	0.6%
<b>Total Staff</b>	<b>191.75</b>	<b>106.70</b>	<b>84.25</b>	<b>140.00</b>	<b>149.16</b>	<b>191.75</b>	<b>88.23</b>	<b>182.75</b>	<b>122.6</b>	<b>100.0%</b>



## Appendix III

### References



## Appendix II References

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CC 9-7-2021

#10

Westport Plan Check  
Services Agreement

Updated Staff Report  
Desk Item



## COMMUNITY DEVELOPMENT DEPARTMENT

CITY HALL  
10300 TORRE AVENUE • CUPERTINO, CA  
95014-3255 TELEPHONE: (408) 777-3308 • FAX: (408) 777-3333  
CUPERTINO.ORG

### CITY COUNCIL STAFF REPORT

Meeting: September 7, 2021

#### Subject

Supplemental Staff Report regarding the Consideration of a Professional Services Agreement for Plan Check Services for the Westport Cupertino Project and associated budget modifications.

#### Recommended Action

That City Council consider authorizing the City Manager to sign Professional Services Agreements with ICCI for \$210,000 and NV5 for \$90,000 to provide plan check services for the proposed Westport Cupertino project; and, consider approving Budget Modification #2122-161 increasing appropriations by \$300,000 and increasing revenues by \$461,000 in the Community Development Department's Building Division (Accounts 100-73-714 750-031 and 100-73-714 410-415 respectively; page 436-7 of the FY 2021-22 Adopted Budget).

#### Discussion

Several questions were brought up at the first reading of this item at the City Council meeting on August 17, 2021. The following responses have been prepared by staff address these questions.

*Question 1: Include the selection of the consultants in the contract. Could the contract include the names of the third-party consultant?*

Response: Two separate contracts have been prepared and attached, including the names of the selected 3<sup>rd</sup> party consultants: Independent Code Consultants, Inc. (ICCI) and NV5. There were a total of **7** proposals submitted and these two were selected at the recommended funding levels based on the evaluation of the proposals.

*Question 2: Amendment issues for contracts – Is the City Manager empowered to amend contracts of \$175,000 or less?*

Response: Yes, the City Manager currently has authority to amend a contract if 1) the amended contract amount does not exceed \$175,000, and 2) sufficient funding is available.

In this case, the City Council is considering a budget modification to increase expenditures by \$300,000 to cover the ICCI contract for \$210,000 and the NV5 contract for \$90,000. Any increase to the ICCI contract would require City Council approval since it is already over the City Manager's contracting authority of \$175,000. The City Manager would have authority to amend the NV5 contract, but only up to the Manager's \$175,000 authority, and even then only if funding from another budgeted source were available (e.g., the City Manager Discretionary Fund). Also note that any transfer of funding for this purpose would be reported to Council as part of the quarterly budget reporting process.

*Question 3: Request to see notations of expenditures and revenues in Building Plan Review Program (100-73-714)*

Response: The \$300,000 of additional appropriations and \$461,000 of additional revenues were not included in the FY 21-22 Adopted Budget since the budget document was created at a point in time (7/1/2021) before these additional amounts were known. If and when the City Council approves this or any budget modification, the adopted budget is modified by the Council's action and reported out to Council in the quarterly budget reports as well as through the City's financial transparency portal at [www.cupertino.org/open](http://www.cupertino.org/open) by selecting "Amended Budget" in the navigation panel.

In this case, the Building Plan Review Program Budget will be modified to include \$461,000 in additional "Licenses and Permits" revenues and \$300,000 in "Special Projects" expenditures (both on Budget page 437).

*Question 4: How can transparency be ensured for communications related to the plan review of building permit applications for the Westport Cupertino project between the City's 3<sup>rd</sup> party consultant and the applicant?*

Response: A clause in the contract was added requiring the Consultants to copy the City on any direct email correspondence related to plan review between the 3<sup>rd</sup> party consultant and the applicant.

#### Sustainability Impact

No sustainability impact.

#### Fiscal Impact Section:

This item will increase revenues and appropriations in the Community Development Department's Building Division (100-73-714). Increased plan check fee revenue of \$461,000 will be collected from Westport and increased costs of \$300,000 will be incurred for the plan check contracts with ICCI and NV5. Note that the contract costs are approximately 65% of the fees collected per the City's fee schedule.

---

Prepared by: Albert Salvador, Asst. Director, Community Development Department,

Reviewed by: Ben Fu, Community Development Director

Dianne Thompson, Assistant City Manager

Approved for Submission by: Greg Larson, City Manager

Attachments:

A – Draft Contract – ICCI

B – Draft Contract – NV5



CC 09-07-21

#11

Westport Vesting  
Tentative Map

Written Comments

## Cyrah Caburian

---

**From:** Jean Bedord <Jean@bedord.com>  
**Sent:** Tuesday, September 7, 2021 11:20 PM  
**To:** City Clerk  
**Subject:** Public comment , Sept. 7, 2021 Agenda Item #11 Westport Tentative Vesting Map

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please include in written communications

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Good evening, Mayor Paul and council members,

My name is Jean Bedord, and I am a long time Cupertino resident.

I am here tonight to urge you to approve this application by KT Urban to create a separate parcel for the senior below market rate housing at Westport. This project was approved by the city council over a year ago. The project itself is unchanged, but the financing is dependent on creating a separate parcel, a legal requirement unrelated to land use.

Like so many aspects of managing a large project, the paperwork and details need to be satisfied so I urge you to do your job as a council to approve this modification to ensure financing goes ahead. The bike lane on the south side of Stevens Creek Blvd. is a minor issue, so should not stand in the way of approval. Who knows when or even if Caltran will approve plans?

There is a tremendous need for senior housing in Cupertino, so the sooner the better, for this project. Isn't it time to stop dilly-dallying around and get projects under construction? This is a city which produced only 20 units of housing in 2020, of which 19 were ADUs. It's actual production of housing that counts, not entitlement. Why present roadblocks to builders who are actually ready to break ground?

I urge you to unanimously approve this application tonight so residents can finally see construction underway, not a dead shopping center.

Thank you.

CC 9-7-2021

#12

Vallco Town Center SB 35  
Project – Status Update

Supplemental Staff Report  
Response to Council  
Inquires



## CITY MANAGER'S OFFICE

CITY HALL  
10300 TORRE AVENUE • CUPERTINO, CA 95014-3255  
TELEPHONE: (408) 777-3223 • FAX: (408) 777-3366  
CUPERTINO.ORG

## CITY COUNCIL STAFF REPORT

September 7, 2021

### **Subject**

Status Report on the Vallco Town Center SB 35 Development Project  
RESPONSE TO COUNCIL INQUIRIES

### **Recommended Action**

No City Council action required, although the Council may “accept,” “acknowledge,” or “receive” the report.

### **Discussion**

This is a supplemental report provided in response to Council inquiries. Much of this information will also be included in this evening’s presentation. Inquiries have been consolidated and simplified for clarity.

#### **1. Why is this update being provided at this time?**

City Councilmembers requested a sharing of public information regarding the Vallco project given the well-known upcoming September 21, 2021 extension deadline. City staff tried to find an alternative special meeting date prior to September 21, but none were available, so the Mayor approved the City Manager’s recommendation to place this item on the September 7, 2021 agenda and to delay as many of the other scheduled agenda items as possible.

#### **2. Who reviewed and drafted the staff report?**

A draft of the attachment was requested by the City Manager from outside consultants and counsel, which was prepared with assistance from City staff. The attachment was subsequently edited by City staff from Community Development and Public Works as well as the City Attorney and City Manager; while factual information was corrected and grammatical changes made, there were no substantive modifications to the attachment through the review and approval process.

The summary staff report was then drafted by the City Manager and reviewed and edited by staff from Community Development, Public Works and the City

Attorney. The City Manager assumes full responsibility for the content of both the staff report and the attachment.

Any legal opinions expressed in the report or attachment were provided or approved by the City Attorney.

**3. Why was information on the September 21, 2021 extension included?**

While the extension request from the Vallco developer has not yet been received, it is anticipated by September 14. In the interest of full public disclosure, since there was no other Council meeting date available prior to September 21, the report and attachment include information on what is expected to result from that anticipated extension request.

**4. When will more information on any extension request be provided?**

The City will post any extension request on its website within one business day, as well as any determination on that extension request by the City Manager.

**5. Can the City Council direct the City Manager to approve or not approve an extension of the project approval?**

It would be premature to do so, as the applicant has not yet submitted their request for an extension and the basis for their request. Further, legal counsel has determined that under State law, the approval rests at the City Manager level. However, as indicated in the staff report and attachment, City staff and the City Attorney believe that the project developer will likely be able to submit documentation indicating “substantial progress” on the project in keeping with the language and intent of SB 35.

**6. What is the status of environmental investigation and remediation on the site?**

The environmental investigation and remediation onsite is now the critical path item for continuation of the Vallco project. If Vallco had begun full investigation and remediation of the site earlier, that would not be the case. However, the site investigation is now being overseen by the Santa Clara County Department of Environmental Health (SCCDEH), which has assumed regulatory authority over any investigation and remediation required for development of the project.

The contamination issues related to this development have grown significantly over the years as evidenced by the most recent information posted on the State’s GeoTracker website, which shows more areas and substances of concern. One page of results is attached and the full site can be reached at: [https://geotracker.waterboards.ca.gov/profile\\_report.asp?global\\_id=T1000001716](https://geotracker.waterboards.ca.gov/profile_report.asp?global_id=T1000001716). A link to the Geotracker site is also available on the City’s website at [Cupertino.org/vallcosb35](http://Cupertino.org/vallcosb35).

7. **Do the ongoing toxics investigations and remediation requirements allow the City to rescind the prior approval or to reject the extension of the project?**

No, based on the advice of both the City Attorney and outside legal counsel.

8. **Why is outdated or incorrect information included on the City's website for this project?**

Staff has been reluctant to remove prior documentation for the project, even if it was outdated or later determined to be incorrect. However, with Council direction and foreknowledge, staff would be willing to undertake that cleanup of the website at this time.

9. **The County Assessor's website includes maps which are incorrect and do not show existing public easements.**

It is correct that these easements are not shown on the County Assessor's Parcel Number (APN) Maps. The APN maps are solely used for taxation purposes and do not include easements recorded on a property. Easements are typically disclosed through the title report process. No existing public easements have been vacated on the Vallco properties at this time.

10. **Can the City Council reverse the prior approval of the Vallco SB 35 Project for any reason, including inaccurate or incomplete project information at that time or inadequate or inaccurate staff reviews and approval then?**

No, based on the advice of both the City Attorney and outside legal counsel.

11. **Why is there a recommendation to "accept the report?"**

No Council action is required at this time. "Accept the report seemed to be more neutral than "approve the report," although both "acknowledge the report" and "receive the report" would be fine as well, as would a recommendation of "no action required".

12. **What if permit requests show that the Vallco project is not complying or fulfilling the prior project approval, such as not meeting the 2/3rds residential property requirement?**

City staff, as well as the City Manager and the City Attorney, will review every permit to ensure conformance with the approved SB 35 Project. While minor modifications occur in almost every project, the City Manager and City Attorney have informed the Vallco project representatives that any major or substantive modifications will need to be approved through a process as specified by State law.

**Recommended Action**

No City Council action required, although the Council may "accept," "acknowledge," or "receive" the report.

### **Sustainability Impact**

The acceptance of this report will have no sustainability impact. The City is actively seeking measures such as transit improvements that will improve the sustainability of the Vallco Project, but as previously indicated, the City was prohibited from conducting a full environmental review of that project under SB 35.

### **Fiscal Impact**

Direct City costs for plan review and inspections will be covered by fees collected from the Project. City required impact fees will be collected related to parkland, traffic, and housing, although the developer contends that it should not pay those impact fees. General municipal revenues and expenditures likely to result from the Project are unknown given the limited scope of the City's review of the Project under SB 35, but there is a significant risk of a negative fiscal impact of the Project because no environmental review or mitigation was permitted under State law.

---

Prepared by: Greg Larson, Interim City Manager

Reviewed by: Staff from Community Development and Public works  
City Attorney Christopher Jensen

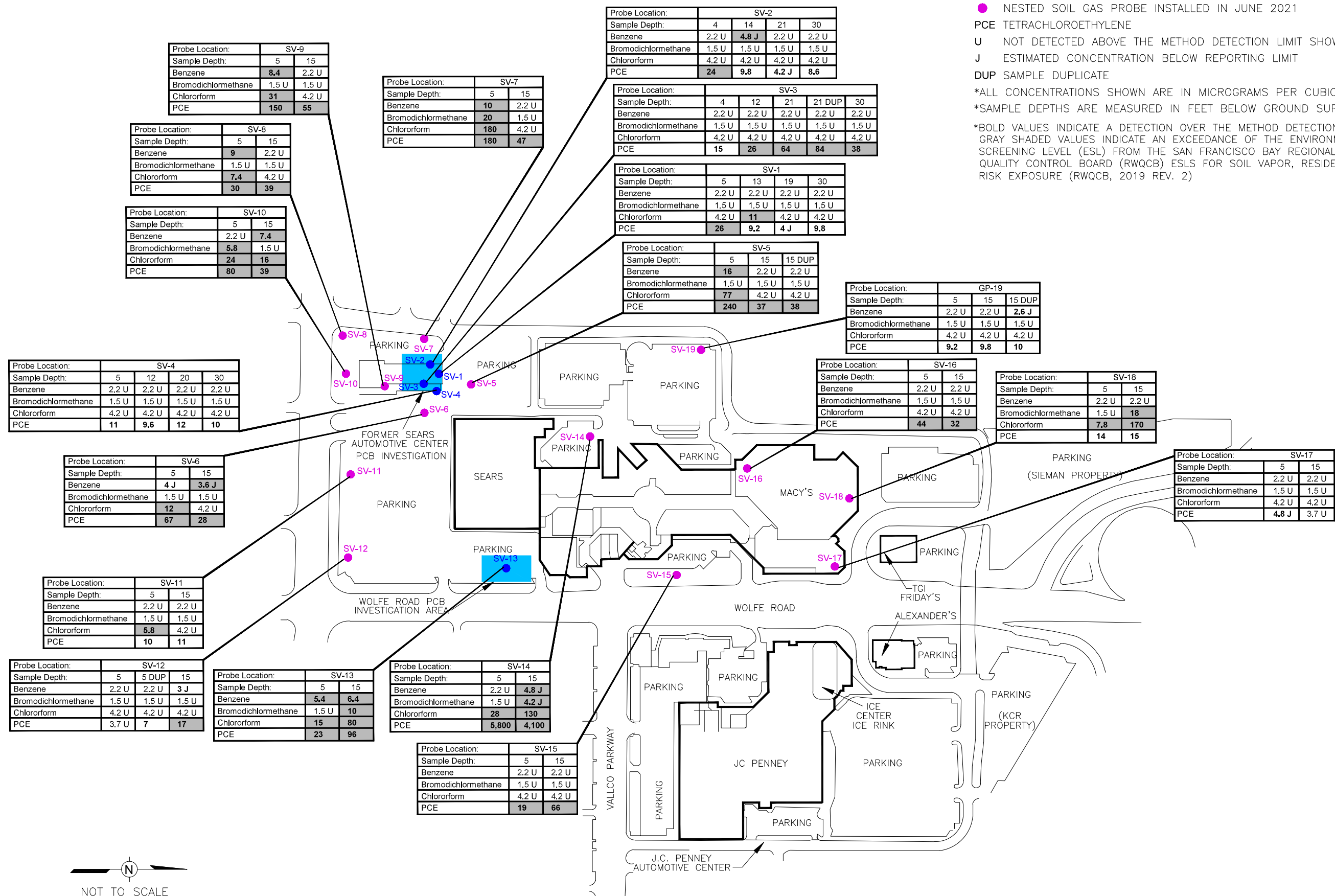
Approved by: Greg Larson, Interim City Manager

Attachment

R:\Acad\CADD\CLIENTS\VALLCO FASHION MALL\31402265.002\cadd\314MN2265.002-001.dwg 7/26/2021 12:32 PM Usiso1166

LEGEND

- PCB INVESTIGATION AREA
- NESTED SOIL GAS PROBE INSTALLED IN NOVEMBER 2020
- NESTED SOIL GAS PROBE INSTALLED IN JUNE 2021
- PCE TETRACHLOROETHYLENE
- U NOT DETECTED ABOVE THE METHOD DETECTION LIMIT SHOWN
- J ESTIMATED CONCENTRATION BELOW REPORTING LIMIT
- DUP SAMPLE DUPLICATE
- \*ALL CONCENTRATIONS SHOWN ARE IN MICROGRAMS PER CUBIC METER ( $\mu\text{g}/\text{m}^3$ )
- \*SAMPLE DEPTHS ARE MEASURED IN FEET BELOW GROUND SURFACE
- \*BOLD VALUES INDICATE A DETECTION OVER THE METHOD DETECTION LIMIT. GRAY SHADED VALUES INDICATE AN EXCEEDANCE OF THE ENVIRONMENTAL SCREENING LEVEL (ESL) FROM THE SAN FRANCISCO BAY REGIONAL WATER QUALITY CONTROL BOARD (RWQCB) ESLs FOR SOIL VAPOR, RESIDENTIAL RISK EXPOSURE (RWQCB, 2019 REV. 2)



Drawn By: LS 7/26/2021  
 Checked: ER 7/26/2021  
 Approved:  
 DWG Name: 314MN2265.002-001

VALLCO FASHION MALL  
 10123 NORTH WOLFE ROAD  
 CUPERTINO, CALIFORNIA  
 PREPARED FOR  
 VALLCO PROPERTY OWNER, LLC  
 PALO ALTO, CALIFORNIA

Figure 7  
 SOIL GAS RESULTS OVER THE ESL

WSP USA, Inc.  
 2025 GATEWAY PLACE  
 SUITE 348  
 SAN JOSE, CA 95110  
 TEL: +1 408.453.6100

**B**

NOT TO SCALE  
 THE ORIGINAL VERSION OF THIS DRAWING IS IN COLOR. BLACK AND WHITE COPIES MAY NOT ACCURATELY DEPICT CERTAIN INFORMATION.



CC 09-07-21

#12

Vallco Town Center  
SB 35 Development  
Report

Written Comments

## Cyrah Caburian

---

**From:** Eric Schaefer <sericar7@gmail.com>  
**Sent:** Sunday, September 5, 2021 2:04 PM  
**To:** City Clerk; City Council; Cupertino City Manager's Office  
**Subject:** City Council meeting, Sept. 07 2021, item 12: Vallco SB35 extension report  
**Attachments:** CCC\_2021Sept07\_Item12\_SB35extension\_CommentByEric.pdf

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you to City Manager and staff who contributed to the report.  
My comment is attached as a PDF document.

--

Eric Schaefer

“Diversity jolts us into cognitive action in ways that homogeneity simply does not.”

— Katherine Phillips

Re: Status Report on the Vallco Town Center SB 35 Development Project

My thanks to the City Manager and staff who contributed to the report.

The report confirms issues that concerned residents identified in 2018 with several large projects that were being considered for the Vallco site:

- office/housing ratio
- water resources in a drought-prone region
- the engineering viability and safety issues of a “green roof”—park on top of the buildings
- public transit and roads infrastructure
- remediation of toxic soil
- the developer’s unwillingness to pay standard impact fees

The developer’s documented poor planning and execution of the SB35 project isn’t surprising because--when seen in a broader historical context--the developer’s incompetence is a predictable delay tactic.

In 2018, the developer and his supporters used the SB35 project as an undesirable alternative to other ugly but perhaps somewhat more desirable projects. The larger Vallco Specific Plan project had many of the same issues that the Staff report details in the SB35 project. But the VSP project was a more lucrative project for the developer because it contained relatively more market-rate housing units and more office space than the SB35 project. Nevertheless, a 3-person majority of the City Council ignored residents’ concerns and approved the VSP project.

The VSP project was overturned by a popular referendum, residents who were critical of the VSP and SB35 projects were elected to council, and Mayor Vaidyanathan was not returned to the Council.

The developer might still use the SB35 project to make other ugly projects look more desirable in comparison. But the effect can not be as great for sober-minded persons who pay attention to the current Staff report.

On one hand I would like to see the SB35 project terminated so that we can move on to a better project, and so that the developer can no longer use the SB35 project to make an ugly project look less ugly in comparison.

On the other hand, I understand Staff’s prudence to extend the deadline. I believe it is likely that many issues will remain unresolved after another year and perhaps even more issues will come to light.

Again, thank you for the report.

Eric Schaefer,

Cupertino resident

## Cyrah Caburian

---

**From:** Peggy Griffin <griffin@compuserve.com>  
**Sent:** Sunday, September 5, 2021 4:52 PM  
**To:** Greg Larson; Christopher Jensen; Chad Mosley  
**Cc:** City Clerk; City of Cupertino Planning Commission; City Council  
**Subject:** Vallco Town Center parcel map WRONG-missing public easements!  
**Attachments:** 2016-03-09 Parcel Map-Vallco and Main Street.pdf; 2021-09-05 Parcel Map Vallco Town Center - SCC Assessors Parcel Map 316-20.pdf

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Larson, Mr. Jensen and Chad,

The parcel map that is currently recorded at the Santa Clara County Recorder's office AND that is displayed on the SCC Assessor's Office website is incorrect! It is missing public easements that were never given up. These missing easements are

1. the road around what used to be TGI Friday's Restaurant
2. Perimeter Road on the west side (APN 316-20-120)

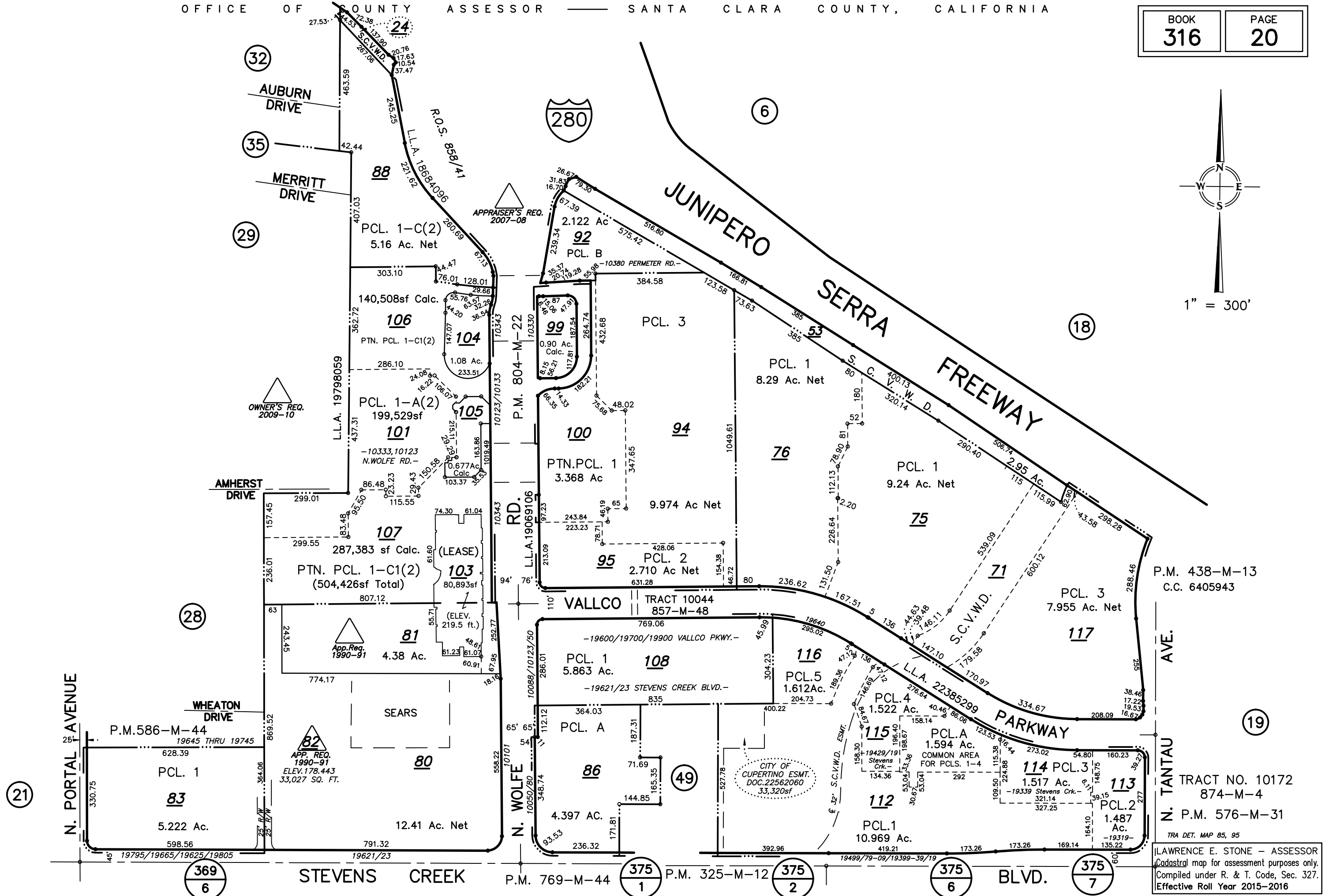
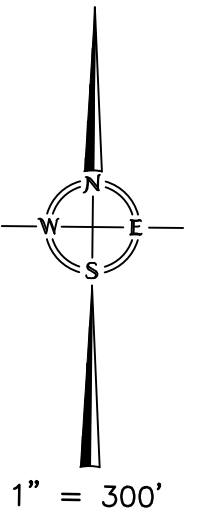
Attached are 2 PDFs:

1. Parcel Map-Vallco and Main Street obtained on 3/9/2016
2. Parcel Map-Vallco Town Center obtained today, 9/5/2021

These are important and valuable public resources that should not "just disappear"!

REQUEST: Please correct and update the parcel map ASAP so that people don't use this invalid information to base future actions.

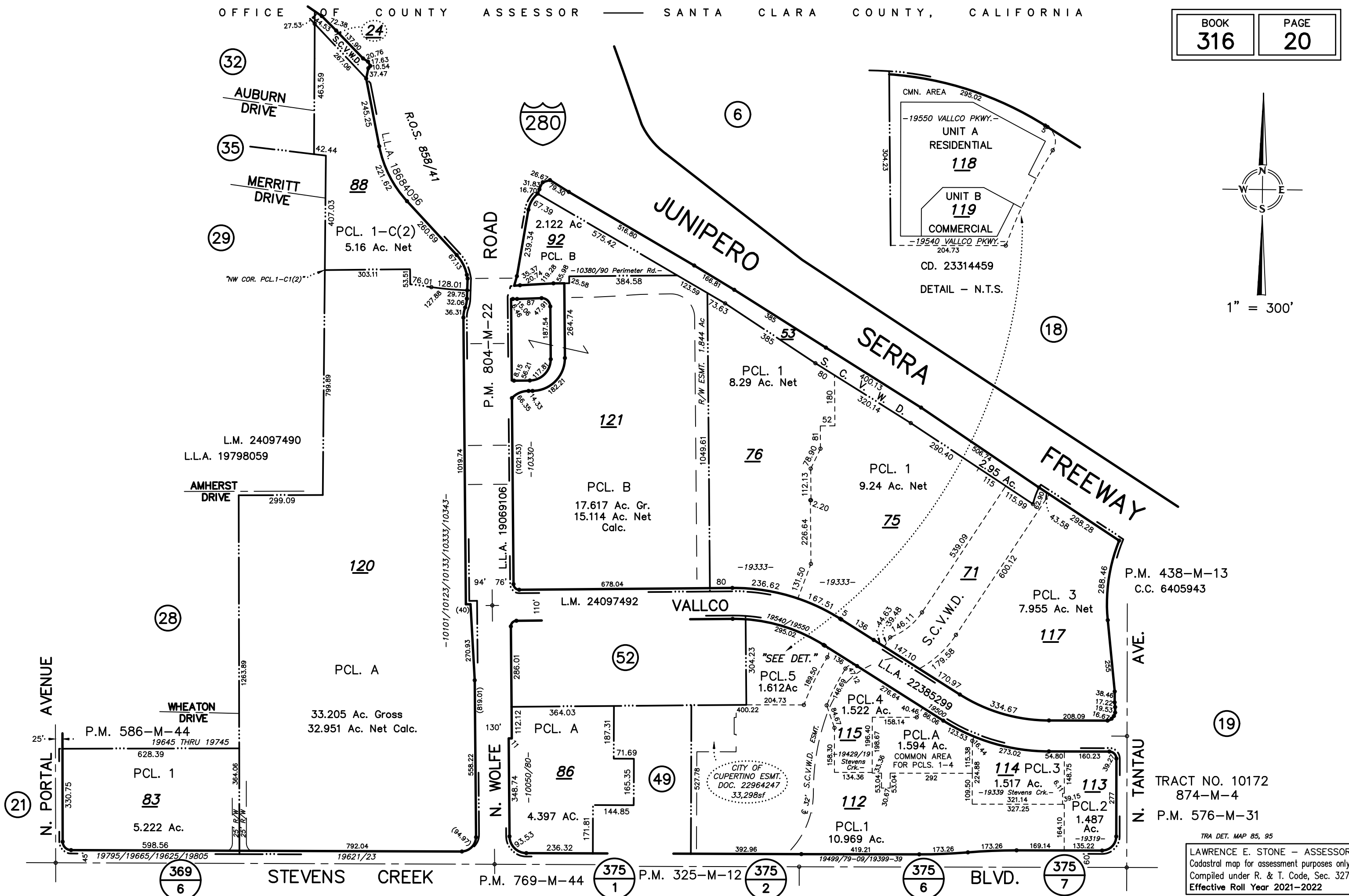
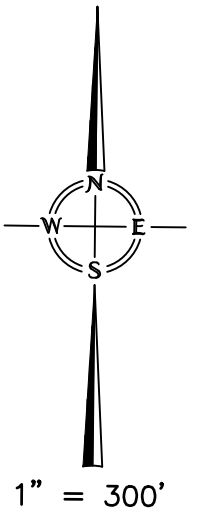
Sincerely,  
Peggy Griffin



P.M. 438-M-13  
C.C. 6405943

TRACT NO. 10172  
874-M-4  
P.M. 576-M-31

TRA DET. MAP 85, 95  
LAWRENCE E. STONE — ASSESSOR  
Cadastral map for assessment purposes only.  
Compiled under R. & T. Code, Sec. 327.  
Effective Roll Year 2015-2016



P.M. 438-M-13  
C.C. 6405943

TRACT NO. 10172  
874-M-4  
P.M. 576-M-31

TRA DET. MAP 85, 95  
LAWRENCE E. STONE — ASSESSOR  
Cadastral map for assessment purposes only.  
Compiled under R. & T. Code, Sec. 327.  
Effective Roll Year 2021-2022

## Cyrah Caburian

---

**From:** Peggy Griffin <griffin@compuserve.com>  
**Sent:** Sunday, September 5, 2021 10:33 PM  
**To:** City of Cupertino Planning Dept.; Building  
**Cc:** City Clerk; City of Cupertino Planning Commission; City Council; Greg Larson; Christopher Jensen  
**Subject:** FW: SB-35 West Side cannot proceed without the East Side CONCURRENTLY!  
**Attachments:** Page 58 of Vallco SB-35 Attachment A Approved Plans.pdf; Page 20 of HCD sb-35-guidelines.pdf; HCD sb-35-guidelines-update-final dated 03-30-2021.pdf

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

I forgot to include the following City Staff  
+Planning Dept and Building Dept.

Peggy Griffin

---

**From:** Peggy Griffin <griffin@compuserve.com>  
**Sent:** Sunday, September 5, 2021 10:26 PM  
**To:** GregL@cupertino.org; ChrisJ@cupertino.org; 'City of Cupertino Planning Dept.' <planning@cupertino.org>  
**Cc:** 'City Clerk' <CityClerk@cupertino.org>; 'City Council' <CityCouncil@cupertino.org>; PlanningCommission@cupertino.org  
**Subject:** SB-35 West Side cannot proceed without the East Side CONCURRENTLY!

Dear Mr. Larson, Mr. Jensen, and City Staff,

The Vallco SB-35 Project **MUST** move forward using BOTH the EAST and WEST parcels. **It cannot leave residential behind on the East Side!** (Reference HCD SB 35 Guidelines dated 3-30-2021 Government Code Section 65913.4)

**It would be in violation of the HCD Guidelines to allow the West Parcel to proceed ahead of the East Parcel** because

- There are residential buildings on the East Side that were required to qualify for SB-35.
- The bridge across Wolfe Rd was counted as “residential amenities” to qualify for SB-35.

This SB-35 requirement to have all residential be built “prior to or concurrent with the commercial component” is to ensure that the **promised affordable housing is built in exchange for all the concessions the developer receives**. Allowing a portion of the promised housing to not be built but giving the concessions defeats the purpose of SB-35. Also, it opens the door to allow the possible sale of the East Parcel before the project is completed.

Below are the facts that support what I’m saying. Please take the time to review them. It’s the law!

Sincerely,  
Peggy Griffin

P.S. Attached is the PDF of

- Page 58 of the approved SB-35 plans showing the cross section of housing (YELLOW), office (BLUE), retail (PINK).
- Page 20 of the approved Vallco SB-35 plans
- HCD’s Updated Streamlined Ministerial Approval Process dated 3-30-2021.



LINK to HCD's Updated Streamlined Ministerial Approval Process  
Government Code Section 65913.4  
i.e. SB 35 Guidelines dated 03-30-2021  
[Updated Streamlined Ministerial Approval Process \(ca.gov\)](#)

**PDF PAGE 20 of 32 of the above government code reads**

***Department of Housing and Community Development***

- (c) **At least two-thirds of the square footage of the development shall be designated for residential use:**
- (1) For purposes of these Guidelines, the two-thirds calculation is based upon the proportion of gross square footage of residential space and related facilities, as defined in Section 102(w), to gross development building square footage for an unrelated use such as commercial. Structures utilized by both residential and non-residential uses shall be credited proportionally to intended use.
    - (A) Additional density, floor area, and units, and any other concession, incentive, or waiver of development standards granted pursuant to the Density Bonus Law shall be included in the square footage calculation.
    - (B) The square footage of the development shall not include non-habitable underground space, such as basements or underground parking garages.
  - (2) Both residential and non-residential components of a qualified mixed-use development are eligible for the Streamlined Ministerial Approval Process. Additional permitting requirements pertaining to the individual business located in the commercial component (e.g., alcohol use permit or adult business permit) are subject to local government processes.
  - (3) **When the commercial component is not part of a vertical mixed-use structure, construction of the residential component of a mixed-use development shall be completed prior to, or concurrent with, the commercial component.**

NOTE: This above requirement was also in previous SB-35 Guidelines. It's not new!

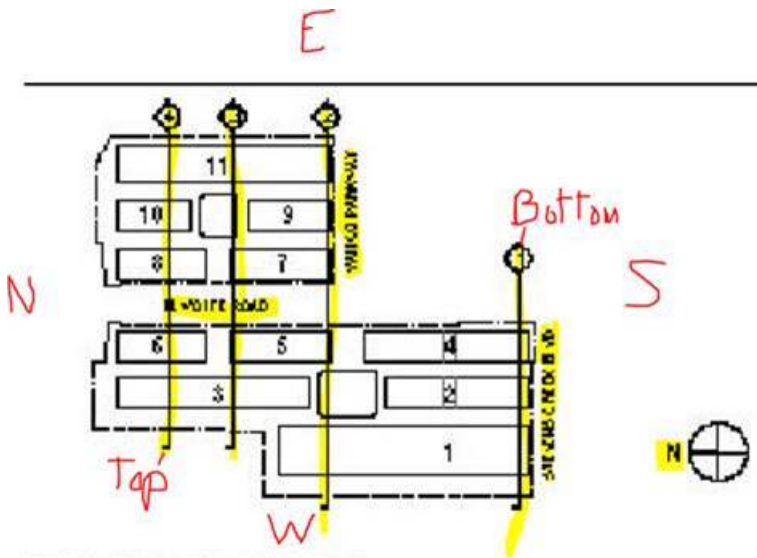
LINK TO APPROVED VALLCO TOWN CENTER'S SB-35 PLANS:  
[Attachment A Approved Plans \(cupertino.org\)](#)

**PAGE 58 of 260 of Approved Plans**

The plans on Page 58 show a cross section of the SB-35 Project.

There are 4 lines on the main page, each showing a cross section of the project, starting from the NORTH and moving SOUTH. In the far lower righthand corner of Page 58, is the following diagram showing you this cross section. The highlighted lines show where these cross sections are taken. Starting with line 1 being the North-most or top line and line 4 being the South-most or bottom line.





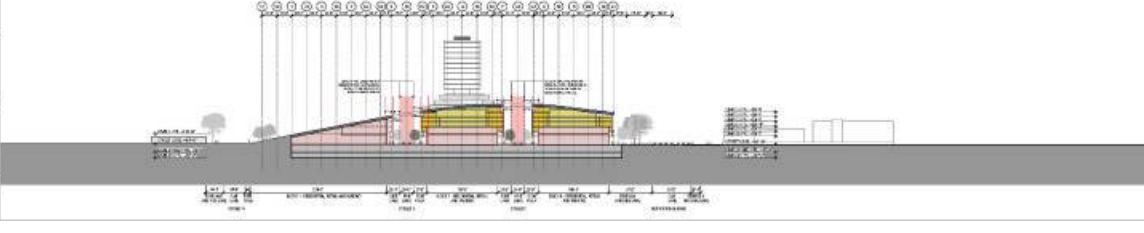
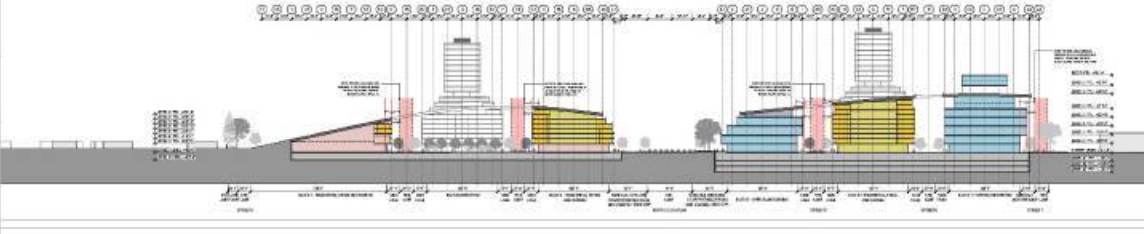
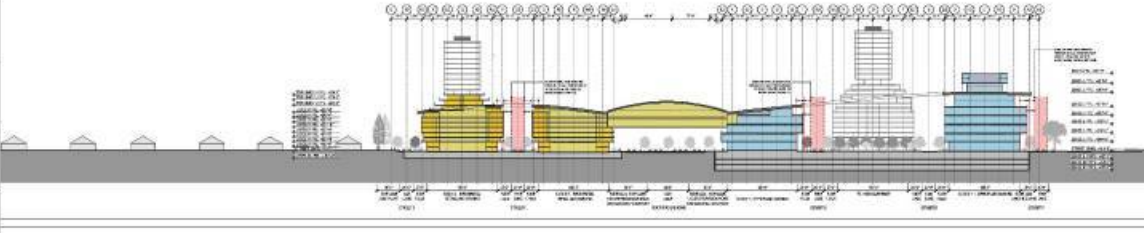
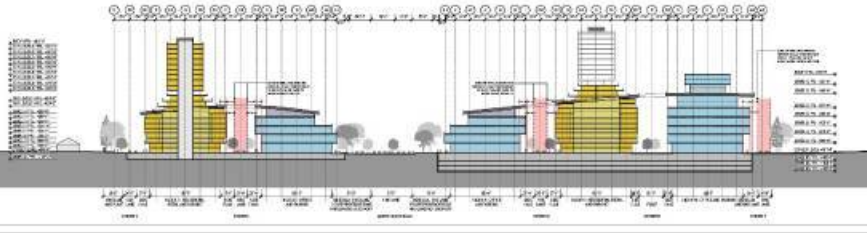
**KEY PLAN AND NORTH ARROW**

- DARK YELLOW = Residential
- LIGHT YELLOW = Residential amenities
- BLUE = Office
- PINK = Retail

NOTE: In order for the Vallco SB-35 Project to qualify it needed to meet the 2/3rds residential square footage. This required

- the inclusion of the bridge across Wolfe Road **and**
- residential on BOTH SIDES of Wolfe Road

Community Development Department  
Planning Division – Cupertino  
**APPROVED**  
**DP-2018-02**  
Application Number(s)  
by: Director / Staff  
Date: **09/21/18**  
Plu Ghosh  
Case Manager



- (c) **At least two-thirds of the square footage of the development shall be designated for residential use:**
- (1) For purposes of these Guidelines, the two-thirds calculation is based upon the proportion of gross square footage of residential space and related facilities, as defined in Section 102(w), to gross development building square footage for an unrelated use such as commercial. Structures utilized by both residential and non-residential uses shall be credited proportionally to intended use.
    - (A) Additional density, floor area, and units, and any other concession, incentive, or waiver of development standards granted pursuant to the Density Bonus Law shall be included in the square footage calculation.
    - (B) The square footage of the development shall not include non-habitable underground space, such as basements or underground parking garages.
  - (2) Both residential and non-residential components of a qualified mixed-use development are eligible for the Streamlined Ministerial Approval Process. Additional permitting requirements pertaining to the individual business located in the commercial component (e.g., alcohol use permit or adult business permit) are subject to local government processes.
  - (3) **When the commercial component is not part of a vertical mixed-use structure, construction of the residential component of a mixed-use development shall be completed prior to, or concurrent with, the commercial component.**
- (d) The development is consistent with objective zoning standards, objective subdivision standards, and objective design review standards in effect at the time of the development application submittal per Section 300 of these Guidelines, provided that any modifications to density or other concessions, incentives, or waivers granted pursuant to the Density Bonus Law shall be considered consistent with such objective zoning standards, objective subdivision standards, and objective design review standards.

NOTE: Authority cited: Government Code section 65913.4(l). Reference cited: Government Code section 65913.4(a) and (b).

### **Section 401. Site Requirements**

- (a) The development proponent shall demonstrate in the application that, as of the date the application is submitted, the proposed development is located on a site that meets the following criteria:
- (1) The site is a legal parcel, or parcels, located in either:
    - (A) A city where the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or
    - (B) An unincorporated area where the area boundaries are wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.
  - (2) The site meets the definition of infill as defined by Section 102(j) of these Guidelines.

# VALLCO TOWN CENTER

OWNER: VALLCOPROPERTYOWNERS LLC  
 385 PASEO DE LOS GIGANTES, PALO ALTO, CA 94301  
 T. 650-354-4300

ARCHITECTURE: TOWN AND COUNTRY ARCHITECTS  
 2610 MISSION STREET, NEW YORK, NY 10013  
 T. 212-512-6000

ARCHITECTURE: TOWN AND COUNTRY ARCHITECTS  
 3800 N. UNIVERSITY ROAD, CUPERTINO, CA 95014  
 T. 408-423-8000

LANDSCAPE ARCHITECTURE: OLSON PARTNERSHIP LTD.  
 124 S. WEDGEWOODS ROAD, SUITE 110, PHILADELPHIA, PA 19106  
 T. 215-662-4000

ENGINEERING: SHANNON ENGINEERS SURVEYORS PLANNERS & INC.  
 1700 S. UNIVERSITY BLVD, SUITE 200, CUPERTINO, CA 95014  
 T. 408-543-8000

TRUCK & LOGISTICS ENGINEERING: AMF NORTH AMERICA LTD  
 6800 REDWOOD STREET, SUITE 700, SAN FRANCISCO, CA 94133  
 T. 415-771-8444

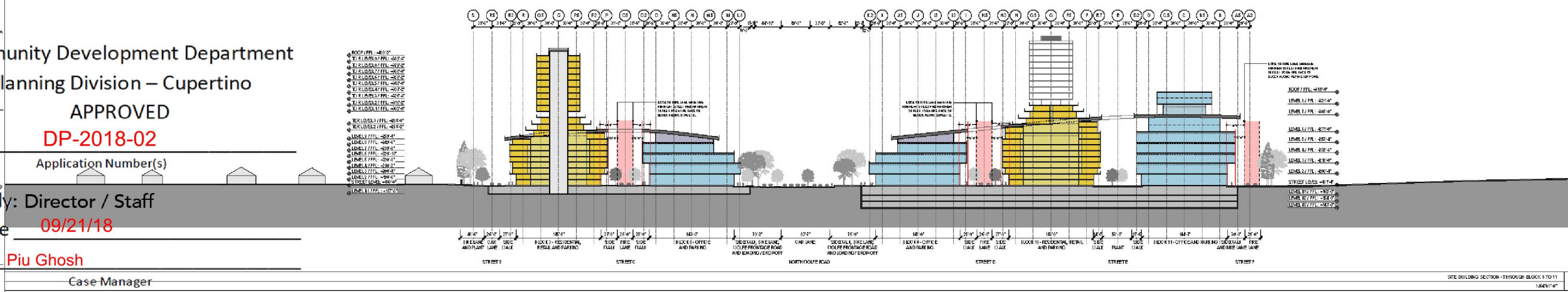
LIGHTING: ONE LIGHT STUDIO  
 104 WEST 13TH STREET, 11TH FLOOR, NEW YORK, NY 10007  
 T. 212-219-6200

CONTRACTOR: B&B  
 1617 4TH AVE, SUITE 1100, PHILADELPHIA, PA 19103  
 T. 215-624-4300

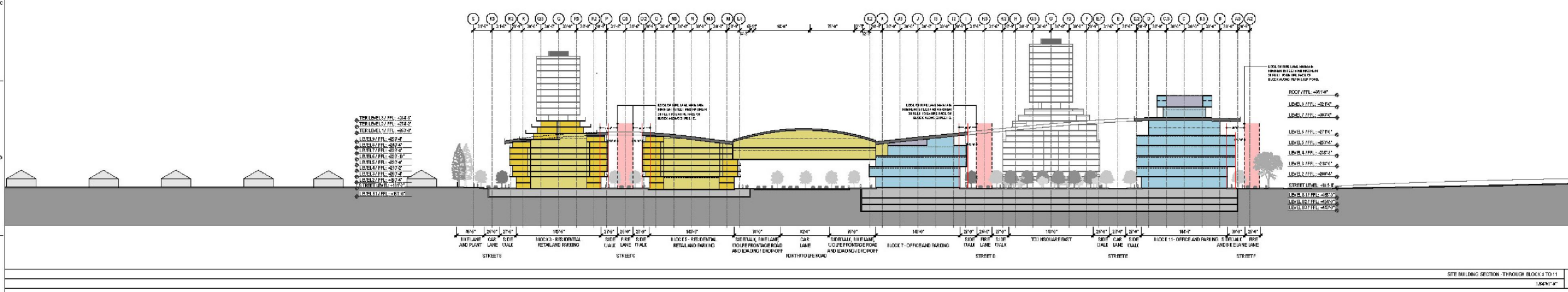
PARKING ENGINEERING: GUSTY DESIGN, INC.  
 3900 COTTAGE PLACE, SUITE 100, SAN JOSE, CA 95134  
 T. 408-332-8100

MECHANICAL ENGINEERING: COMBLETECH INTERNATIONAL  
 1600 SOUTH BAY AND BLVD, STE 1100, GLENDALE, CA 91204  
 T. 626-444-7100

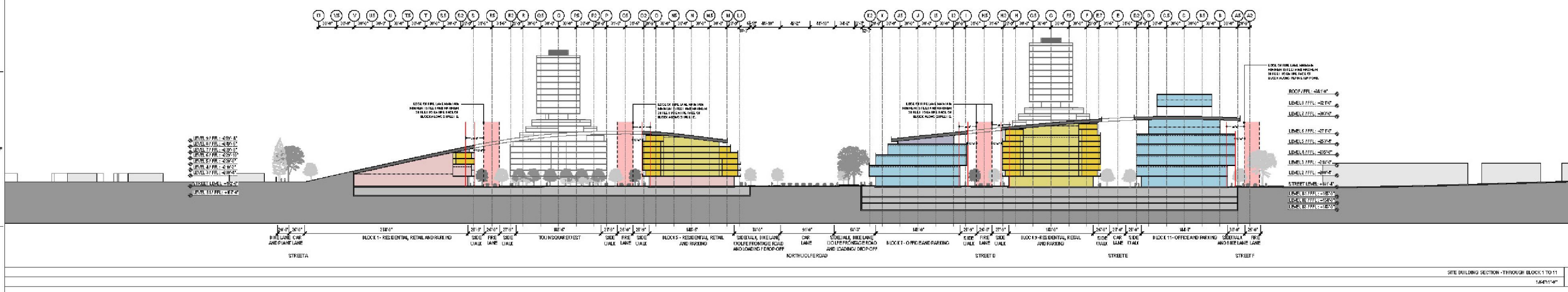
Case # **DP-2018-02**  
 Application Number(s)  
 Approval Body: Director / Staff  
 Approval Date: **09/21/18**  
 Signature: **Piu Ghosh**  
 Case Manager



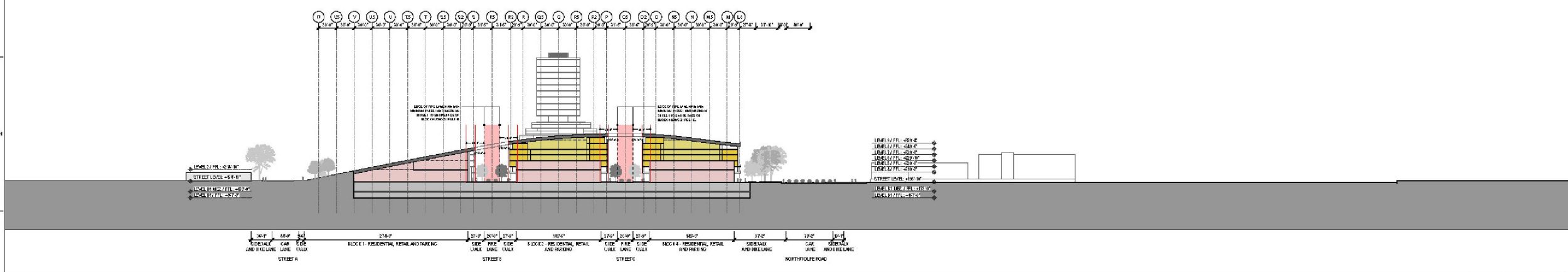
SITE BUILDING SECTION - THROUGH BLOCKS 10 TO 11  
 1/8" = 1'-0"



SITE BUILDING SECTION - THROUGH BLOCKS 10 TO 11  
 1/8" = 1'-0"



SITE BUILDING SECTION - THROUGH BLOCKS 10 TO 11  
 1/8" = 1'-0"



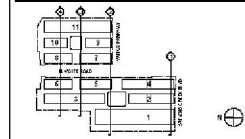
SITE BUILDING SECTION - THROUGH BLOCKS 10 TO 11  
 1/8" = 1'-0"

**NOT FOR CONSTRUCTION**

DISCLAIMER  
 THE ARCHITECT/ENGINEER SHALL HAVE NO RESPONSIBILITY FOR ANY DAMAGE, LOSS, COST, OR INJURY OCCURRING AS A RESULT OF THIS DOCUMENT FOR ANY PURPOSE OTHER THAN THAT SPECIFICALLY INTENDED BY THE ARCHITECT/ENGINEER. THE ARCHITECT/ENGINEER'S LIABILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE PROJECT. THIS DOCUMENT IS TO BE CONSIDERED AS A CONSULTING SERVICE ONLY. THE ARCHITECT/ENGINEER'S LIABILITY IS LIMITED TO THE DESIGN AND CONSTRUCTION OF THE PROJECT. THIS DOCUMENT IS TO BE CONSIDERED AS A CONSULTING SERVICE ONLY.

**SB-35 DEVELOPMENT APPLICATION**

REV	DESCRIPTION	DATE
01	ISSUE FOR REVIEW	09/21/18
02	ISSUE FOR REVIEW	09/21/18

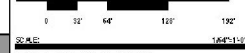


SITE PLAN AND NORTH ARROW

ARCHITECT'S PROJECT NUMBER: 768811

PROJECT NAME: SB-35 DEVELOPMENT APPLICATION

IF THIS DRAWING IS NOT TO BE PRINTED AS A REPRODUCED PRINT, REFER TO DRAWING SCALE



**FIRE STAGING PLAN - FIRE ACCESS SECTIONS**

SHEET TITLE:

**P-0409.01**  
 SHEET NUMBER



# **Updated Streamlined Ministerial Approval Process**

**Government Code Section 65913.4**

## **Guidelines**



**State of California  
Governor Gavin Newsom**

**Lourdes M. Castro Ramírez, Secretary  
Business, Consumer Services and Housing Agency**

**Gustavo Velasquez, Director  
California Department of Housing and Community Development**

**Megan Kirkeby, Deputy Director  
Division of Housing Policy Development**

Division of Housing Policy Development  
2020 West El Camino Avenue, Suite 500  
Sacramento, CA 95833

Originally issued November 29, 2018  
March 30, 2021

The matters set forth herein are regulatory mandates, and are adopted in accordance with the authorities set forth below:

Quasi-legislative regulations ... have the dignity of statutes ... [and]... delegation of legislative authority includes the power to elaborate the meaning of key statutory terms...

*Ramirez v. Yosemite Water Co.*, 20 Cal. 4th 785, 800 (1999)

The Department may review, adopt, amend, and repeal guidelines to implement uniform standards or criteria that supplement or clarify the terms, references, or standards set forth in this section. Any guidelines or terms adopted pursuant to this subdivision shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

*Government Code section 65913.4, subdivision (j)*

Government Code section 65913.4 relates to the resolution of a statewide concern and is narrowly tailored to limit any incursion into any legitimate municipal interests, and therefore the provisions of Government Code section 65913.4, as supplemented and clarified by these Guidelines, are constitutional in all respects and preempt any and all inconsistent laws, ordinances, regulations, policies or other legal requirements imposed by any locality.

# Streamlined Ministerial Approval Process Program Guidelines

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## **INTRODUCTION**

Chapter 366, Statutes of 2017 (SB 35, Wiener) was part of a 15-bill housing package aimed at addressing the state's housing shortage and high housing costs. Specifically, it requires the availability of a Streamlined Ministerial Approval Process for developments in localities that have not yet made sufficient progress towards their allocation of the regional housing need. Eligible developments must include a specified level of affordability, be on an infill site, comply with existing residential and mixed-use general plan or zoning provisions, and comply with other requirements such as locational and demolition restrictions. The intent of the legislation is to facilitate and expedite the construction of housing. In addition, as part of the legislation, the Legislature found ensuring access to affordable housing is a matter of statewide concern and declared that the provisions of SB 35 would apply to all cities and counties, including a charter city, a charter county, or a charter city and county. Please note, the California Department of Housing and Community Development (Department) may take action in cases where these Guidelines are not adhered to under its existing accountability and enforcement authority. In addition, please also be aware that these Guidelines do not fully incorporate statutory changes to the law made by Chapter 166, Statutes of 2020 (AB 168) and Chapter 194, Statutes of 2020 (AB 831) at this time, which require, among other things, pre-application tribal scoping consultation. Changes required by AB 168 and AB 831 will be more fully incorporated in a subsequent version of these Guidelines, which are expected to be prepared and circulated in 2021. Developers and local governments using these Guidelines should refer to Government Code section 65913.4 to comply with these new mandates.

Guidelines for the Streamlined Ministerial Approval Process are organized into five Articles, as follows:

Article I. General Provisions: This article includes information on the purpose of the Guidelines, applicability, and definitions used throughout the document.

Article II. Determination Methodology: This article describes the methodology for which the Department shall determine which localities are subject to the Streamlined Ministerial Approval Process.

Article III. Approval Process: This article describes the parameters of the approval process, including local government responsibilities, approval processes, and general provisions.

- 1) **Local Government Responsibility** – This section specifies the types of requirements localities may require a development to adhere to in order to determine consistency with general plan and zoning standards, including objective standards, controlling planning documents, and parking.
- 2) **Development Review and Approval** – This section details the types of hearings and review allowed under the Streamlined Ministerial Approval Process, timing provisions for processing and approving an application, denial requirements, and timeframes related to the longevity of the approval.

Article IV. Development Eligibility: This article describes the requirements for developments in order to apply for streamlining, including type of housing, site requirements, affordability provisions, and labor provisions.

Article V. Reporting: This article describes reporting requirements specific to the Streamlined Ministerial Approval Process in the locality's Annual Progress Report on the general plan.



**ARTICLE I. GENERAL PROVISIONS**

**Section 100. Purpose and Scope**

- (a) These Guidelines (hereinafter “Guidelines”) implement, interpret, and make specific the Chapter 366, Statutes of 2017 (SB 35, Wiener), and subsequent amendments (hereinafter “Streamlined Ministerial Approval Process”) as authorized by Government Code section 65913.4.
- (b) These Guidelines establish terms, conditions, and procedures for a development proponent to submit an application for a development to a locality that is subject to the Streamlined Ministerial Approval Process provided by Government Code section 65913.4. Nothing in these Guidelines relieves a local government from the obligation to follow state law relating to the availability of the Streamlined Ministerial Approval Process.
- (c) It is the intent of the Legislature to provide reforms and incentives to facilitate and expedite the construction of affordable housing. Therefore, these Guidelines shall be interpreted and implemented in a manner to afford the fullest possible weight to the interest of increasing housing supply.
- (d) These Guidelines shall remain in effect until January 1, 2026, and as of that date are repealed.

NOTE: Authority cited: Government Code section 65913.4(l). Reference cited: Government Code section 65582.1 and 65913.4(n) and (o).

**Section 101. Applicability**

- (a) The provisions of Government Code section 65913.4 are effective as of January 1, 2018.
- (b) These Guidelines are applicable to applications submitted on or after January 1, 2019, including applications submitted for modification to a development per Section 301(c). Subsequent updates to the Guidelines are applicable to applications submitted on or after the date adopted as shown on the cover page. Nothing in these Guidelines may be used to invalidate or require a modification to a development approved through the Streamlined Ministerial Approval Process prior to the effective date.
- (c) These Guidelines are applicable to counties and cities, including both general law and charter cities, including a charter city and county.

NOTE: Authority cited: Government Code section 65913.4(l). Reference cited: Government Code section 65913.4(k)(6).

**Section 102. Definitions**

All terms not defined below shall, unless their context suggests otherwise, be interpreted in accordance with the meaning of terms described in Government Code section 65913.4

- (a) “Annual Progress Report (APR)” means the housing element Annual Progress Report required by Government Code section 65400, and due to the Department April 1 of each year, reporting on the prior calendar year’s permitting activities and implementation of the programs in a local government’s housing element.

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- (b) “Application” means a submission requesting Streamlined Ministerial Approval pursuant to Government Code section 65913.4 and these Guidelines, which contains information pursuant to Section 300(b) describing the development’s compliance with the criteria outlined in Article IV of these Guidelines.
- (c) “Area Median Income (AMI)” means the median family income of a geographic area of the state, as determined annually by the Department within the state income limits: <http://www.hcd.ca.gov/grants-funding/income-limits/index.shtml>.
- (d) “Car share vehicle” is an automobile rental model where people rent cars from a car-sharing network, or an exclusive car provided by the project, to be located in a designated area within the project, for roundtrip or one-way, where vehicles are returned to a dedicated or reserved parking location. An example of such a service is Zipcar or car(s) provided by the project. If the project provides an exclusive car, it shall do so at a ratio of at least one car per every 50 units.
- (e) “Density Bonus” has the same meaning as set forth in Government Code section 65915.
- (f) “Department” means the California Department of Housing and Community Development.
- (g) “Determination” means the published identification, periodically updated, by the Department of those local governments that are required to make the Streamlined Ministerial Approval Process available per these Guidelines.
- (h) “Development proponent” or “applicant” means the owner of the property, or person or entity with the written authority of the owner, that submits an application for streamlined approval.
- (i) “Fifth housing element planning period” means the five or eight-year time period between the due date for the fifth revision of the housing element and the due date for the sixth revision of the housing element pursuant to Government Code section 65588(f).
- (j) “Infill” means at least 75 percent of the linear measurement of the perimeter of the site adjoins parcels that are developed with urban uses. For the purposes of this definition, parcels that are only separated by a street or highway shall be considered to be adjoined.
- (k) “Locality” or “local government” means a city, including a charter city, a county, including a charter county, or a city and county, including a charter city and county.
- (l) “Low-income” means households earning 50 to 80 percent of AMI.
- (m) “Lower-income” means households earning 80 percent or less of AMI pursuant to Health and Safety Code section 50079.5.
- (n) “Ministerial processing” or “ministerial approval” means a process for development approval involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely ensures that the proposed development meets all the "objective zoning standards," "objective subdivision standards," and "objective design review standards" in effect at the time that the application is submitted to the local government, but uses no special discretion or judgment in reaching a decision.

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- (o) “Moderate-income housing units” means housing units with an affordable housing cost or affordable rent for persons and families of moderate income pursuant to Health and Safety Code section 50093.
- (p) “Multifamily” means a housing development with two or more attached residential units. This includes mixed-use projects as stated in Section 400(a). The definition does not include accessory dwelling units unless the project is for new construction of a single-family home with attached accessory dwelling units. Please note, accessory dwelling units have a separate permitting process pursuant to Government Code section 65852.2.
- (q) “Objective standards” or “objective planning standards” means an objective zoning, objective subdivision and objective design review standard as those terms are defined in Section 102(r).
- (r) “Objective zoning standard”, “objective subdivision standard”, and “objective design review standard” means standards that involve no personal or subjective judgment by a public official and are uniformly verifiable by reference to an external and uniform benchmark or criterion available and knowable by both the applicant or development proponent and the public official prior to submittal, and includes only such standards as are published and adopted by ordinance or resolution by a local jurisdiction before submission of a development application.
- (s) “Project labor agreement” has the same meaning as set forth in paragraph (1) of subdivision (b) of section 2500 of the Public Contract Code.
- (t) “Public transit” means a location, including, but not limited to, a bus stop or train station, where the public may access buses, trains, subways, and other forms of transportation that charge a set fare, run on fixed routes, and are available to the public.
- (u) “Public works project” means developments which meet the criteria of Chapter 1 (commencing with section 1720) of Part 7 of Division 2 of the Labor Code.
- (v) “Regional housing need” means the local government’s share of the regional housing need allocation as determined by Article 10.6 of the Government Code.
- (w) "Related facilities" means any manager's units and any and all common area spaces that are included within the physical boundaries of the housing development, including, but not limited to, common area space, walkways, balconies, patios, clubhouse space, meeting rooms, laundry facilities, and parking areas that are exclusively available to residential users, except any portions of the overall development that are specifically commercial space.
- (x) “Reporting period” means the timeframe for which APRs are utilized to create the determination for which a locality is subject to the Streamlined Ministerial Approval Process. The timeframes are calculated in relationship to the planning period of the housing element pursuant to Government Code section 65588 and are cumulative through the most recent calendar year.
- (y) “San Francisco Bay Area” means the entire area within the territorial boundaries of the Counties of Alameda, Contra Costa, Marin, Napa, San Mateo, Santa Clara, Solano, and Sonoma, and the City and County of San Francisco.

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- (z) “Skilled and trained workforce” has the same meaning as provided in Chapter 2.9 (commencing with section 2600) of Part 1 of Division 2 of the Public Contract Code.
- (aa) “Subsequent permit” means any permit required subsequent to receiving approval under Section 301, and includes, but is not limited to, demolition, grading, encroachment permits, approval of sign programs, and tree removal permits, building permits, and final maps, as necessary.
- (bb) “Subsidized” means units that are price or rent restricted such that the units are affordable to households meeting the definitions of very low and lower income, as defined in Sections 50079.5 and 50105 of the Health and Safety Code. A local agency shall not reduce maximum rent below that specified in Health and Safety Code sections 50079.5 and 50105.
- (cc) “Tenant” means a person who occupies land or property rented or leased for use as a residence.
- (dd) “Urban uses” means any current or former residential, commercial, public institutional, transit or transportation passenger facility, or retail use, or any combination of those uses.
- (ee) “Very low-income” means households earning less than 50 percent or less of AMI pursuant to Health and Safety Code section 50105.

NOTE: Authority cited: Government Code section 65913.4(l). Reference cited: Government Code section 65913.4.

## **ARTICLE II. STREAMLINED MINISTERIAL APPROVAL PROCESS DETERMINATION**

### **Section 200. Methodology**

- (a) The Department will calculate the determination, as defined in Section 102(g), based on permit data received through the most recent APRs provided to the Department for the mid-point of the housing element planning period pursuant to Government Code section 65488 and at the end point of the planning period.
  - (1) APRs, as defined in Section 102(a), report on calendar years, while housing element planning periods may begin and end at various times throughout the year. When a planning period begins after July, the APR for that year is attributed to the prior housing element planning period. When the planning period ends before July 1, the APR for that year will be attributed to the following housing element planning period.
- (b) The determination is based on permitting progress toward a pro-rata share of the regional housing need for the reporting period.
  - (1) Determinations calculated at the mid-point of the planning period are based upon permitting progress toward a pro-rata share of half (50 percent) of the regional housing need, while determinations calculated at the end of the planning period are based upon permitting progress towards the entirety (100 percent) of the regional housing need.

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- (2) For localities, as defined in Section 102(k), on a 5-year planning period, the mid-point determination is based upon a pro-rata share of the regional housing need for the first three years in the planning period, and 60 percent of the regional housing need.
- (3) The determination applies to all localities beginning January 1, 2018, regardless of whether a locality has reached the mid-point of the fifth housing element planning period. For those local governments that have achieved the mid-point of the fifth housing element planning period, the reporting period includes the start of the planning period until the mid-point, and the next determination reporting period includes the start of the planning period until the end point of the planning period. In the interim period between the effective date of the Streamlined Ministerial Approval Process, until a locality reaches the mid-point in the fifth housing element planning period, the Department will calculate the determination yearly. This formula is based upon the permitting progress towards a pro-rata share of the regional housing need, dependent on how far the locality is in the planning period, until the mid-point of the fifth housing element planning period is reached. See example below.

Example Calculation
For a locality two years into the reporting period, the determination is calculated at two out of eight years of the planning period and will be based upon a pro-rata share of two-eighths, or 25 percent, of the regional housing need, and the following year, for the same locality, the determination will be calculated at three out of eight years of the planning period based upon a pro-rata share of three-eighths, or 37.5 percent, of the regional housing need, and the following year for the same locality the determination will be calculated at four out of eight years of the planning period based upon a pro-rata share of four-eighths, or 50 percent, of the regional housing need. At that point, the locality will reach its mid-point of the planning period and the determination, the pro-rata share, and the permitting progress toward the pro-rata share will hold until the locality reaches the end-point of the planning period.

- (c) To determine if a locality is subject to the Streamlined Ministerial Approval Process for developments with 10 percent of units affordable to lower-income households, or the 20 percent moderate income option if the site is located in the San Francisco Bay Area as defined in Section 102(y), the Department shall compare the permit data received through the APR to the pro-rata share of their above-moderate income regional housing need for the current housing element planning period. If a local government has permitted less than the pro-rata share of their above-moderate income regional housing need, then the jurisdiction will be subject to the Streamlined Ministerial Approval Process for developments with 10 percent affordability or the 20 percent moderate income option if the site is located in the San Francisco Bay Area.
- (d) Local governments that do not submit their latest required APR prior to the Department's determination are subject to the Streamlined Ministerial Approval Process for developments with 10 percent of units affordable to lower-income households or the 20 percent moderate income option if the site is located in the San Francisco Bay Area.
- (e) To determine if a locality is subject to the Streamlined Ministerial Approval Process for developments with 50 percent of units affordable to lower-income households, the Department shall compare the permit data received through the APR to the pro-rata share of their independent very low- and low-income regional housing need for the

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current housing element planning period. If a local government has permitted the pro-rata share of their above-moderate income regional housing need, and submitted their latest required APR, but has permitted less than the pro-rata share of their very low- and lower-income regional housing need, they will be subject to the Streamlined Ministerial Approval Process for developments with 50 percent affordability. For purposes of these Guidelines, as the definition of lower-income is inclusive of very low-income units, very low-income units permitted in excess of the very low-income need may be applied to demonstrate progress towards the lower-income need. However, as the definition of very low-income units does not include low-income units, low-income units permitted in excess of the low-income need shall not be applied to demonstrate progress towards the very low-income need.

- (f) To determine if a locality is not subject to the Streamlined Ministerial Approval Process, the permit data from the APR shall demonstrate that the locality has permitted the entirety of the pro-rata share of units for the above moderate-, low-, and very low-income categories of the regional housing need for the relevant reporting period, and has submitted the latest APR.
- (g) The Department's determination will be in effect until the Department calculates the determination for the next reporting period, unless updated pursuant to Section 201. A locality's status on the date the application is submitted determines whether an application is subject to the Streamlined Ministerial Approval Process, and also determines which level of affordability (10 or 50 percent) an applicant must provide to be eligible for streamlined ministerial permitting.

NOTE: Authority cited: Government Code section 65913.4(l). Reference cited: Government Code section 65913.4(a)(4).

### **Section 201. Timing and Publication Requirements**

The Department shall publish the determination by June 30 of each year, accounting for the APR due April 1 of each year, though this determination may be updated more frequently based on the availability of data, data corrections, or the receipt of new information. The Department shall publish the determination on the Department's website.

NOTE: Authority cited: Government Code section 65913.4(l). Reference cited: Government Code section 65913.4(a)(4).

## **ARTICLE III. APPROVAL PROCESS**

### **Section 300. Local Government Responsibility**

- (a) After receiving a notice of intent to submit an application for a Streamlined Ministerial Approval Process, and prior to accepting an application for a Streamlined Ministerial Approval process, the local government must complete the tribal consultation process outlined in Government Code section 65913.4(b). The notice of intent shall be in the form of a preliminary application that includes all of the information described in Government Code section 65941.1.

(b) A local government that has been designated as subject to the Streamlined Ministerial Approval Process by the Department shall provide information, in a manner readily accessible to the general public, about the locality’s process for applying and receiving ministerial approval, materials required for an application as defined in Section 102(b), and relevant objective standards to be used to evaluate the application. In no case shall a local government impose application requirements that are more stringent than required for a final multifamily entitlement or standard design review in its jurisdiction. The information provided may include reference documents and lists of other information needed to enable the local government to determine if the application is consistent with objective standards as defined by Section 102(q). A local government may only require information that is relevant to and required to determine compliance with objective standards and criteria outlined in Article IV of these Guidelines. This may be achieved through the use of checklists, maps, diagrams, flow charts, or other formats. The locality’s process and application requirements shall not in any way inhibit, chill, or preclude the Streamlined Ministerial Approval Process, which must be strictly focused on assessing compliance with the criteria required for streamlined projects in Article IV of these Guidelines.

(1) Where a local government has failed to provide information pursuant to subsection (a) about the locality’s process for applying and receiving ministerial approval, the local government shall accept any application that meets the requirements for a standard multifamily entitlement submittal and that contains information showing how the development complies with the requirements of Article IV. The application may include use of a list of the standards, maps, diagrams, flow charts, or other formats to meet these requirements.

(c) Determination of consistency

(1) When determining consistency with objective zoning, subdivision, or design review standards, the local government shall only use those standards that meet the definition referenced in Section 102(q). For example, design review standards that require subjective decision-making, such as consistency with “neighborhood character,” shall not be applied as an objective standard unless “neighborhood character” is defined in such a manner that is non-discretionary.

Example Objective Design Review
Objective design review could include use of specific materials or styles, such as Spanish-style tile roofs or roof pitches with a slope of 1:5. Architectural design requirements such as “craftsman style architecture” could be used so long as the elements of “craftsman style architecture” are clearly defined (e.g., “porches with thick round or square columns and low-pitched roofs with wide eaves”), ideally with illustrations.

(2) A standard that requires a general plan amendment, the adoption of a specific plan, planned development zoning, or another discretionary permit or approval does not constitute an objective standard. A locality shall not require a development proponent to meet any standard for which the locality typically exercises subjective discretion, on a case-by-case basis.

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- (3) Modifications to objective standards granted as part of a density bonus, concession, incentive, parking reduction, or waiver of development standards pursuant to Density Bonus Law Government Code section 65915, or a local density bonus ordinance, shall be considered consistent with objective standards.
- (4) Project eligibility for a density bonus concession, incentive, parking reduction, or waiver of development standards shall be determined consistent with Density Bonus Law.
- (5) Objective standards may include objective land use specifications adopted by a city or county, including, but not limited to, the general plan, housing overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances.
- (6) In the event that objective zoning, general plan, subdivision, or design review standards are mutually inconsistent, a development shall be deemed consistent with the objective standards pursuant to Section 400(c) of these Guidelines if the development is consistent with the standards set forth in the general plan.

(A) In no way should this paragraph be used to deem an application ineligible for the Streamlined Ministerial Approval Process when the project's use is consistent with Section 401(a)(3).

- (7) Developments are only subject to objective zoning standards, objective subdivision standards, and objective design review standards enacted and in effect at the time that the application is submitted to the local government.
- (8) Determination of consistency with objective standards shall be interpreted and implemented in a manner to afford the fullest possible weight to the interest of, and the approval and provision of, increased housing supply. For example, design review standards or other objective standards that serve to inhibit, chill, or preclude the development of housing under the Streamlined Ministerial Approval Process are inconsistent with the application of state law.

(d) Density calculation

- (1) When determining consistency with density requirements, a development that is compliant with up to the maximum density allowed within the land use element designation of the parcel in the general plan is considered consistent with objective standards. For example, a development on a parcel that has a multifamily land use designation allowing up to 45 units per acre is allowed up to 45 units per acre regardless of the density allowed pursuant to the zoning code. In addition, the development may request a density of greater than 45 units per acre if eligible for a density bonus under Density Bonus Law.
- (2) Growth, unit, or other caps that restrict the number of units allowed in the proposed development or that expressly restricts the timing of development may be applied only to the extent that those caps do not inhibit the development's ability to achieve the maximum density allowed by the land use designation, and any density bonus the project is eligible for, and do not restrict the issuance of building permits for the project.



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- (3) Additional density, floor area, or units granted as a density bonus shall be considered consistent with maximum allowable densities.
- (4) Development applications are only subject to the density standards in effect at the time that the development is submitted to the local government.

(e) Parking requirements

- (1) Automobile parking standards shall not be imposed on a development that meets any of the following criteria:
  - (A) The development is located where any part of the parcel or parcels on which the development is located is within one-half mile of any part of the parcel or parcels of public transit, as defined by Section 102(t) of these Guidelines.
  - (B) The development is located within a district designated as architecturally or historically significant under local, state, or federal standards.
  - (C) When on-street parking permits are required, but not made available to the occupants of the development.
  - (D) When there is a car share vehicle, (i.e., a designated location to pick up or drop off a car share vehicle as defined by Section 102(d),) within one block of the development. A block can be up to 1,000 linear feet of pedestrian travel along a public street from the development.
- (2) For all other developments, the local government shall not impose automobile parking requirements for streamlined developments approved pursuant to this section that exceed one parking space per unit.

(f) A local government shall not adopt or impose any requirement, including, but not limited to, increased fees or inclusionary housing requirements, or rent levels other than what is defined for very-low income, lower-income, and moderate-income in Section 102, that applies to a project solely or partially on the basis that the project is eligible to receive streamlined processing.

- (1) A local government shall not deny a project access to local housing funds, including housing trust funds, or state housing funds solely on the basis that the project is eligible to receive streamlined processing.
- (2) This section should not be construed to preclude a jurisdiction from waving, reducing, or otherwise reducing fees and other costs for the project in an effort to facilitate lower project costs.

NOTE: Authority cited: Government Code section 65913.4(l). Reference cited: Government Code section 65913.4(a), (e), and (n).

**Section 301. Development Review and Approval**

(a) Ministerial processing

- (1) Ministerial approval, as defined in Section 102(n), of a project that complies with Article IV of these Guidelines shall be non-discretionary and cannot require a conditional use permit or other discretionary local government review or approval.
- (2) Ministerial design review or public oversight of the application, if any is conducted, may be conducted by the local government's planning commission or any equivalent board or commission responsible for review and approval of development projects, or the city council or board of supervisors, as appropriate.
  - (A) Design review or public oversight shall be objective and be strictly focused on assessing compliance with criteria required for streamlined projects, as well as any reasonable objective design standards published and adopted by ordinance or resolution by a local government before submission of the development application, and shall be broadly applicable to development within the locality.
  - (B) If a local government determines that a development submitted pursuant to this section is in conflict with any of the objective planning standards, it shall provide the development proponent, as defined in Section 102(h), written documentation in support of its denial identifying with specificity the standard or standards the development conflicts with, and an explanation for the reason or reasons the development conflicts with that standard or standards, within the timeframe specified in Section 301(b)(2) below. If the application can be brought into compliance with minor changes to the proposal, the local government may, in lieu of making the detailed findings referenced above, allow the development proponent to correct any deficiencies within the timeframes for determining project consistency specified in Section 301(b)(4) below.
  - (C) When determining consistency, a local government shall find that a development is consistent with the objective planning standards if there is substantial evidence that would allow a reasonable person to conclude that the development is consistent with the objective standards. The local government may only find that a development is inconsistent with one or more objective planning standards, if the local government finds no substantial evidence in favor of consistency and that, based on the entire record, no reasonable person could conclude that the development is consistent with the objective standards.
- (3) A determination of inconsistency with objective planning standards in Section 301(b)(3)(A) does not preclude the development proponent from correcting any deficiencies and resubmitting an application for streamlined review, or from applying for the project under other local government processes. If the development proponent elects to resubmit its application for streamlined review under that Section, the timeframes specified in Section 301(b) below shall commence on the date of resubmittal.

- (4) Approval of ministerial processing does not preclude imposing standard conditions of approval as long as those conditions are objective and broadly applicable to development within the locality, regardless of streamlined approval, and such conditions implement objective standards that had been adopted prior to submission of a development application. This includes any objective process requirements related to the issuance of a building permit. However, any further approvals, such as demolition, grading and building permits or, if required, final map, shall be issued on a ministerial basis subject to the objective standards.
  - (A) Notwithstanding Paragraph (5), standard conditions that specifically implement the provisions of these Guidelines, such as commitment for recording covenant and restrictions and provision of prevailing wage, may be included in the conditions of approval.
- (5) The California Environmental Quality Act (Division 13 (commencing with section 21000) of the Public Resources Code) does not apply to the following in connection with projects qualifying for the Streamlined Ministerial Approval Process:
  - (A) Actions taken by a state agency, local government, or the San Francisco Bay Area Rapid Transit District to lease, convey, or encumber land or to facilitate the lease, conveyance, or encumbrance of land owned by the local government, or for the lease of land owned by the San Francisco Bay Area Rapid Transit District in association with an eligible transit oriented development project, as defined pursuant to section 29010.1 of the Public Utilities Code, nor to any decisions associated with that lease.
  - (B) Actions taken by a state agency or local government to provide financial assistance to a development that receives streamlined approval pursuant to this section that is to be used for housing for persons and families of very low, low, or moderate income.
  - (C) Approval of improvements located on land owned by the local government or the San Francisco Bay Area Rapid Transit District that are necessary to implement a development that receives streamlined approval pursuant to this section where such development is to be used for housing for persons and families of very low, low, or moderate income, as defined in section 50093 of the Health and Safety Code.
  - (D) The determination of whether an application for a development is subject to the Streamlined Ministerial Approval Process.
- (b) Upon a receipt of an application, the local government shall adhere to the following:
  - (1) An application submitted hereunder shall be reviewed by the agency within the timeframes required under paragraph (2) below whether or not it contains all materials required by the agency for the proposed project, and it is not a basis to deny the project if either:
    - (A) The application contains sufficient information for a reasonable person to determine whether the development is consistent, compliant, or in conformity with the requisite objective standards (outlined in Article IV of these Guidelines); or

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- (B) The application contains all documents and other information required by the local government as referenced in Section 300(a) of these Guidelines.
- (2) Local governments shall make a determination of consistency, as described in Section 301(a)(3), as follows:
  - (A) Within 60 calendar days of submittal of the application to the local government pursuant to this section if the development contains 150 or fewer housing units.
  - (B) Within 90 calendar days of submittal of the application to the local government pursuant to this section if the development contains more than 150 housing units.
  - (C) Documentation of inconsistency(ies) with objective standards must be provided to the development proponent within these timeframes. If the local government fails to provide the required documentation determining consistency within these timeframes, the development shall be deemed to satisfy the objective planning standards and shall be deemed consistent.
- (3) Notwithstanding Section 301(b)(2), design review or public oversight may be conducted by the local government's city council, board of supervisors, planning commission, or any equivalent board or commission, as described in Section 301(a)(2), and shall be completed as follows:
  - (A) Within 90 calendar days of submittal of the application to the local government pursuant to this section if the development contains 150 or fewer housing units.
  - (B) Within 180 calendar days of submittal of the application to the local government pursuant to this section if the development contains more than 150 housing units.
  - (C) Although design review may occur in parallel with or as part of the consistency determination set forth in paragraphs (1) and (2) above, failure to meet subjective design review standards or obtain design review approval from the oversight board shall not in any way inhibit, chill, stall, delay, or preclude a project from being approved for development pursuant to these Guidelines if objective design review standards are met. This means that discussion or consideration of the application shall only relate to design standards that meet the definition of objective pursuant to Section 102(r). If the local government fails to complete design review within the timeframes provided above, the project is deemed consistent with objective design review standards.
- (4) Approval timelines: Local government must determine if an application for a Streamlined Ministerial Approval complies with requirements and approve or deny the application pursuant to these Guidelines as follows:
  - (A) Within 90 calendar days of submittal of the application to the local government pursuant to this section if the development contains 150 or fewer housing units.
  - (B) Within 180 calendar days of submittal of the application to the local government pursuant to this section if the development contains more than 150 housing units.

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- (5) Timeframes for determining project eligibility for a density bonus concession, incentive, parking reduction, or waiver of development standards or protections of the Housing Accountability Act (Government Code section 65589.5) shall be subject to the timeframes outlined in paragraph (2) and (3) above.
- (c) Modifications to the development subsequent to the approval of the ministerial review, but prior to issuance of a final building permit, shall be granted in the following circumstances:
  - (1) For modification initiated by the development proponent.
    - (A) Following approval of an application under the Streamlined Ministerial Approval Review Process, but prior to issuance of the final building permit required for construction of the development, an applicant may submit a written request to modify the development. The modification must conform with the following:
      - i. The change is consistent with the Streamlined Ministerial Approval Process Guidelines.
      - ii. The change is consistent with the objective planning standards specified in subdivision (a) that were in effect when the original development application was first submitted.
      - iii. The change will not conflict with a plan, ordinance or policy addressing community health and safety.
      - iv. If the change results in modifications to the concessions, incentives or waivers to development standards approved pursuant to Density Bonus Law, then the modified concession, incentive, or waiver must continue to meet the standards of the Density Bonus Law.
      - v. The local government may apply objective planning standards adopted after the development application was first submitted to the requested modification in any of the following instances:
        - I. The development is revised such that the total number of residential units or total square footage of construction changes by 15 percent or more.
        - II. The development is revised such that the total number of residential units or total square footage of construction changes by 5 percent or more, and it is necessary to subject the development to an objective standard beyond those in effect when the development application was submitted in order to mitigate or avoid a specific, adverse impact, as that term is defined in subparagraph (A) of paragraph (1) of subdivision (j) of Section 65589.5, upon the public health or safety, and there is no feasible alternative method to satisfactorily mitigate or avoid the adverse impact.
        - III. Objective building standards contained in the California Building Standards Code (Title 24 of the California Code of Regulations), including, but not limited to, building plumbing, electrical, fire, and grading codes, may be applied to all modifications.

- (B) Upon receipt of the request, the local agency shall determine if the requested modification is consistent with the local agency's objective standards in effect when the original application for the development was submitted. The local agency shall not reconsider consistency with objective planning standards that are not affected by the proposed modification. Approval of the modification request must be completed within 60 days of submittal of the modification or 90 days if design review is required. A proposed modification shall not cause the original approval to terminate.
  - (C) The local government's review of a modification request pursuant to this subdivision shall be strictly limited to determining whether the modification, including any modification to previously approved density bonus concessions or waivers, modify the development's consistency with the objective planning standards and shall not reconsider prior determinations that are not affected by the modification.
- (2) For modification initiated by the local agency.
- (A) Following approval of an application under the Streamlined Ministerial Approval Process, but prior to issuance of a building permit for the development, a local agency may require one-time changes to the development that are necessary to comply with the objective building standards contained in the California Building Standards Code (Title 24 of the California Code of Regulations), including, but not limited to, building plumbing, electrical, fire, and grading codes, or to mitigate a specific, adverse impact upon the public health or safety, and there is no feasible method to satisfactorily mitigate or avoid the specific adverse impact without modifying the development. A "specific, adverse impact" has the meaning defined in Government Code section 65589.5(d)(2). Any local standard adopted after submission of a development application, including locally adopted construction codes, shall not be considered an "objective zoning standard," "objective subdivision standard," or "objective design review standard" that is applicable to a development application.
  - (B) A determination that a change is required is a ministerial action. If a revised application is required to address these modifications, the application shall be reviewed as a ministerial approval within 60 days of re-submittal of the application.
- (d) If a local government approves a development under the Streamlined Ministerial Approval Process, notwithstanding any other law, the following expiration of approval timeframes apply:
- (1) If the project includes public investment in housing affordability, beyond tax credits, where 50 percent of the units are affordable to households making at or below 80 percent of the AMI, then that approval shall not expire.
  - (2) If the project does not include public investment in housing affordability (including local, state, or federal government assistance) beyond tax credits, and at least 50 percent of the units are not affordable to households making at or below 80 percent of the AMI, that approval shall remain valid for three years from the date of the final action establishing that approval, or if litigation is filed challenging that approval,

from the date of the final judgment upholding that approval. Approval shall remain valid for a project provided that vertical construction of the development has begun and is in progress. "In progress" means one of the following:

- (A) The construction has begun and has not ceased for more than 180 days.
  - (B) If the development requires multiple building permits, an initial phase has been completed, and the project proponent has applied for and is diligently pursuing a building permit for a subsequent phase, provided that once it has been issued, the building permit for the subsequent phase does not lapse.
- (3) The development may receive a one-time, one-year extension if the project proponent provides documentation that there has been significant progress toward getting the development construction ready, such as filing a building permit application. The local government's action and discretion in determining whether to grant the foregoing extension shall be limited to considerations and processes set forth in this section.
- (e) A local government shall issue subsequent permits as defined in Section 102(aa) required for a development approved under the Streamlined Ministerial Approval Process if the application for those permits substantially complies with the development as it was approved. Upon receipt of an application for a subsequent permit, the local government shall process the permit without unreasonable delay and shall not impose any procedure or requirement that is not imposed on projects that are not approved using the Streamlined Ministerial Approval Process. Issuance of subsequent permits shall implement the approved development, and review of the permit application shall not inhibit, chill, or preclude the development. For purposes of this subsection "unreasonable delay" means permit processing times that are longer than other similar permit requests for projects not approved using the Streamlined Ministerial Approval Process.

NOTE: Authority cited: Government Code section 65913.4(-l). Reference cited: Government Code section 65913.4(a), (b), (c), (d), (g), (h), (j), and (m).

## **ARTICLE IV. DEVELOPMENT ELIGIBILITY**

### **Section 400. Housing Type Requirements**

To qualify to apply for the Streamlined Ministerial Approval Process, the development proponent shall demonstrate the development meets the following criteria:

- (a) Prior to submitting an application for the Streamlined Ministerial Approval Process, the development proponent must submit to the local government a notice of intent to submit an application and the local government must have completed the tribal consultation process outlined in Government Code section 65913.4(b). The notice of intent shall be in the form of a preliminary application that includes all of the information described in Government Code section 65941.1.
- (b) Is a multifamily housing development. This includes mixed-use projects when the project satisfied the requirement under subsection (b). The development offers units for rental or for-sale.

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- (c) At least two-thirds of the square footage of the development shall be designated for residential use:
  - (1) For purposes of these Guidelines, the two-thirds calculation is based upon the proportion of gross square footage of residential space and related facilities, as defined in Section 102(w), to gross development building square footage for an unrelated use such as commercial. Structures utilized by both residential and non-residential uses shall be credited proportionally to intended use.
    - (A) Additional density, floor area, and units, and any other concession, incentive, or waiver of development standards granted pursuant to the Density Bonus Law shall be included in the square footage calculation.
    - (B) The square footage of the development shall not include non-habitable underground space, such as basements or underground parking garages.
  - (2) Both residential and non-residential components of a qualified mixed-use development are eligible for the Streamlined Ministerial Approval Process. Additional permitting requirements pertaining to the individual business located in the commercial component (e.g., alcohol use permit or adult business permit) are subject to local government processes.
  - (3) When the commercial component is not part of a vertical mixed-use structure, construction of the residential component of a mixed-use development shall be completed prior to, or concurrent with, the commercial component.
- (d) The development is consistent with objective zoning standards, objective subdivision standards, and objective design review standards in effect at the time of the development application submittal per Section 300 of these Guidelines, provided that any modifications to density or other concessions, incentives, or waivers granted pursuant to the Density Bonus Law shall be considered consistent with such objective zoning standards, objective subdivision standards, and objective design review standards.

NOTE: Authority cited: Government Code section 65913.4(l). Reference cited: Government Code section 65913.4(a) and (b).

**Section 401. Site Requirements**

- (a) The development proponent shall demonstrate in the application that, as of the date the application is submitted, the proposed development is located on a site that meets the following criteria:
  - (1) The site is a legal parcel, or parcels, located in either:
    - (A) A city where the city boundaries include some portion of either an urbanized area or urban cluster, as designated by the United States Census Bureau, or
    - (B) An unincorporated area where the area boundaries are wholly within the boundaries of an urbanized area or urban cluster, as designated by the United States Census Bureau.
  - (2) The site meets the definition of infill as defined by Section 102(j) of these Guidelines.



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- (3) The site must be zoned for residential use or residential mixed-use development or have a general plan designation that allows residential use or a mix of residential and nonresidential uses.
  - (A) To qualify for the Streamlined Ministerial Approval Process, the site's zoning designation, applicable specific plan or master plan designation, or general plan designation must permit residential or a mix of residential and nonresidential uses by right or with a use permit.
- (b) The development proponent shall demonstrate that, as of the date the application is submitted, the development is not located on a legal parcel(s) that is any of the following:
  - (1) Within a coastal zone, as defined in Division 20 (commencing with section 30000) of the Public Resources Code.
  - (2) Prime farmland or farmland of statewide importance, as defined pursuant to the United States Department of Agriculture land inventory and monitoring criteria, as modified for California, and designated on the maps prepared by the Farmland Mapping and Monitoring Program of the Department of Conservation, or land zoned or designated for agricultural protection or preservation by a local ballot measure that was approved by the voters of that locality.
  - (3) Wetlands, as defined in the United States Fish and Wildlife Service Manual, Part 660 FW 2 (June 21, 1993).
  - (4) Within a very high fire hazard severity zone, as determined by the Department of Forestry and Fire Protection pursuant to Government Code section 51178, or within a high or very high fire hazard severity zone as indicated on maps adopted by the Department of Forestry and Fire Protection pursuant to Public Resources Code section 4202.
    - (A) This restriction does not apply to sites excluded from the specified hazard zones by a local agency, pursuant to Government Code section 51179(b), or sites that are subject to adopted fire hazard mitigation measures pursuant to existing building standards or state fire mitigation measures applicable to the development.
    - (B) This restriction does not apply to sites that have been locally identified as fire hazard areas, but are not identified by the Department of Forestry and Fire Protection pursuant to Government Code section 51178 or Public Resources Code section 4202.
  - (5) A hazardous waste site that is currently listed pursuant to Government Code section 65962.5, or a hazardous waste site designated by the Department of Toxic Substances Control pursuant to Health and Safety Code section 25356.
    - (A) This restriction does not apply to sites the California Department of Public Health, California State Water Resources Control Board, or the Department of Toxic Substances Control has cleared for residential use or residential mixed uses.

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- (6) Within a delineated earthquake fault zone as determined by the State Geologist in any official maps published by the State Geologist.
  - (A) This restriction does not apply if the development complies with applicable seismic protection building code standards adopted by the California Building Standards Commission under the California Building Standards Law (Part 2.5 (commencing with Section 18901) of Division 13 of the Health and Safety Code), and by any local building department under Chapter 12.2 (commencing with Section 8875) of Division 1 of Title 2.
  
- (7) Within a special flood hazard area subject to inundation by the 1 percent annual chance flood (100-year flood) as determined by the Federal Emergency Management Agency in any official maps published by the Federal Emergency Management Agency.
  - (A) This restriction does not apply if the site has been subject to a Letter of Map Revision prepared by the Federal Emergency Management Agency and issued to the local government.
  
  - (B) This restriction does not apply if the development proponent can demonstrate that they will be able to meet the minimum flood plain management criteria of the National Flood Insurance Program pursuant to Part 59 (commencing with Section 59.1) and Part 60 (commencing with Section 60.1) of Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations.
    - i. If the development proponent demonstrates that the development satisfies either subsection (A) or (B) above, and that the development is otherwise eligible for the Streamlined Ministerial Approval Process, the local government shall not deny the application for the development on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site related to special flood hazard areas.
  
    - ii. If the development proponent is seeking a floodplain development permit from the local government, the development proponent must describe in detail in the application for the Streamlined Ministerial Approval Process how the development will satisfy the applicable federal qualifying criteria necessary to obtain the floodplain development permit. Construction plans demonstrating these details shall be provided to the locality before the time of building permit issuance, however construction plans shall not be required for the local jurisdiction to take action on the application under the Streamlined Ministerial Approval Process.
  
- (8) Within a regulatory floodway, as determined by the Federal Emergency Management Agency, in any official maps published by the Federal Emergency Management Agency.
  - (A) This restriction does not apply if the development has received a no-rise certification in accordance with Section 60.3(d)(3) of Title 44 of the Code of Federal Regulations.

- (B) If the development proponent demonstrates that the development satisfies subsection (A) above and that the development is otherwise eligible for the Streamlined Ministerial Approval Process, the local government shall not deny the application for development on the basis that the development proponent did not comply with any additional permit requirement, standard, or action adopted by that local government that is applicable to that site related to regulatory floodways.
- (9) Lands identified for conservation in an adopted natural community conservation plan pursuant to the Natural Community Conservation Planning Act (Chapter 10 (commencing with Section 2800) of Division 3 of the Fish and Game Code), a habitat conservation plan pursuant to the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), or another adopted natural resource protection plan.
- (10) Habitat for protected species identified as candidate, sensitive, or species of special status by state or federal agencies, fully protected species, or species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code), or the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code).
  - (A) The identification of habitat for protected species discussed above may be based upon information identified in underlying environmental review documents for the general plan, zoning ordinance, specific plan, or other planning documents associated with that parcel that require environmental review pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).
- (11) Lands under conservation easement.
- (12) An existing parcel of land or site that is governed under the Mobilehome Residency Law (Chapter 2.5 (commencing with Section 798) of Title 2 of Part 2 of Division 2 of the Civil Code), the Recreational Vehicle Park Occupancy Law (Chapter 2.6 (commencing with Section 799.20) of Title 2 of Part 2 of Division 2 of the Civil Code), the Mobilehome Parks Act (Part 2.1 (commencing with Section 18200) of Division 13 of the Health and Safety Code), or the Special Occupancy Parks Act (Part 2.3 (commencing with Section 18860) of Division 13 of the Health and Safety Code).
- (c) The development proponent shall demonstrate that, as of the date the application is submitted, the development is not located on a site where any of the following apply:
  - (1) The development would require the demolition of the following types of housing:
    - (A) Housing that is subject to a recorded covenant, ordinance, or law that restricts rents to levels affordable to persons and families of moderate, low, or very low income.
    - (B) Housing that is subject to any form of rent or price control through a locality's valid exercise of its police power.
    - (C) Housing that has been occupied by tenants, as defined by Section 102(cc), within the past 10 years.

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- (2) The site was previously used for housing that was occupied by tenants that was demolished within 10 years before the development proponent submits an application under the Streamlined Ministerial Approval Process.
    - (A) When property with a building that was demolished in the past 10 years has been zoned for exclusively residential use, there is a presumption that it was occupied by tenants, unless the development proponent provides verifiable documentary evidence from a government or independent third party source to rebut the presumption for each of the 10 years prior to the application date.
    - (B) When property with a building that was demolished in the past 10 years has been zoned to allow residential use in addition to other uses, the developer proponent shall include in its application a description of the previous use and verification it was not occupied by residential tenants.
  - (3) The development would require the demolition of a historic structure that was placed on a national, state, or local historic register prior to the submission of an application.
  - (4) The property contains housing units that are occupied by tenants and units at the property are, or were, subsequently offered for sale to the general public by the subdivider or subsequent owner of the property.
- (d) A development that involves a subdivision of a parcel that is, or, notwithstanding the Streamlined Ministerial Approval Process, would otherwise be, subject to the Subdivision Map Act (Division 2 (commencing with Section 66410)) or any other applicable law authorizing the subdivision of land is not eligible for the Streamlined Ministerial Approval Process.
- (1) Subdivision (d) does not apply if the development is consistent with all objective subdivision standards in the local subdivision ordinance, and either of the following apply:
    - (A) The development has received, or will receive, financing or funding by means of a low-income housing tax credit and is subject to the requirement that prevailing wages be paid pursuant to Section 403 of these Guidelines.
    - (B) The development is subject to the requirement that prevailing wages be paid, and a skilled and trained workforce used.
  - (2) An application for a subdivision pursuant to the Subdivision Map Act (Division 2 (commencing with Section 66410)) for a development that meets the provisions in (1) shall be exempt from the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). Such an application shall be subject to a ministerial process as part of the Streamlined Ministerial Approval Process.

NOTE: Authority cited: Government Code section 65913.4(l). Reference cited: Government Code section 65913.4(a), (c), (d).

**Section 402. Affordability Provisions**

- (a) A development shall be subject to a requirement mandating a minimum percentage of units be affordable to households making at or below 80 percent Area Median Income (AMI), based on one of the following categories:
  - (1) In a locality that the Department has determined is subject to the Streamlined Ministerial Approval Process pursuant to Section 200(c), the development shall dedicate either:
    - (A) A minimum of 10 percent of the total number of units prior to calculating any density bonus to housing affordable to households making at or below 80 percent of the AMI. If the locality has adopted a local ordinance that requires greater than 10 percent of the units be dedicated to housing affordable to households making at or below 80 percent of the AMI, that local affordable housing requirement applies.
    - (B) Or, if located in the San Francisco Bay Area pursuant to Section 200 (x), the project may elect to dedicate 20 percent of the total number of units to housing affordable to households making below 120 percent of the AMI. However, to satisfy this requirement and be eligible to proceed under these provisions, the average income of the tenant income restrictions for those units must equal at or below 100 percent of the AMI. A local ordinance adopted by the locality applies if it requires greater than 20 percent of the units be dedicated to housing affordable to households making at or below 120 percent of the AMI, or requires that any of the units be dedicated at a level less than 120 percent.
      - (i) In order to comply with subparagraph (A), the rent or sale price charged for units that are dedicated to housing affordable to households between 80 percent and 120 percent of the AMI shall not exceed 30 percent of the gross income of the household.
    - (C) Developments of 10 units or less are not subject to either affordability provision outlined in subparagraphs (A) and (B), above.
    - (D) A development proponent may satisfy the affordability requirements of this subsection with a unit that is restricted to households with incomes lower than those prescribed under subparagraph (A) and (B).
  - (2) In a locality that the Department has determined is subject to the Streamlined Ministerial Approval Process pursuant to Section 200, subparagraph (e), the development shall dedicate a minimum of 50 percent of the total number of units prior to calculating any density bonus to housing affordable to households making at or below 80 percent of the AMI.
    - (A) If the locality has adopted a local ordinance that requires greater than 50 percent of the units be dedicated to housing affordable to households making at or below 80 percent of the AMI, that local affordable housing requirement applies.

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- (3) In a locality that the Department has determined is subject to the Streamlined Ministerial Approval Process pursuant to Section 200, subparagraph (d), the development shall dedicate a minimum of 10 percent of the total number of units to housing affordable to households making at or below 80 percent of the AMI.
  - (A) If the locality has adopted a local ordinance that requires greater than 10 percent of the units be dedicated to housing affordable to households making below 80 percent of the AMI, that local affordable housing requirement applies.
  - (B) A development proponent may satisfy the affordability requirements of this subsection with a unit that is restricted to households with incomes lower than 80 percent of AMI.
- (b) A covenant or restriction shall be recorded against the development dedicating the minimum percentage of units to housing affordable to households making at or below 80 percent of the AMI pursuant to Section 402 (a)(1-3).
  - (1) The recorded covenant or restriction shall remain an encumbrance on the development for a minimum of either:
    - (A) 55 years for rental developments or
    - (B) 45 years for owner-occupied properties.
  - (2) The development proponent shall commit to record a covenant or restriction dedicating the required minimum percentage of units to below market housing prior to the issuance of the first building permit.
  - (3) The percentage of units affordable to households making at or below 80 percent of the AMI per this section is calculated based on the total number of units in the development exclusive of additional units provided by a density bonus.
  - (4) The percentage of units affordable to households making at or below 80 percent of the AMI per this section shall be built on-site as part of the development.
- (c) The percentage of units affordable to households making at or below 80 percent of the AMI per this section is calculated based on the total number of units in the development exclusive of additional units provided by a density bonus.
- (d) The percentage of units affordable to households making at or below 80 percent of the AMI per this section shall be built on-site as part of the development.
- (e) If the locality has adopted an inclusionary ordinance, the objective standards contained in that ordinance apply to the development under the Streamlined Ministerial Approval Process. For example, if the locality's adopted ordinance requires a certain percentage of the units in the development to be affordable to very low-income units, the development would need to provide that percentage of very low-income units to be eligible to use the Streamlined Ministerial Approval Process.
- (f) All affordability calculations resulting in fractional units shall be rounded up to the next whole number. Affordable units shall be distributed throughout the development, unless otherwise necessary for state or local funding programs, and have access to the same

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common areas and amenities as the market rate units. Identification in the development application of the location of the individual affordable units is not required for ministerial approval but distribution of units per this subsection can be included as a condition of approval per Section 301(a)(5), and the methods to achieve distribution is recorded through an affordable housing agreement or as part of a recorded covenant or restriction, unless providing location of affordable units at time of application is required by ordinance or as an adopted objective standard.

- (g) Affordability of units to households at or below 80 percent of the AMI per this Section is calculated based on the following:
  - (1) For owner-occupied units, affordable housing cost is calculated pursuant to Health and Safety Code Section 50052.5.
  - (2) For rental units, affordable rent is calculated pursuant to Health and Safety Code Section 50053.
- (h) Units used to satisfy the affordability requirements pursuant to this Section may be used to satisfy the requirements of other local or state requirements for affordable housing, including local ordinances or the Density Bonus Law, provided that the development proponent complies with the applicable requirements in the other state or local laws. Similarly, units used to satisfy other local or state requirements for affordable housing may be used to satisfy the affordability requirements of this Section provided that the development proponent complies with all applicable requirements of this Section.

NOTE: Authority cited: Government Code section 65913.4(l). Reference cited: Government Code section 65913.4(a).

### **Section 403. Labor Provisions**

The Labor Provisions in the Streamlined Ministerial Approval Process, located in paragraph (8) of subdivision (a) of Government Code section 65913.4, contain requirements regarding payment of prevailing wages and use of a skilled and trained workforce in the construction of the development.

The development proponent shall certify both of the following to the locality to which the development application is submitted:

- (a) The entirety of the development is a public work project, as defined in Section 102(s) above, or if the development is not in its entirety a public work, that all construction workers employed in the execution of the development will be paid at least the general prevailing rate of per diem wages for the type of work and geographic area.
  - (1) The Department of Industrial Relations posts on its website letters and decisions on administrative appeal issued by the Department in response to requests to determine whether a specific project or type of work is a “public work” covered under the state’s Prevailing Wage Laws. These coverage determinations, which are advisory only, are indexed by date and project and available at:  
<https://www.dir.ca.gov/OPRL/pwdecision.asp>

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- (2) The general prevailing rate is determined by the Department of Industrial Relations pursuant to Sections 1773 and 1773.9 of the Labor Code. General prevailing wage rate determinations are posted on the Department of Industrial Relations' website at: <https://www.dir.ca.gov/oprl/DPreWageDetermination.htm>.
- (3) Apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate. To find out if an apprentice is registered in an approved program, please consult the Division of Apprenticeship Standards' "Apprenticeship Status and Safety Training Certification" database at <https://www.dir.ca.gov/das/appcertpw/appcertsearch.asp>.
- (4) To find the apprentice prevailing wage rates, please visit the Department of Industrial Relations' website at: <https://www.dir.ca.gov/OPRL/PWAppWage/PWAppWageStart.asp>. If you are interested in requesting an apprentice, a list of approved programs is available at: <https://www.dir.ca.gov/databases/das/aigstart.asp>. General information regarding the state's Prevailing Wage Laws is available in the Department of Industrial Relations' Public Works website (<https://www.dir.ca.gov/Public-Works/PublicWorks.html>) and the Division of Labor Standards Enforcement Public Works Manual (<https://www.dir.ca.gov/dlse/PWManualCombined.pdf>).
- (5) For those portions of the development that are not a public work, all of the following shall apply:
  - (A) The development proponent shall ensure that the prevailing wage requirement is included in all contracts for the performance of the work.
  - (B) All contractors and subcontractors shall pay to all construction workers employed in the execution of the work at least the general prevailing rate of per diem wages, except that apprentices registered in programs approved by the Chief of the Division of Apprenticeship Standards may be paid at least the applicable apprentice prevailing rate.
  - (C) All contractors and subcontractors shall maintain and verify payroll records pursuant to Section 1776 of the Labor Code and make those records available for inspection and copying as provided therein.
    - i. The obligation of the contractors and subcontractors to pay prevailing wages may be enforced by the Labor Commissioner through the issuance of a civil wage and penalty assessment pursuant to Section 1741 of the Labor Code, which may be reviewed pursuant to Section 1742 of the Labor Code, within 18 months after the completion of the development, by an underpaid worker through an administrative complaint or civil action, or by a joint labor-management committee through a civil action under Section 1771.2 of the Labor Code. If a civil wage and penalty assessment is issued, the contractor, subcontractor, and surety on a bond or bonds issued to secure the payment of wages covered by the assessment shall be liable for liquidated damages pursuant to Section 1742.1 of the Labor Code.



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ii. The payroll record and Labor Commissioner enforcement provisions in (C) and (C)(i), above, shall not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement, as defined in Section 102(r) above, that requires the payment of prevailing wages to all construction workers employed in the execution of the development and provides for enforcement of that obligation through an arbitration procedure.

(D) Notwithstanding subdivision (c) of Section 1773.1 of the Labor Code, the requirement that employer payments not reduce the obligation to pay the hourly straight time or overtime wages found to be prevailing shall not apply if otherwise provided in a bona fide collective bargaining agreement covering the worker. The requirement to pay at least the general prevailing rate of per diem wages does not preclude use of an alternative workweek schedule adopted pursuant to Sections 511 or 514 of the Labor Code.

(b) For developments for which any of the following conditions in the charts below apply, that a skilled and trained workforce, as defined in Section 102(y) above, shall be used to complete the development if the application is approved.

**Developments Located in Coastal or Bay Counties**

Date	Population of Locality to which Development Submitted pursuant to the last Centennial Census	Number of Housing Units in Development
January 1, 2018, until December 31, 2021	225,000 or more	75 or more
January 1, 2022, until December 31, 2025	225,000 or more	50 or more

**Developments Located in Non-Coastal or Non-Bay Counties**

Date	Population of Locality to which Development Submitted pursuant to the last Centennial Census	Number of Housing Units in Development
January 1, 2018, until December 31, 2019	Fewer than 550,000	75 or more
January 1, 2020, until December 31, 2021	Fewer than 550,000	More than 50
January 1, 2022, until December 31, 2025	Fewer than 550,000	More than 25

(1) Coastal and Bay Counties include: Alameda, Contra Costa, Del Norte, Humboldt, Los Angeles, Marin, Mendocino, Monterey, Napa, Orange, San Diego, San Francisco, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Solano, Sonoma and Ventura.

**Department of Housing and Community Development**

- (2) Non-Coastal and Non-Bay Counties include: Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Fresno, Glenn, Imperial, Inyo, Kern, Kings, Lake, Lassen, Madera, Mariposa, Merced, Modoc, Mono, Nevada, Placer, Plumas, Riverside, Sacramento, San Benito, San Bernardino, San Joaquin, Shasta, Sierra, Siskiyou, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba.
- (3) The skilled and trained workforce requirement in this subparagraph is not applicable to developments with a residential component that is 100 percent subsidized affordable housing.
- (4) If the development proponent has certified that a skilled and trained workforce will be used to complete the development and the application is approved, the following shall apply:
  - (A) The applicant shall require in all contracts for the performance of work that every contractor and subcontractor at every tier will individually use a skilled and trained workforce to complete the development.
  - (B) Every contractor and subcontractor shall use a skilled and trained workforce to complete the development.
  - (C) The applicant shall provide to the locality, on a monthly basis while the development or contract is being performed, a report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code.
    - i. A monthly report provided to the locality pursuant to this subclause shall be a public record under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) and shall be open to public inspection. An applicant that fails to provide a monthly report demonstrating compliance with Chapter 2.9 (commencing with Section 2600) of Part 1 of Division 2 of the Public Contract Code shall be subject to a civil penalty of ten thousand dollars (\$10,000) per month for each month for which the report has not been provided.
    - ii. Any contractor or subcontractor that fails to use a skilled and trained workforce shall be subject to a civil penalty of two hundred dollars (\$200) per day for each worker employed in contravention of the skilled and trained workforce requirement. Penalties may be assessed by the Labor Commissioner within 18 months of completion of the development using the same procedures for issuance of civil wage and penalty assessments pursuant to Section 1741 of the Labor Code and may be reviewed pursuant to the same procedures in Section 1742 of the Labor Code. Penalties shall be paid to the State Public Works Enforcement Fund.
    - iii. The requirements in (C), (C)(i), and (C)(ii), above, do not apply if all contractors and subcontractors performing work on the development are subject to a project labor agreement that requires compliance with the skilled and trained workforce requirement and provides for enforcement of that obligation through an arbitration procedure.

## **Department of Housing and Community Development**

- (c) Notwithstanding subsections (a) and (b), a development is exempt from any requirement to pay prevailing wages or use a skilled and trained workforce if it meets both of the following:
  - (1) The project includes 10 or fewer housing units.
  - (2) The project is not a public work for purposes of Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 of the Labor Code.
- (d) Offsite fabrication is not subject to this Section if it takes place at a permanent, offsite manufacturing facility and the location and existence of that facility is determined wholly without regard to the particular development. However, offsite fabrication performed at a temporary facility that is dedicated to the development is subject to Section 403.

NOTE: Authority cited: Government Code section 65913.4(l). Reference cited: Government Code section 65913.4(a), Subdivision (d) of Section 2601 of the Public Contract Code, *Sheet Metal Workers' International Association, Local 104, v. John C. Duncan* (2014) 229 Cal.App.4th 192 [176 Cal.Rptr.3d 634].

### **Section 404. Additional Provisions**

- (a) A local government subject to the Streamlined Ministerial Approval Process shall allow for a development proponent's use of this process. However, the ability for a development proponent to apply for the Streamlined Ministerial Approval Process shall not affect a development proponent's ability to use any alternative streamlined by right permit processing adopted by a local government, including, but not limited to, the use by right provisions of Housing Element Law Government Code section 65583.2(i), local overlays, or ministerial provisions associated with specific housing types.
- (b) A development qualifying for the Streamlined Ministerial Approval Project does not prevent a development from also qualifying as a housing development project entitled to the protections of the Housing Accountability Act (Government Code section 65589.5).

NOTE: Authority cited: Government Code section 65913.4(l). Reference cited: Government Code section 65913.4(i).

## **ARTICLE V. REPORTING**

### **Section 500. Reporting Requirements**

As part of the APR due April 1 of each year, local governments shall include the following information. This information shall be reported on the forms provided by the Department. For forms and more specific information on how to report the following, please refer to the Department's Annual Progress Report Guidelines at <http://www.hcd.ca.gov/community-development/housing-element/index.shtml>

- (a) Number of applications submitted under the Streamlined Ministerial Approval Process.
- (b) Location and number of developments approved using the Streamlined Ministerial Approval Process.

***Department of Housing and Community Development***

- (c) Total number of building permits issued using the Streamlined Ministerial Approval Process.
- (d) Total number of units constructed using the Streamlined Ministerial Approval Process by tenure (renter and owner) and income category.

NOTE: Authority cited: Government Code section 65400(a)(2)(B). Reference cited: Government Code section 65400(a)(2)(E).

## Cyrah Caburian

---

**From:** Peggy Griffin <griffin@compuserve.com>  
**Sent:** Sunday, September 5, 2021 11:47 PM  
**To:** Greg Larson; Christopher Jensen; Benjamin Fu; Piu Ghosh; City of Cupertino Planning Dept.; Building  
**Cc:** City Clerk; City Council; City of Cupertino Planning Commission  
**Subject:** 2021-09-7 CC Agenda Item 12 - Vallco Town Center SB-35 NO substantial progress!  
**Attachments:** Vallco BEFORE and NOW.pdf

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Larson, Mr. Jensen, and City Staff,

From the City's Attachment A, Status Report..."**an extension should be granted if the proponent can demonstrate that there has been significant progress toward getting the development construction-ready.**"

- The entire east side of Wolfe is still standing!
- They have made no attempt to demolish that side. In fact, they are ignoring that side.
- The East Side is STILL IN USE!
- The HCD Guidelines REQUIRE that the "...construction of the residential component of a mixed-use development **SHALL BE completed prior to, or concurrent with**, the commercial component." This means BOTH SIDES of Wolfe Rd. (Reference HCD's Updated Streamlined Ministerial Approval Process dated 3-30-2021 [Updated Streamlined Ministerial Approval Process \(ca.gov\)](#) Government Code Section 65913.4)

The attached PDF contains 3 pictures of:

- Vallco Parcel Map showing West Side is 2/3rds the acreage and the East Side is 1/3<sup>rd</sup> the acreage (page 1)
- Vallco BEFORE any demolition (page 2)
- Vallco NOW (page 3)

Q1: How can you say they have made "substantial progress" when 1/3 of the original structures still remain AND they are STILL being used?

Q2: How can you say they have made "substantial progress" when there has been almost NO soil testing on the East Side where residential units are planned to be built, which is beside a known contaminated site?

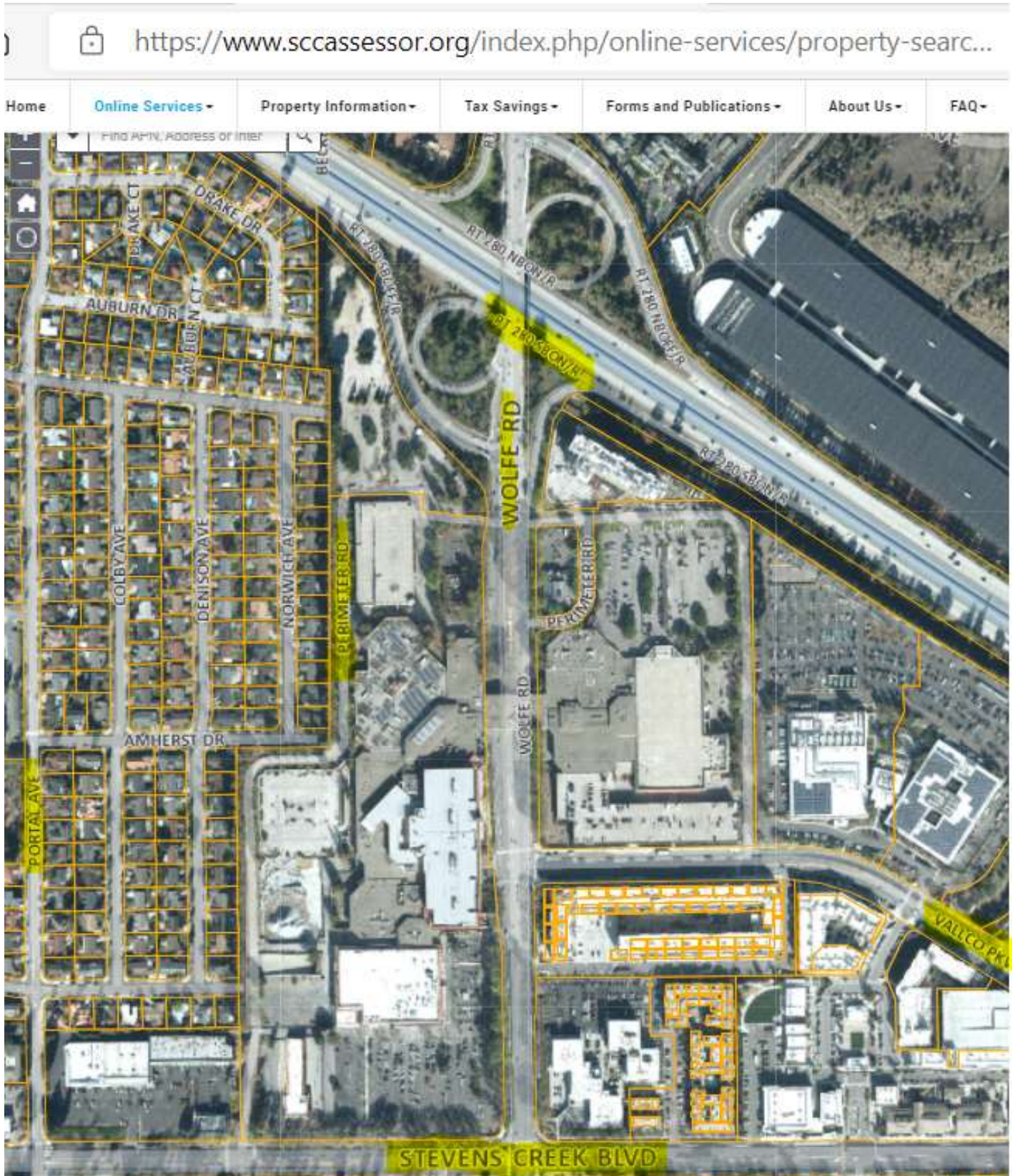
It has been 3-years.

Sincerely,  
Peggy Griffin



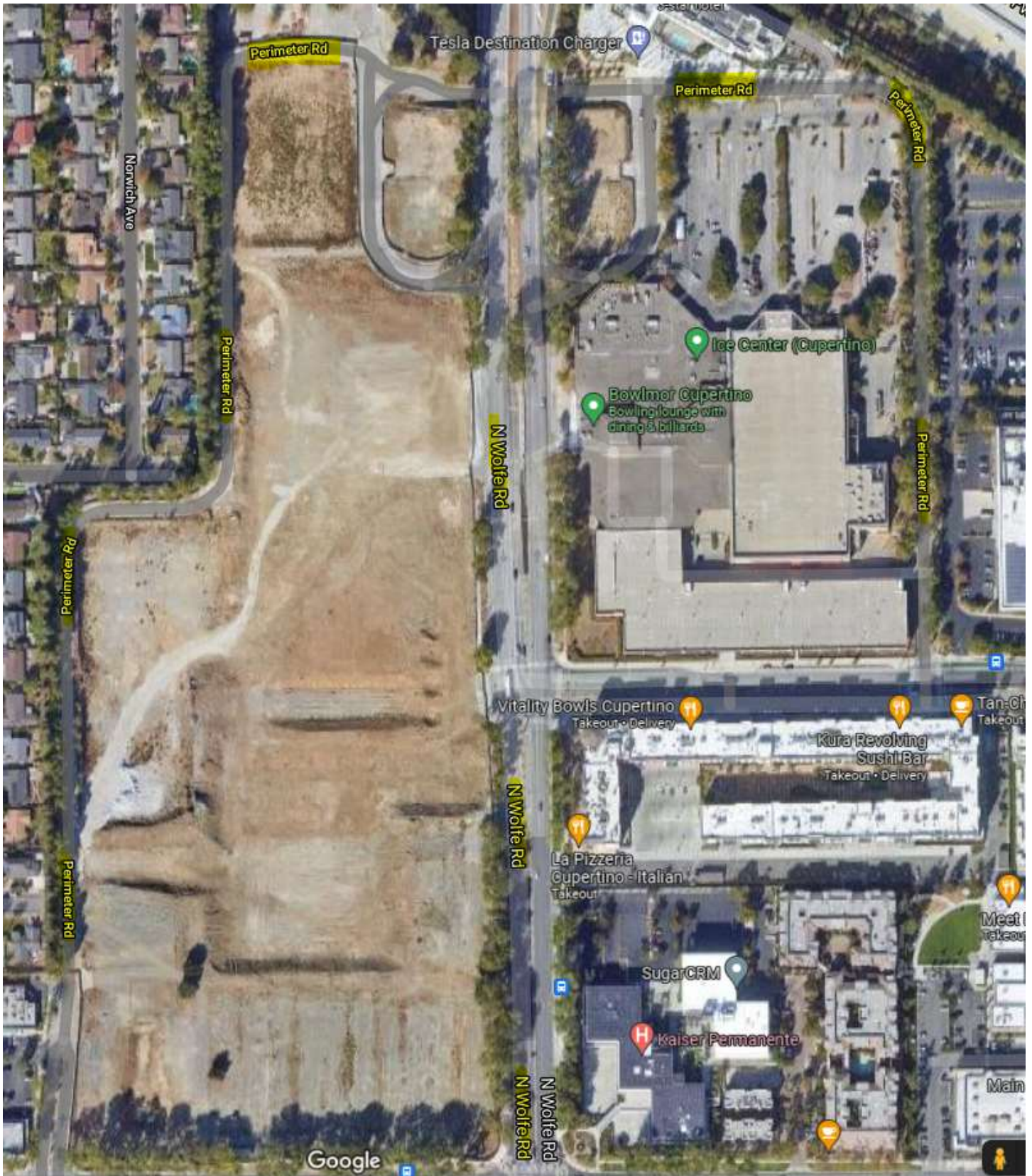


2021-09-05 Santa Clara County Assessor's Picture of the  
**2 VALLCO TOWN CENTER parcels BEFORE DEMOLITION**





2021-09-05 Google Maps Satellite View of the  
2 VALLCO TOWN CENTER parcels AFTER DEMOLITION





## Cyrah Caburian

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**From:** Peggy Griffin <griffin@compuserve.com>  
**Sent:** Monday, September 6, 2021 12:27 AM  
**To:** Greg Larson; Christopher Jensen; Benjamin Fu; Piu Ghosh  
**Cc:** City Clerk; City Council; City of Cupertino Planning Commission  
**Subject:** Vallco SB-35 Contamination Extensive on West Side  
**Attachments:** 2021-07-31 WSP Expanded Soil Gas Investigation-Fig 7 Summary Contaminants map.pdf

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Larson, Mr. Jensen, City Staff, City Council and Planning Commission,

Attached is Figure 7 from the 7-30-2021 WSP Expanded Soil Gas Investigation Report uploaded to the GeoTracker website by VPO.

- It shows extensive contamination over the entire West Side of the site.
- Along Wolfe Rd, the contamination increases with depth and the depth is half that of the proposed excavation!
- The summary map does not mention the contaminants found in the older 2016 Geosphere report.
- The samples don't cover the East Side at all.
- This report and it's findings do not appear on the City's Vallco SB-35 site but should and the public should be made aware.

NOTE: Much of the public has heard there are no contaminants, the site is clear, or there's just one tiny spot that needs to be cleaned up. All these statements are not true! The public should be made aware of this mess.

REQUEST1: Please inform the public that contaminants have been found across the entire West Side of Vallco.

REQUEST2: Please post the 7-30-2021 WSP soil report on the City's website.

HOW TO GET TO THE COMPLETE REPORT:

[GeoTracker \(ca.gov\)](https://www.ca.gov)

Click on "Site Maps/Documents"

Click on the 7/30/2021 document "EXTENDED SOIL GAS INVESTIGATION REPORT"

Sincerely,  
Peggy Griffin

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LEGEND

■ PCB INVESTIGATION AREA

- NESTED SOIL GAS PROBE INSTALLED IN NOVEMBER 2020
- NESTED SOIL GAS PROBE INSTALLED IN JUNE 2021

PCE TETRACHLOROETHYLENE

U NOT DETECTED ABOVE THE METHOD DETECTION LIMIT SHOWN

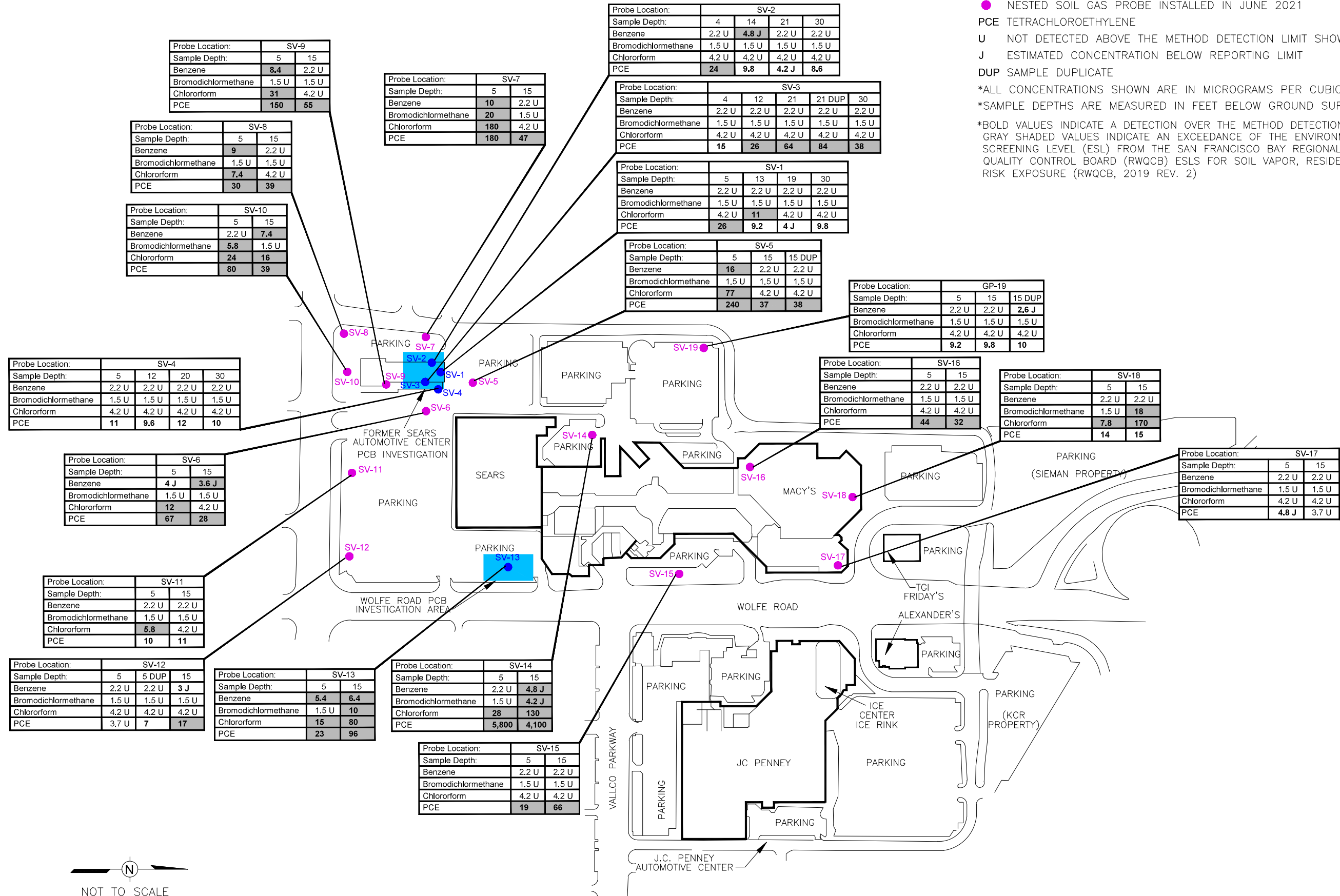
J ESTIMATED CONCENTRATION BELOW REPORTING LIMIT

DUP SAMPLE DUPLICATE

\*ALL CONCENTRATIONS SHOWN ARE IN MICROGRAMS PER CUBIC METER ( $\mu\text{g}/\text{m}^3$ )

\*SAMPLE DEPTHS ARE MEASURED IN FEET BELOW GROUND SURFACE

\*BOLD VALUES INDICATE A DETECTION OVER THE METHOD DETECTION LIMIT. GRAY SHADED VALUES INDICATE AN EXCEEDANCE OF THE ENVIRONMENTAL SCREENING LEVEL (ESL) FROM THE SAN FRANCISCO BAY REGIONAL WATER QUALITY CONTROL BOARD (RWQCB) ESLs FOR SOIL VAPOR, RESIDENTIAL RISK EXPOSURE (RWQCB, 2019 REV. 2)

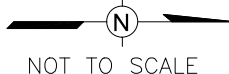


Drawn By: LS 7/26/2021  
 Checked: ER 7/26/2021  
 Approved:  
 DWG Name: 314MN2265.002-001

VALLCO FASHION MALL  
 10123 NORTH WOLFE ROAD  
 CUPERTINO, CALIFORNIA  
 PREPARED FOR  
 VALLCO PROPERTY OWNER, LLC  
 PALO ALTO, CALIFORNIA

Figure 7  
 SOIL GAS RESULTS OVER THE ESL

WSP USA, Inc.  
 2025 GATEWAY PLACE  
 SUITE 348  
 SAN JOSE, CA 95110  
 TEL: +1 408.453.6100



THE ORIGINAL VERSION OF THIS DRAWING IS IN COLOR. BLACK AND WHITE COPIES MAY NOT ACCURATELY DEPICT CERTAIN INFORMATION.

B

## Cyrah Caburian

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**From:** Jim Moore <cinco777@icloud.com>  
**Sent:** Sunday, September 5, 2021 8:03 PM  
**To:** Darcy Paul; Liang Chao; Kitty Moore; Jon Robert Willey; Hung Wei; Cupertino City Manager's Office  
**Cc:** City Clerk  
**Subject:** Please ensure that all construction agreements and contracts are in writing and enforceable for the extended Vallco Town Center SB35 Project

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mayor Paul, Vice Mayor Chao, Council members Moore, Willey, Wei, and Interim City Manager Larson

Please ensure that every Vallco Town Center SB35 Project construction plan and promise provided to the City by the developer and by other government agencies is in WRITING (and deemed legally enforceable by the Cupertino City Attorney) before issuing any City Building Permits to this Vallco Property Owner (VPO). Sand Hill Property (SHP), VPO, and their attorneys have misled elected Cupertino City Council members, and deceived Cupertino residents for a decade. Residents have learned that SHP and VPO are untrustworthy and must be treated accordingly.

Additionally, Cupertino City Officials/Staff must require a bond of at least \$400M to ensure the Green Roof is constructed. The Green Roof provides essential and legally required public-usable green space. Without a meaningful bond amount, residents strongly believe that this Green Roof, as shown in artistic drawings, will never be built. To alleviate this major resident concern, please ensure that the Green Roof construction plans are fully detailed and show all water, landscaping, planting, fire, maintenance, family play structures, and public safety improvements. The operational public access & usage days/hours for this Green Roof must be specified and enforceable by the City, and include public access and usage of the bridge facility over N Wolfe Road.

With these legally enforceable agreements and contracts for all proposed construction at Vallco by VPO and government agencies, residents want to avoid all the outright lies and shenanigans they have experienced with this Vallco Property Owner since 2014.

Sincerely,

James (Jim) Moore

Resident volunteer since 1976

\*\*\*\*\* Please include this e-mail in Written Communications for the 9/7/21 CCC Meeting \*\*\*\*\*



Virus-free. [www.avg.com](http://www.avg.com)

## Cyrah Caburian

---

**From:** Caryl Gorska <gorska@gorska.com>  
**Sent:** Monday, September 6, 2021 1:01 PM  
**To:** Jim Moore  
**Cc:** Darcy Paul; Liang Chao; Kitty Moore; Jon Robert Willey; Hung Wei; Cupertino City Manager's Office; City Clerk  
**Subject:** Re: Please ensure that all construction agreements and contracts are in writing and enforceable for the extended Vallco Town Center SB35 Project

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Awesome, Jim!

After reading the detailed version of the report, I can see why Deb Feng quit. **Talk about negotiating in bad faith!!**

Caryl

On Sep 5, 2021, at 8:03 PM, Jim Moore <[cinco777@icloud.com](mailto:cinco777@icloud.com)> wrote:

Dear Mayor Paul, Vice Mayor Chao, Council members Moore, Willey, Wei, and Interim City Manager Larson

Please ensure that every Vallco Town Center SB35 Project construction plan and promise provided to the City by the developer and by other government agencies is in WRITING (and deemed legally enforceable by the Cupertino City Attorney) before issuing any City Building Permits to this Vallco Property Owner (VPO). Sand Hill Property (SHP), VPO, and their attorneys have misled elected Cupertino City Council members, and deceived Cupertino residents for a decade. Residents have learned that SHP and VPO are untrustworthy and must be treated accordingly.

Additionally, Cupertino City Officials/Staff must require a bond of at least \$400M to ensure the Green Roof is constructed. The Green Roof provides essential and legally

required public-usable green space. Without a meaningful bond amount, residents strongly believe that this Green Roof, as shown in artistic drawings, will never be built. To alleviate this major resident concern, please ensure that the Green Roof construction plans are fully detailed and show all water, landscaping, planting, fire, maintenance, family play structures, and public safety improvements. The operational public access & usage days/hours for this Green Roof must be specified and enforceable by the City, and include public access and usage of the bridge facility over N Wolfe Road.

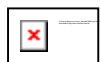
With these legally enforceable agreements and contracts for all proposed construction at Vallco by VPO and government agencies, residents want to avoid all the outright lies and shenanigans they have experienced with this Vallco Property Owner since 2014.

Sincerely,

James (Jim) Moore

Resident volunteer since 1976

\*\*\*\*\* Please include this e-mail in Written Communications for the 9/7/21 CCC Meeting \*\*\*\*\*



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## Cyrah Caburian

---

**From:** Janice Ishii <ichibanmamasan@hotmail.com>  
**Sent:** Monday, September 6, 2021 7:54 PM  
**To:** City Clerk  
**Subject:** Vallco Project

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

We are strongly opposed to the developer request for a one year extension on this project. Sandhill has had three years to begin building and has not. SANDHILL HAS FAILED.

Should the extension be granted Sandhill must be required to pay the \$125 million impact fee IN FULL. NO EXCUSES.

Sincerely

John and Janice Ishii  
Merritt Drive  
Cupertino

Get [Outlook for iOS](#)

## Cyrah Caburian

---

**From:** Jenny Griffin <grenna5000@yahoo.com>  
**Sent:** Monday, September 6, 2021 10:01 PM  
**To:** City of Cupertino Planning Commission; City Clerk  
**Subject:** Fwd: Santa Clara County as its Own Country

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

FYI. Please add to the public record. Thank you.

----- Original Message -----

**Subject:** Santa Clara County as its Own Country  
**From:** Jenny Griffin <grenna5000@yahoo.com>  
**Sent:** Monday, September 6, 2021, 9:59 PM  
**To:** "CityCouncil@Cupertino.org" <CityCouncil@Cupertino.org>  
**CC:** "grenna5000@yahoo.com" <grenna5000@yahoo.com>

Dear City Council:

I guess Santa Clara County could always secede from California if we feel The county is suffering under the political leadership in Sacramento. We Could become o ur own country. We could take Google and Facebook with Us and probably be one of the wealthiest nations in the area. Our GNP Would outpace some other independent small countr ies.

We would have Stanford with us and could make Palo Alto or San Jose The c apitol. We would have a nice big airport and ac ces s to San Francisco Bay through Palo Alto or Milpitas.

We would have our own military installation, complete with an airfield in Moffett Field.

We would have our own open space from Rancho San Antonio.

San Jose was even the capitol of the state in the early days. It could be again.

Long live Santa Clara Country. We may be creating you sooner than we think If Sacramento goes down the road it is going. Let it go there by itself and Santa Clara Country will be born to fulfill our needs for local control and a Voice in our new country.

Thank you,

Jennifer Griffin



## Cyrah Caburian

---

**From:** Lisa Warren <la-warren@att.net>  
**Sent:** Tuesday, September 7, 2021 12:03 AM  
**To:** Greg Larson; Christopher Jensen; City of Cupertino Planning Dept.; Benjamin Fu  
**Cc:** City Clerk; City Council; City of Cupertino Planning Commission; City Attorney's Office; Cupertino City Manager's Office  
**Subject:** Agenda item #12 Sept 7 2021 City Council Vallco SB 35 Expiration  
**Attachments:** demo map from 2018.pdf

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Re: Item 12 on CC Sept 7, 2021 Agenda

City Staff, City Council and Planning Commission,

I have concerns about the Recommended Action to 'Accept' the report. Accept does not seem to be a reasonable action. Council could 'Receive' the report, or 'Acknowledge' it, but should in no fashion 'Accept' it.

There is no reference anywhere that the city attorney, or a city contracted law firm has 'approved' the content of either Attachment A "Detailed Status Report..." or the 5 page Staff Report. Historically 'the city' and 'city council' have proven that even the slightest hint of potential litigation causes them to reconsider planned action, I think the minimal legal input here is very problematic and a red flag. The second to last paragraph in a 20 page document offers a one sentence comment that feels weak in support of extension.

While the community likely appreciates the effort to provide transparency to the community and the City Council, I am left wondering what other goals were intended by the creation of this report. I see only one goal identified in paragraph 2 on page 2.

Missing in the information presented for Item 12 on the 9/7/21 City Council Agenda is an explanation as to **WHY** (as written on pg 2 of 20 Attachment A) **"Staff has been working with the Developer on an implementation plan to be contained in an extension letter (the 'Extension Letter')."**

"City Staff" in key positions in Sept 2018 were wrong to deem this project compliant with the State's SB35 requirements three years ago. Since that time, there is evidence that the Developer, et al, knowingly made false claims and essentially hid important information - hazardous materials status for one. And of course, within the last 3 years, there have been an abundance of emails, addresses to Council, links to professional and legal support documents, deep analysis and number crunching that have shown justification to call the 9/21/18 approval a mistake. Soil sample testing describes increasingly worse news and are not being take far enough down to expose what is at the depth of planned excavation.

Honestly, the bulk of Attachment A 'detailed status report' reads like a long list of reasons not to grant an extension.

The lack of both cooperation and honesty from the Developer illustrates that no additional time to perform is deserved.

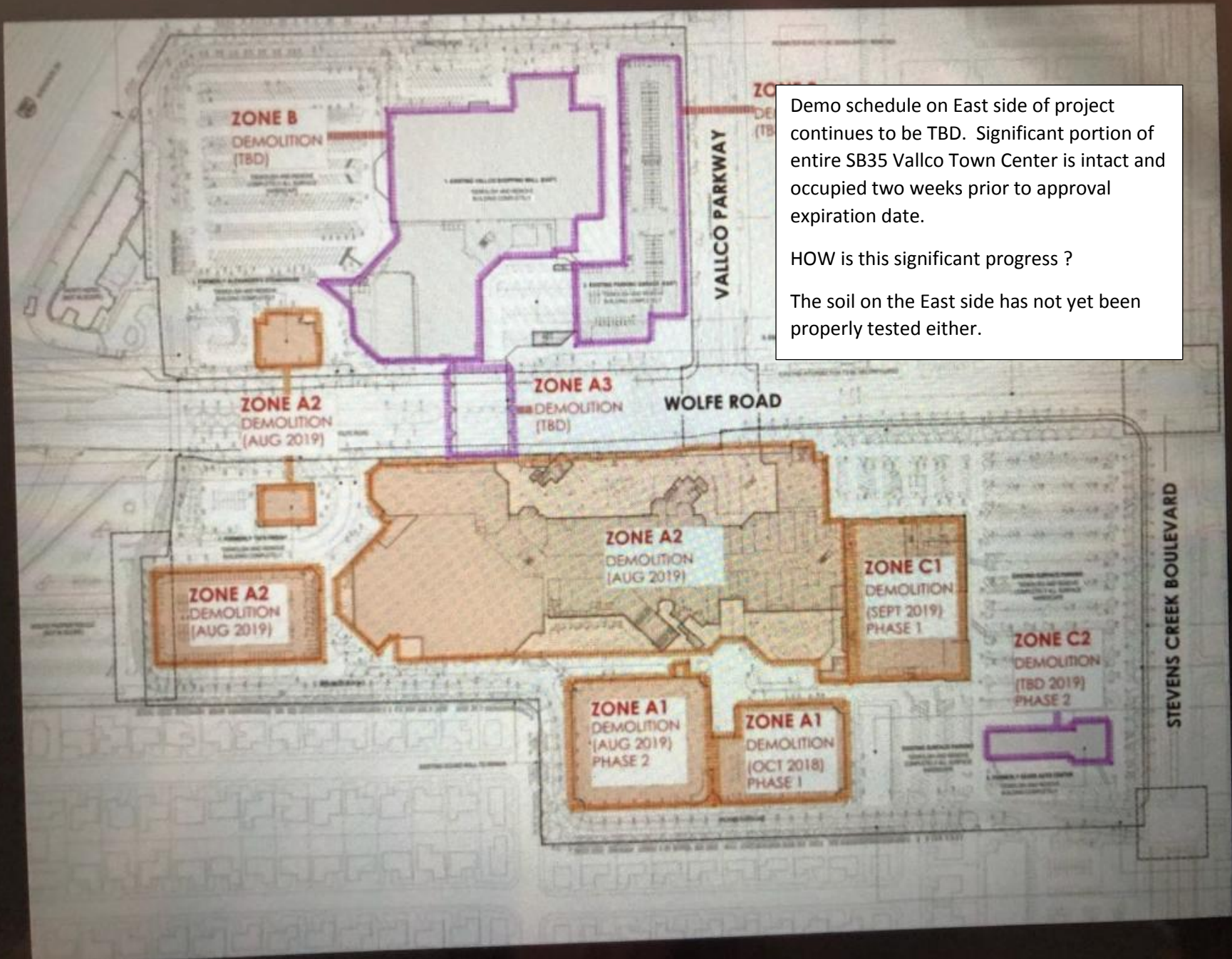
- Without completion of the East of Wolfe Rd portion which is a large percentage of the project, this project does not qualify as an SB 35 project yet virtually nothing has been done on the East. This fact does not illustrate significant progress. See attached demo plan from 2018
- Staff report bullet points include Project Modifications and an indication that some modifications are suspected already. This is not a good sign, nor a surprise.
- The very important issues of an understandably controversial green roof not yet being designed is of great (grave) concern. How, at this juncture, can there be no useful plans for the proposed green roof? The architect who 'designed' the roof was given so much press over 'designing' the world's largest green roof!!! But there is no actual design ! Unbelievable, ironic, or both?
- Why is the city 'negotiating' Impact Fees ? It is absurd and should NOT be considered in a definition of 'making significant progress' as far as the project goes. The fees are the fees.

Protecting our city and larger community, including our infrastructure and environment, wildlife, quality of life, is of great importance.

Staff has every right NOT to grant an extension, especially if the Developer will not play by the already lopsided rules.

The Applicant can come back with a new proposal, in good faith, that better meets the needs of the residents of Cupertino and addresses the housing affordability issues that SB 35 was pitched as being a solution for.

Thank you,  
Lisa Warren



Demo schedule on East side of project continues to be TBD. Significant portion of entire SB35 Vallco Town Center is intact and occupied two weeks prior to approval expiration date.

HOW is this significant progress ?

The soil on the East side has not yet been properly tested either.



## Cyrah Caburian

---

**From:** Liana Crabtree <lianacrabtree@yahoo.com>  
**Sent:** Tuesday, September 7, 2021 7:52 AM  
**To:** Liang Chao  
**Cc:** City Clerk  
**Subject:** Fwd: Written Communication, 9/7/2021 Council Meeting, Agenda Item 12, "Status Report on the Vallco Town Center SB 35 Development Project"

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Typo in my effort to send this letter to Vice Mayor Chao. Resending to her.

Liana

Begin forwarded message:

**From:** Liana Crabtree <lianacrabtree@yahoo.com>  
**Date:** September 7, 2021 at 7:41:22 AM PDT  
**To:** Darcy Paul <dpaul@cupertino.org>, liagchao@cupertino.org, kmoore@cupertino.org, hwei@cupertino.org, jwilley@cupertino.org, manager@cupertino.org  
**Cc:** Cupertino City Clerk <cityclerk@cupertino.org>, planning@cupertino.org  
**Subject:** **Written Communication, 9/7/2021 Council Meeting, Agenda Item 12, "Status Report on the Vallco Town Center SB 35 Development Project"**

Honorable Mayor Paul, Vice Mayor Chao, Council Members Moore, Wei, and Willey, and Interim City Manager Larson:

Please include this letter as written communication for the 9/7/2021 Council Meeting, Agenda Item 12, "Status Report on the Vallco Town Center SB 35 Development Project".

I appreciate that Council has agendized the receipt of the status report so the public can offer comment, even though under the provisions of 2017 SB 35 neither Council nor the public have a role regarding the City's consideration of the Property Owner's request to extend by one year the time limit to begin vertical construction at the Vallco site.

My comment addresses this statement on PDF p 4 of the *Detailed Status Report on the Vallco SB 35 Development Project*:

"Ministerial review and approval involves no discretionary or subjective judgment by city staff and is limited to evaluating whether the project meets certain city standards that are knowable, available and/or quantifiable."

Except,

...if the property owner asserts that the project complies with the law

...and the city staff responds that it believes the property owner

...and the residents say, “the project sits on a hazardous waste site, does not have sufficient residential space, exceeds height limits, lacks sufficient setback, does not comply with requirements for below-market-rate units, and lacks dedicated parkland”

...and the court finds “as a matter of law that there is no ministerial duty on the part of an agency to deny or reject an application submitted for streamlined review under SB 35 if the project conflicts with objective planning standard enumerated at section 65913.4 subdivision (a).” (Order Denying Petition for Writ of Mandate dated May 6, 2020, Better Cupertino et al. v. The City of Cupertino, PDF pp 15, 60)

...and if—as the court asserts—2017 SB 35 does not obligate local jurisdictions to decide projects from results determined through ministerial review, then what is it that propels extractive and non-compliant projects through the 2017 SB 35 approval process?

Prior to the passage of 2017 SB 35, local land use decisions that required changes to the General Plan were presented in public meetings and decided by elected officials who were directly accountable to the electorate. Today, for projects submitted under 2017 SB 35, it seems some controversial land use decisions are mandated to be considered behind closed doors by city or county employees who are unknown and unaccountable to local residents.

However, the upside of recent Statewide authoritarian legislation, such as 2017 SB 35 and 2021 SB 9 and SB 10, is that as these laws proliferate, we are all prompted to pay attention to what’s happening to local and global real estate. Who owns it? How is it valued? Who benefits when a property is upzoned? Who suffers when real estate, especially “affordable housing”, is financialized?

Scholars, activists, and journalists have been studying and reporting on the financialization of the housing supply since before the 2008 collapse of the subprime mortgage market.

**It would be so helpful if we could address openly the consequences of valuing residential real estate as an asset class that is valued independently from what regular people can afford to pay for housing.**

As for the 2018 Vallco Town Center SB 35 Project, it appears to exist to make very wealthy people even more wealthy.

**If the community values safe, affordable housing for its residents who need it, then as a community we need to build and maintain it ourselves as a public asset. There’s no profit—no financial incentive—in the construction and maintenance of truly affordable housing. But there is tremendous public good.**

Sincerely,

Liana Crabtree  
Cupertino resident

#### **RESOURCES**

*Push the Film* (2019). Link to the film: <https://www.pushthefilm.com/us-events/>

**“PUSH** is a new documentary from award-winning director **Fredrik Gertten**, investigating why we can’t afford to live in our own cities anymore. Housing is a fundamental human right, a precondition to a safe and healthy life. But in cities all

around the world, having a place to live is becoming more and more difficult. Who are the players and what are the factors that make housing one of today's most pressing world issues?"

+++

"Small- and Medium-sized Enterprises (SMEs) and the Urban Fabric," a presentation to the Organisation of Economic Cooperation and Development by Saskia Sassen, scholar of global cities. 4/15/2019. Link to the presentation recording (29:53 mins):

<https://youtu.be/7Vz2LZYU5c8>

"" ...if high finance is interested in financializing low income, huge housing complexes, you know, we need to recognize that. That's a very significant element. The methodologies that we are deploying, I think, still dominantly for cities, do not get at that. A poor housing complex is still seen as a poor housing complex. From the financial perspective, it's an asset. And you know what? We are running out of assets....""

+++

"A Tech Worker Dorm in the Tenderloin? Or the End of the Yimby Narrative?" published in *48 Hills* by Tim Redmond. 9/6/2021. Link to the article:

<https://48hills.org/2021/09/a-tech-worker-dorm-in-the-tenderloin-or-the-end-of-the-yimby-narrative/>

"... Forge had all of its entitlements and no "Nimby" opposition. But the determining factor on what gets built in San Francisco is not, by and large, community input or approval delays. It's international speculative capital deciding where the highest return is. And more housing for families (much less housing that's remotely affordable) doesn't seem to make the cut right now...."

+++

*PUSHBACK Talks* podcast, Season 2, Episode 23 "Summer Series - Reflections and Corrections on the Housing Crisis with Frans Timmerman, EU Executive Vice President".

7/28/2021 <https://www.pushthefilm.com/pushback-talks/>

*PUSHBACK Talks* podcast, Season 2, Episode 24 "Summer Series - Corruption and Kleptocratic Networks, a Conversation with Sarah Chayes". 8/4/2021 <https://www.pushthefilm.com/pushback-talks/>

*PUSHBACK Talks* podcast, Season 2, Episode 25 "Summer Series - Can Our Savings Protect Human Rights and the Planet?". 8/11/2021

<https://www.pushthefilm.com/pushback-talks/>

*PUSHBACK Talks* podcast, Season 2, Episode 26 "Summer Series - Danish Housing Minister Takes on Blackstone". 8/18/2021

<https://www.pushthefilm.com/pushback-talks/>

*PUSHBACK Talks* podcast, Season 2, Episode 27 "Summer Series - How Culture Capitalism Demolished the American Dream". 8/25/2021

<https://www.pushthefilm.com/pushback-talks/>

You can also find *PUSHBACK Talks* wherever you download your favorite podcasts.





## Cyrah Caburian

---

**From:** Anne Ezzat <aezzat95014@gmail.com>  
**Sent:** Monday, September 6, 2021 6:33 PM  
**To:** Cupertino City Manager's Office; GregLarson@cupertino.org; City Clerk; City Attorney's Office; Benjamin Fu; Piu Ghosh; City of Cupertino Planning Commission; Building; Darcy Paul; Kitty Moore; Liang Chao; Jon Robert Willey  
**Subject:** Item #12 on the Agenda SB35 Extension for Vallco

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Messrs and Mesdames,

Is this a bad joke? An extension for the ill conceived "SB35" project at Vallco? This location has been known to be contaminated since parts of it were an HP worksite. Hence all the signs warning HP workers about the dangers to their health. It should have not been ministerially approved to begin with since it is a toxic site.

Secondly, the impact fees of this project should not be shifted to the residents. Taxes are typically not imposed on a population ministerially. "No taxation without representation" sorta has a ring to it, doesn't it?

And finally, the city should be more even handed in granting exceptions. I have a neighbor that had a disabled child (now deceased) and the family built a ramp to make it easier to get in and out of the house with his wheelchair. The ramp was 1/4 inch too high, and the city made them destroy the ramp. Why couldn't the city have made an exception for this child because it would have improved the quality of his short life?

Thank you for your time.

Regards,

Brooke Ezzat



## Cyrah Caburian

---

**From:** Pam Hershey <pamelakhershey@aol.com>  
**Sent:** Tuesday, September 7, 2021 8:29 AM  
**To:** Cupertino City Manager's Office; <GregLarson@cupertino.org>; City Clerk; City Attorney's Office; Benjamin Fu; Piu Ghosh; City of Cupertino Planning Commission; Building; Darcy Paul; Kitty Moore; Liang Chao <liangchao@cupertino.org>; Jon Robert Willey <jwilley@cupertino.org>  
**Subject:** Item #12 on the Agenda SB35 Extension for Vallco

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Larson, Mr. Jensen, City Staff City Council , and Planning Commission,

In my opinion, there should not be an extension for the SB35 project at Vallco. This location has been known to be contaminated and it should have not been approved to begin with since it is a toxic site. Please inform the public so they are aware that the site is contaminated as they have only heard there is no contaminants and the site is clear, which is not true. The Expanded Soil Gas Investigation Report shows that the entire West Side is contaminated which is not posted on the City's Vallco SB-35 site and needs to be soon.

Regards,

Pamela Hershey  
Close proximity neighbor of Vallco

## Cyrah Caburian

---

**From:** Peggy Griffin <griffin@compuserve.com>  
**Sent:** Sunday, September 5, 2021 2:52 AM  
**To:** Cupertino City Manager's Office; GregLarson@cupertino.org; City Attorney's Office; Benjamin Fu; Piu Ghosh; City of Cupertino Planning Dept.; Building  
**Cc:** City Clerk; City Council; City of Cupertino Planning Commission  
**Subject:** 2021-09-7 CC Agenda Item 12 - Vallco Town Center SB-35 Status and Extension

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Larson, Mr. Jensen, and City Staff,

Thank you for the detailed "Status Report on the Vallco SB 25 Development Project", Attachment A for Agenda Item #12.

1. From the City's Attachment A, Status Report..."an extension should be granted if the proponent can demonstrate that there has been significant progress toward getting the development construction-ready." Well, the entire east side of Wolfe is still standing! They have made no attempt to demolish that side. In fact, they are ignoring that side. The SB-35 project includes the east side, too. The green roof requires the east side! How can you determine if plans will work if you only have half?

2. Just because SCCDEH is looking at the east and west side separately for soil remediation does not prevent Sandhill from demoing above ground on the east side. They just chose not to. They have split the SB-35 project into two separate parts yet the City approved ONE project, not 2 halves! They have done NOTHING on the east side! That is not showing "significant progress"!

3. It's been their negligence that has caused delays. The exposure of the soil contamination has trickled in because consistent, grid-pattern soil samples at depths going down as far as they plan to excavate has not been done! It hasn't been done on either side! The July 31, 2021 WSP report shows all along Wolfe Rd that the deeper samples, the more contaminants yet they only did 5 ft and 15 ft. Excavation is planned for over double that depth!

4. Submitting a building application does not mean the application is complete or accurate! You can just submit anything and let the City come back one by one and ask for the missing, incomplete or invalid parts to be corrected. This is what happened at Main Street. In December 2015, the developer needed a Temporary Occupancy Permit but that was contingent on a covenant being recorded at the County for the retail space in the 2 office buildings. So, a covenant was recorded in December - it was wrong. In fact it was WAY WRONG. It took 6 months for Mr. Holm, our City Attorney, to correct that covenant and get it re-recorded correctly. Meanwhile, rent was being paid. The only loss was to the City (hours of labor) and the public. This is that same developer!

REQUEST: Do not allow a 1-year extension to this SB-35 project because significant progress has NOT been made to the ENTIRE project! The entire east side remains as-is! No effort has been made to prepare that side for this SB-35 project.

Sincerely,  
Peggy Griffin

## Cyrah Caburian

---

**From:** Jennifer Griffin <grenna5000@yahoo.com>  
**Sent:** Monday, September 6, 2021 9:22 PM  
**To:** City of Cupertino Planning Commission; City Clerk  
**Cc:** grenna5000@yahoo.com  
**Subject:** Fw: Redevelopment Agencies and SB 35

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

FYI. Please add to the Public Record. Thank you.

----- Forwarded Message -----

**From:** Jennifer Griffin <grenna5000@yahoo.com>  
**To:** citycouncil@cupertino.org <citycouncil@cupertino.org>  
**Cc:** grenna5000@yahoo.com <grenna5000@yahoo.com>  
**Sent:** Monday, September 6, 2021, 09:17:43 PM PDT  
**Subject:** Redevelopment Agencies and SB 35

Dear City Council:

It is perhaps important to remember that former governor Jerry Brown eliminated Redevelopment Agencies in California in 2011, with some help from some other politicians. Vallco was in the only Redevelopment Agency in Cupertino.

SB 35 was introduced by Senator Wiener and some other co-authors on December 15, 2016 in the California Assembly and was signed by Jerry Brown on September 29, 2017.

By this time, Vallco was not in a redevelopment agency any more.

Perhaps, it would have been much better if Jerry Brown had never got rid of redevelopment agencies in the first place, judging by the bedlam SB 35 has unleashed on the state.

SB 9 and SB 10 are coming out of the same political machine as created SB 35 and some other bills. I would imagine that SB 9 and SB 10 will unleash similar bedlam on the state if Gavin Newsom signs them.

This leaves one to wonder if Jerry Brown and some others started all of this when they got rid of the redevelopment agencies in 2011. Was there was an agenda' there in these 2011 folks minds to set up for these housing bills?

Was Sacramento going Socialist Dictatorship as far back as 2011 to get us to where we are now into some sort of Ultra Left Soviet style take over of the California government as seems to be happening now?

Wow. Now, I wish Jerry was never governor for the 3rd time.

And now some of these Sacramento types sees to have their designs on Washington D.C. also.

Why, Jerry, why? Did someone tell you to do it? California is going into turbulent times indeed from deeds that were done in 2011 and 2017. Someone else is trying to be the Dictator of California and maybe, of the

United States.

From hence forth the public needs to look carefully at political actions to see what is really happening.

Thank you,

Jennifer Griffin

## Cyrah Caburian

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**From:** Eric Crouch <info@sg.actionnetwork.org>  
**Sent:** Monday, September 6, 2021 7:54 PM  
**To:** City Clerk  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

City Clerk Kirsten Squarcia,

I am greatly concerned by the status of Vallco, which was approved nearly 3 years ago. The City is incorrect that the project will expire—the state knows its own laws better than us. We must move forward as a city and issue any remaining permits. At this rate, we are unnecessarily stalling 1,200 affordable homes, while also putting our city in legal jeopardy.

Please stop putting up a fight against the State; we will lose and we would be right to lose. We must contribute our fair share of affordable housing, and we already have an approved project to do that! Let the Vallco project move forward Now!

Eric Crouch  
crouch.eric@gmail.com  
10221 Phar Lap Drive  
Cupertino, California 95014

## Cyrah Caburian

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**From:** Yvonne Thorstenson <info@sg.actionnetwork.org>  
**Sent:** Monday, September 6, 2021 8:58 PM  
**To:** City Clerk  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

City Clerk Kirsten Squarcia,

I am greatly concerned by the status of Vallco, which was approved nearly 3 years ago. The City is incorrect that the project will expire—the state knows its own laws better than us. We must move forward as a city and issue any remaining permits. At this rate, we are unnecessarily stalling 1,200 affordable homes, while also putting our city in legal jeopardy.

Please stop putting up a fight against the State; we will lose. We must contribute our fair share of affordable housing, and we already have an approved project to do that! Let the Vallco project move forward Now!

Yvonne Thorstenson  
yrthor@gmail.com  
7744 Robindell Way  
Cupertino, California 95014

## Cyrah Caburian

---

**From:** Alex Strange <info@sg.actionnetwork.org>  
**Sent:** Monday, September 6, 2021 9:41 PM  
**To:** City Clerk  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

City Clerk Kirsten Squarcia,

I am greatly concerned by the status of Vallco, which was approved nearly 3 years ago. The City is incorrect that the project will expire—the state knows its own laws better than us. We must move forward as a city and issue any remaining permits. At this rate, we are unnecessarily stalling 1,200 affordable homes, while also putting our city in legal jeopardy.

Please stop putting up a fight against the State; we will lose. We must contribute our fair share of affordable housing, and we already have an approved project to do that! Let the Vallco project move forward Now!

Alex Strange  
astrang@gmail.com  
966 Ponderosa Ave Apt 55  
Sunnyvale, California 94086

## Cyrah Caburian

---

**From:** Zoe Vulpe <info@sg.actionnetwork.org>  
**Sent:** Monday, September 6, 2021 10:01 PM  
**To:** City Clerk  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

City Clerk Kirsten Squarcia,

Hello, my name is Zoe Vulpe, I am a college student and a former Cupertino resident. I am greatly concerned by the status of Vallco, which was approved nearly 3 years ago. The City is incorrect that the project will expire—the state knows its own laws better than us. We must move forward as a city and issue any remaining permits. At this rate, we are unnecessarily stalling 1,200 affordable homes, while also putting our city in legal jeopardy.

Please stop putting up a fight against the State; we will lose. We must contribute our fair share of affordable housing, and we already have an approved project to do that! Let the Vallco project move forward Now!

This story is getting old. My classmates at De Anza were homeless while working and going to school. People I grew up with and went to high school with in Cupertino can't afford to go to school or live here. We are being pushed out and abandoned. Please allow this project to move forward. Vallco contributed a huge part of my childhood memories, please now let it become affordable housing for our community. The need is dire and growing greater every minute!

Zoe Vulpe  
zoe.fox.105@gmail.com

San jose, California 95126



## Cyrah Caburian

---

**From:** Cristian Vulpe <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 12:01 AM  
**To:** City Clerk  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

City Clerk Kirsten Squarcia,

I am greatly concerned by the status of Vallco, which was approved nearly 3 years ago. The City is incorrect that the project will expire—the state knows its own laws better than us. We must move forward as a city and issue any remaining permits. At this rate, we are unnecessarily stalling 1,200 affordable homes, while also putting our city in legal jeopardy.

Please stop putting up a fight against the State; we will lose. We must contribute our fair share of affordable housing, and we already have an approved project to do that! Let the Vallco project move forward Now!

Cristian Vulpe  
cris\_vulpe@yahoo.com  
1935 W Hedding St  
San Jose, California 95126

## Cyrah Caburian

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**From:** Calley Wang <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 9:38 AM  
**To:** City Clerk  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

City Clerk Kirsten Squarcia,

I am greatly concerned by the status of Vallco, which was approved nearly 3 years ago. The City is incorrect that the project will expire—the state knows its own laws better than us. We must move forward as a city and issue any remaining permits. At this rate, we are unnecessarily stalling 1,200 affordable homes, while also putting our city in legal jeopardy. I grew up here and it is a shame to see the city let the Vallco property rot while CUSD schools are closing from low enrollment. There is a severe lack of housing, and we no longer even have a movie theater in our community.

Please stop putting up a fight against the State; we will lose. We must contribute our fair share of affordable housing, and we already have an approved project to do that! Let the Vallco project move forward Now!

Calley Wang  
calleywang@gmail.com

Cupertino, California 95014

## Cyrah Caburian

---

**From:** Donna Austin <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 10:56 AM  
**To:** City Clerk  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

City Clerk Kirsten Squarcia,

I am greatly concerned by the status of Vallco, which was approved nearly 3 years ago. The City is incorrect that the project will expire—the state knows its own laws better than us. We must move forward as a city and issue any remaining permits. At this rate, we are unnecessarily stalling 1,200 affordable homes, while also putting our city in legal jeopardy.

Please stop putting up a fight against the State; we will lose. We must contribute our fair share of affordable housing, and we already have an approved project to do that! Let the Vallco project move forward Now!

Donna Austin  
primadona1@comcast.net  
22283 N DeAnza Circle  
Cupertino CA, California 95014

## Cyrah Caburian

---

**From:** City of Cupertino Planning Dept.  
**Sent:** Tuesday, September 7, 2021 10:11 AM  
**To:** City Clerk  
**Subject:** FW: Vallco Project



### Piu Ghosh

Planning Manager  
Community Development  
PiuG@cupertino.org  
(408) 777-3277



---

**From:** Janice Ishii <ichibanmamasan@hotmail.com>  
**Sent:** Monday, September 6, 2021 7:41 PM  
**To:** City of Cupertino Planning Dept. <planning@cupertino.org>  
**Subject:** Vallco Project

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

We strongly oppose the developer request for a one year extension on this project. Sandhill has had three years to start building and haven't. Sandhill has failed.

Should a one year extension be granted Sandhill MUST BE REQUIRED TO PAY THE \$125Milion Impact fee IN FULL. NO EXCUSES.

Sincerely

John and Janice Ishii  
Merritt Drive  
Cupertino

Get [Outlook for iOS](#)

Cupertino City Council  
10300 Torre Avenue  
Cupertino, Ca. 95014-3202



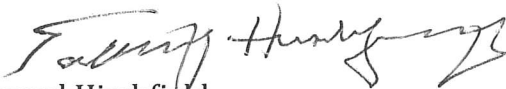
Edward Hirshfield  
734 Stendhal Lane  
Cupertino, CA. 95014  
408 253 9674  
[clairelouise@earthlink.net](mailto:clairelouise@earthlink.net)  
August 6, 2021

Attention: All City Council Members and Staff  
(please distribute)

Subject: Vallco

Honorable Members,

I wrote the attached letter on November 21st, 2016. In the intervening period little has changed. If anything, the Council has become more obstructionist. You are wasting the value of the Vallco property as a source of taxes and fees and are exposing the City and its residences to a huge liability that could result from your continued delaying tactics. You can avert this disaster by cooperating with the property owner and enabling obstruction-free construction. Please do so and free us all from the weight of your delaying tactics.

  
Edward Hirshfield

Edward Hirshfield  
734 Stendhal Lane  
Cupertino, CA. 95014  
408 253 9674  
[clairelouise@earthlink.net](mailto:clairelouise@earthlink.net)  
November 21st, 2016

Cupertino City Council  
10300 Torre Avenue  
Cupertino, Ca. 95014-3202

Attention: All City Council Members and Staff (please distribute)

Subject: Hills at Vallco,

Honorable Members,

As a 53 year homeowner in Cupertino with no vested interest in Sand Hill properties or any of its associates, I hereby request that the City Council approve all of the building permits and other agreements with Sand Hill Properties associated with construction and operation of the Hills at Vallco contingent upon Sand Hill Properties delivering all of the benefits, fees and contributions offered in Measure D.

Measure D received ~45% of the votes in the recent election. It is reasonable to believe that at least 5% of the voters who did not vote for the Measure were swayed by misinformation propagated by Measure C proponents.

Moving forward with the Hills project now will garner tens of millions of dollars for the City not otherwise available. I believe that the City Planning Commission has already approved the project and that a satisfactory Environmental Impact study has already been completed. Furthermore, the City has already held numerous hearings on the subject. It seems that all that is required at this point, is for the Council to approve the application.

I make this request because I believe that the Hills project will be an elegant asset to the City. The vacant Vallco property continues to be owned by Sand Hills Properties and they have no plans other than to shutter it. The funds promised for schools and other infrastructure programs are needed now. Growth will happen even if the Vallco property remains blighted. Traffic will be a problem without the Hills development. I valued looking forward to an elegant neighbor at Vallco. I live less than a mile from the property. I see no hope for a better development plan in my lifetime.

I think the proponents of Measure C have done the citizens of Cupertino a great disservice. You, the City Council have the power and authority to undo their mischief. Please take this action forthwith.

Edward Hirshfield

## Cyrah Caburian

---

**From:** Tai Cheng <taicheng19722@gmail.com>  
**Sent:** Tuesday, September 7, 2021 12:11 PM  
**To:** City Council  
**Subject:** Vallco

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please say no I don't like building 20 floor. Wolf road will be too crowd.  
Sent from my iPhone

## Cyrah Caburian

---

**From:** Max K. Agoston <mkagoston@msn.com>  
**Sent:** Monday, September 6, 2021 11:18 PM  
**To:** Cupertino City Manager's Office  
**Subject:** Vallco

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Interim City Manager Greg Larson,

I am writing you with regard to the Vallco Town Center Status Report.

I am a 40+ year resident of Cupertino and home owner and have always opposed the Vallco project because I do not want Cupertino to turn into a high density metropolis with lots more traffic. Please hold the developer to their promises and contract. Do not give in to their request for changes to the original proposal. It is bad enough as it is. All the developer wants to do is make a lot of money. Let him spend a money on lawyers. I would support the city to defend itself in court.

Sincerely,

Max K Agoston  
19787 La Mar Drive  
Cupertino



## Cyrah Caburian

---

**From:** dicksteinp@aol.com  
**Sent:** Monday, September 6, 2021 3:59 PM  
**To:** Cupertino City Manager's Office  
**Subject:** Vallco project

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mr. Larson,

I am writing again, this time to you alone, because the fate of Vallco is in the hands of the City staff.

There is enough evidence to warrant denying the extension of the SB35 project, which many residents are bound to present during the Council meeting, and which you probably know. I would strongly urge the staff to deny the extension.

If the extension is granted, SB35 is in force, giving the developer the upper hand, a club over the head of the City Council, in negotiations with the City.

If the extension is denied (again, there is no reason legally not to deny it), SB35 is cancelled for this project and the City will have its authority restored. The developer will have to negotiate fairly with the City Council for a project that serves the needs of Cupertino, not just his own.

Sincerely,

Phyllis Dickstein  
Cupertino Resident

## Cyrah Caburian

---

**From:** Vickie Chin <vickie\_chin@hotmail.com>  
**Sent:** Monday, September 6, 2021 6:28 PM  
**To:** Cupertino City Manager's Office  
**Subject:** NO on SB-35 Extension

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Cupertino City Manager,

SB-35 project approvals expire after three years. While the SB-35 law permits cities to grant a one-year extension, the extension is discretionary. Please do not grant an extension. Put this awful SB-35 project out of its misery.

Best Regards,  
30+ years Cupertino Residence Vickie Chin

Sent from [Outlook](#)

## Cyrah Caburian

---

**From:** greg1wong@yahoo.com  
**Sent:** Monday, September 6, 2021 9:11 PM  
**To:** Cupertino City Manager's Office  
**Subject:** Vallco project failure do not give in to them

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hi city leader,

I'm writing to let you know my displeasure of this Vallco project - it is a total failure. My concerns are

1. It is being delayed another year? This is unacceptable they haven't even broken ground to start the vertical construction.
2. The infrastructure costs are not negotiated yet this is a large sum that has a taxpayer do not want to pay. This should be the responsibility of the project owner.
3. We still have not heard on how the garden rooftop is to be structured. It looks like the apartments underneath will be without sunlight is that something we want? They should scrap the overhead Park and designate some land for a park for Cupertino residence.
4. The project owner is playing hardball with the city and I don't like that. We need to be firm and have them conform to all of the requirements regarding environmental issues. Sb35 requires the land not have any contamination so this project should not even be considered.

Thank you for your consideration and I think you're doing a great job.

Sincerely,

Greg Wong  
Cupertino residence since 1985

[Sent from Yahoo Mail on Android](#)

## Cyrah Caburian

---

**From:** Jim Kuehnis <jimkuehnis@gmail.com>  
**Sent:** Monday, September 6, 2021 9:04 PM  
**To:** Cupertino City Manager's Office  
**Subject:** Vallco

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Manager Larson,

I am a Cupertino homeowner and have read the latest status reports on Vallco. I have been opposed to this project ever since it was approved via SB35, for these reasons:

1) This green roof/park is absurd, I never liked the idea. My understanding is a certain amount of acreage must be set aside for open space in a parcel this size, and the only reason they are putting this on the roof is to save space. That's unacceptable. I want a green space/park at ground level and not on the roof just so the developer can make more money by saving precious land for more buildings. I am an engineer and it doesn't make structural sense to have this on roofs. The fire department will have issues servicing it - it's not going to be user-friendly, there's not enough dirt for any sizeable trees, and I can only imagine it will be a maintenance nightmare keeping it intact over the decades to come.

2) I don't trust Sand Hill Property Company. They hired people to harass and mislead voters at the library a few years ago, I was witness to it. They also built Main Street, which I feel is a colossal flop. I remember Main Street was advertised as Cupertino's version of Santana Row, well it's nothing like Santa Row. People all over the valley visit Santa Row, the same cannot be said for Main Street. My family rarely goes there, there's just nothing of interest, and parking is problematic. How can we trust Sand Hill Property to build a successful Vallco when they couldn't even do the much smaller Main Street?

3) Before COVID hit, I know Cupertino traffic was steadily getting worse. I was shocked one time I drove to the library and there was no place to park. I don't think there's a solid understanding of what Vallco is going to do to traffic on Wolfe Road and Stevens Creek Blvd, and to our schools and other public services. The planned number of employees, residents, and office workers being planned for Vallco is too high.

We need to stop the current plan, which has never made sense and start over. I presume we can't make Sand Hill Property sell their investment to another builder, if so, then you **MUST** put strict controls and quality measures in place to assure they build what is best for Cupertino, not what is best for them.

Jim Kuehnis

## Cyrah Caburian

---

**From:** Alan Penn <alanp\_usa@yahoo.com>  
**Sent:** Monday, September 6, 2021 8:44 PM  
**To:** Darcy Paul; Liang Chao; Kitty Moore; Jon Robert Willey  
**Cc:** Cupertino City Manager's Office  
**Subject:** I am strongly against the Vallco SB35 plan extension

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear councilmen & councilwoman,  
Please reject the extension to the ridiculous Vallco SB35 plan :  
the lacking of infrastructure to support the traffic, the not viable  
30 acres green roof, just name a few. Thanks.  
Alan Penn

## Cyrah Caburian

---

**From:** Dan Yasukawa <dymasukaw1@gmail.com>  
**Sent:** Monday, September 6, 2021 10:49 PM  
**To:** Cupertino City Manager's Office  
**Subject:** Vallco SB 35

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Interim City Manager Greg Larson

We are writing to you to express our concerns re: Vallco SB35. The Developer has had adequate time to address the issues/concerns expressed by the Cupertino City Council/Staff on behalf of its citizens. As a resident of Cupertino, we request denial of 1-year extension ending 9/21/2022. We require the Developer to address and demonstrate compliance of such items: toxic soil contamination/remediation, impact on City's resources (fire, safety, traffic, utilities) environmental impact, structural design, etc. We strongly agree with the City that the Developer is not entitled to a reduction or elimination of impact fees. These current impact fees in excess of \$125M owed to the City should be provided before commencement of project.

We urge you, as our representative, to deny the 1 -year extension to Developer, until our concerns have been met satisfactorily by the Developer. Thus far, it is not clear the Developer is negotiating/working in good faith, as seen thru their actions. We need to hold the Developer accountable, because the impact of Vallco SB35 will be felt by our City for generations to come.

Thank you.

With regards,  
Dan & Linda Yasukawa

## Cyrah Caburian

---

**From:** Ying Shih <yingwashih@yahoo.com>  
**Sent:** Monday, September 6, 2021 6:54 PM  
**To:** Cupertino City Manager's Office  
**Subject:** No on SB-35 extension

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Cupertino City Council member,

SB-35 project approvals expire after three years. While the SB-35 law permits cities to grant a one-year extension, the extension is discretionary. Please do not grant an extension. Put this awful SB-35 project out of its misery.

Best Regards,

Ying shih

Sent from my iPad

## Cyrah Caburian

---

**From:** Edward A. Jajko <ejajko@gmail.com>  
**Sent:** Tuesday, September 7, 2021 9:53 AM  
**To:** Darcy Paul; Liang Chao; Kitty Moore  
**Cc:** Jon Robert Willey; Hung Wei; Cupertino City Manager's Office  
**Subject:** Fwd: Vallco Status Report,

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

September 7, 2021

I write to register my objections to the Vallco report and certainly to Sand Hill's whole project. I am unable to attend and speak at today's Council meeting, as I am confined to the Forum for physical rehabilitation.

Just a couple of points:

First, Sand Hill Properties ruined the Vallco mall. True, it was in decline, thanks to willful actions or neglect by previous owners. But a hard-working, imaginative owner could have refreshed the place and maintained it as Cupertino's gem. For the longest time, Vallco was described as "dying." No, it was killed, murdered, done in, by its owners.

Second:

Six towers of 22 stories? In Cupertino? Six buildings as tall as those in downtown San Jose, looming over adjacent neighborhoods like the Fairgrove in which my family and I have lived since Fathers' Day 1983? SIX 22 story towers forever destroying the visuals of our little city? This is insane.

Third:

As for the office space proposed for the project, it is more than is found in Salesforce Tower in San Francisco. It doesn't belong in Cupertino. Or... does the developer have something secret going on with, say, Apple? Let the developer be upfront about how 1.9+ million square feet of office space will be used, at a time when millions in square footage are being planned and built in San Jose and neighboring cities, and when the Coronavirus pandemic has seen a revolution in working remotely and from home.

Fourth:

A 30 acre "green roof." We are all short of water and will suffer mandatory reductions. What exemptions will the developer get to allow watering of 30 acres? Those trees, planted in a mere 20" of soil, all needing extensive, deep watering: how will they be anchored? Is the developer planning Cupertino's own wildfire zone?

Summary:

The developer ruined and destroyed Vallco. Why should anyone believe any promises the developer makes, other than to create further ruin and destruction?

I am firmly, totally, and unceasingly opposed to the insane, obscene, greedy, Vallco plans of the developer. And likewise to the totally undemocratic, downright evil SB-35 that subverts government by duly elected representatives of the citizens.

Edward A. Jajko  
6235 Shadygrove Drive  
Cupertino CA 95014-4669



408-691-2248

Sent from my iPhone

Begin forwarded message:

**From:** Better Cupertino <info@bettercupertino.org>  
**Date:** September 6, 2021 at 8:17:41 PM PDT  
**To:** eajajko@gmail.com  
**Subject:** Vallco Status Report  
**Reply-To:** Better Cupertino <info@bettercupertino.org>

[view this email in your browser](#)



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*September 6, 2021*

REFRESHER COURSE

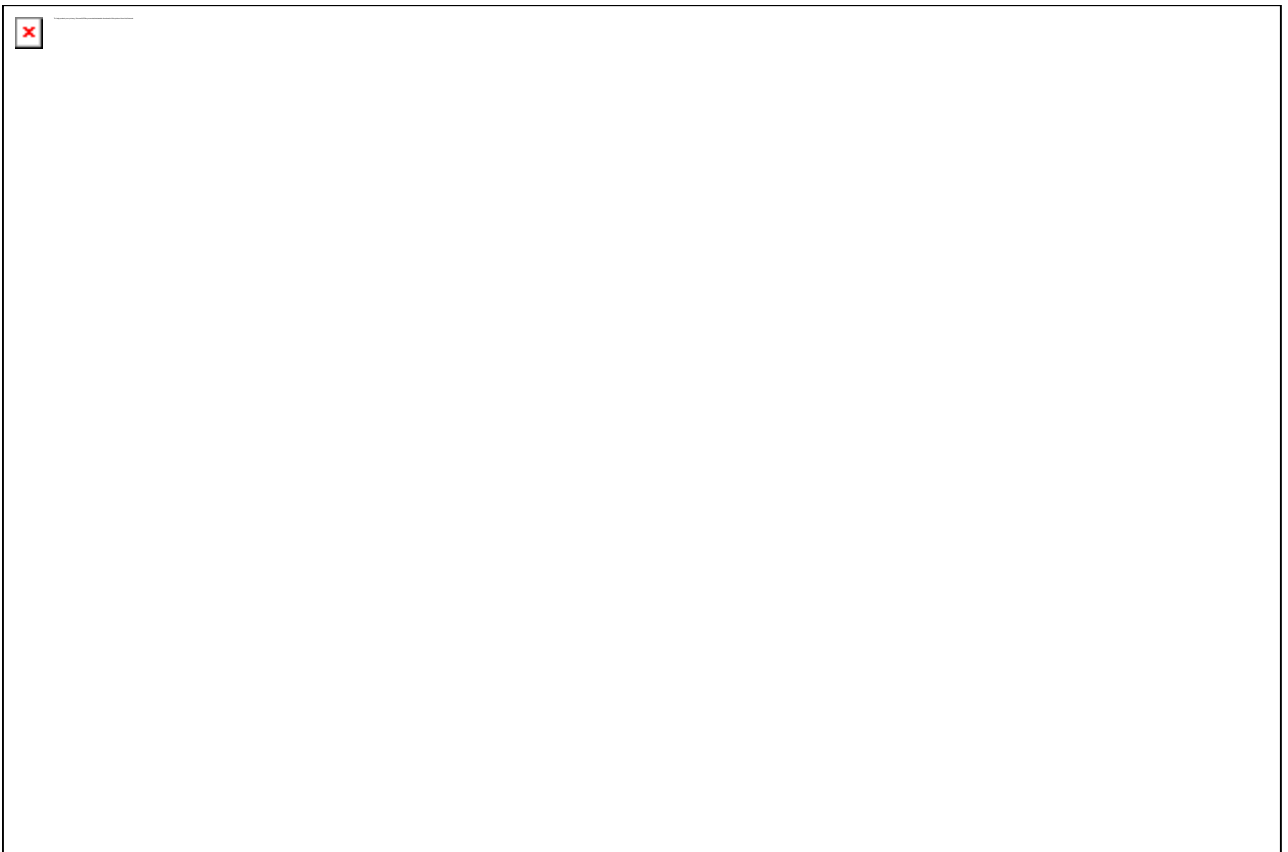
**WHAT IS THE VALLCO SB 35 TOWN CENTER PLAN, AGAIN?**

TAKE ACTION

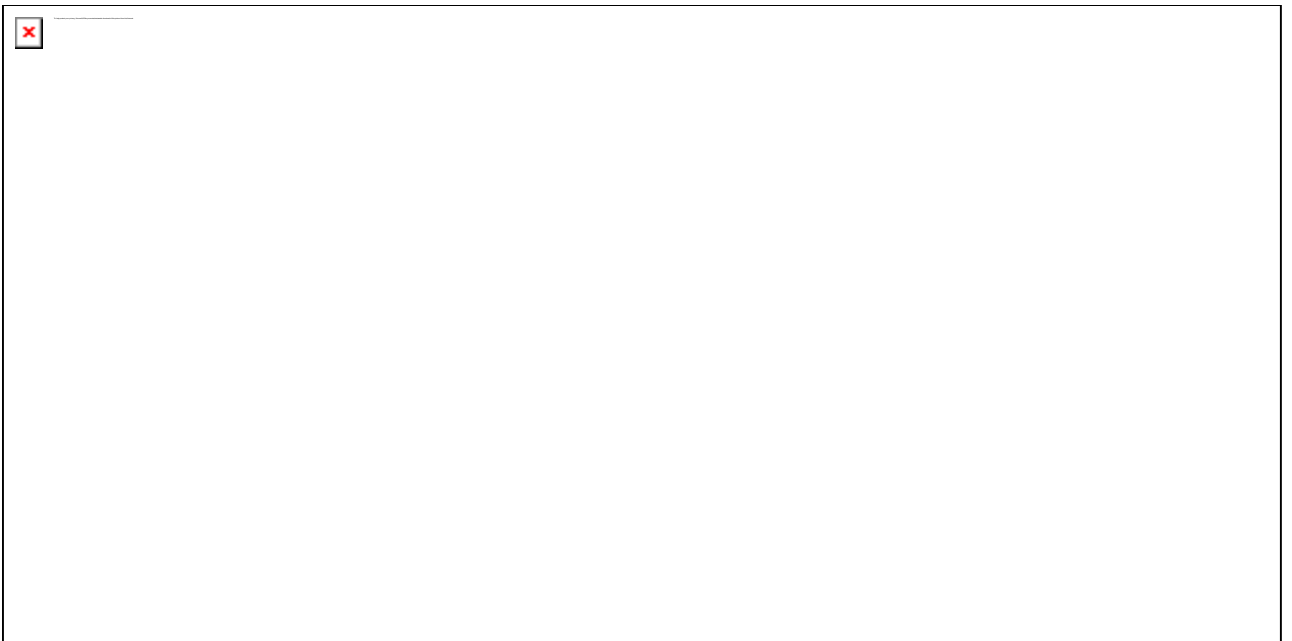
**WRITE A LETTER / SPEAK AT TUESDAY'S COUNCIL MEETING**

# What is this pretty picture hiding?

---



- Six 22-story towers, 1/3 to 1/2 of which is under green roof (no sun)
- 2,402 residential units (square footage unknown)
- 6,005 residents projected (adding an additional 10% to current population)
- 1,201 of which are below market rate (BMR) units (one good thing!)
- But all BMR units are under the 30-acre green roof (and often facing multilevel parking garage)
- 486,000 sq. ft. retail
- 1.99 million sq. ft. office
- 11,000 office workers projected (almost double of residents housed, creating need for more housing than project provides)
- Green roof is 30 acres on top of 50-acre project footprint
- Green roof soil has 20 inches of soil, so trees shown in pretty picture probably aren't viable



## Talking Points

1. As some alert citizens have known all along, the Vallco site is contaminated with toxic chemicals and will require cleanup under the supervision of the Santa Clara County Dept. of Environmental Health. As a result, the project was never eligible for approval under the SB 35 law.
2. The soil contamination is much broader than expected, and in areas not anticipated. It was only "discovered" when the City did its own review with a third-party consultant. Both the Developer and staff had to know at least something about this, as they possessed studies that showed at least some of the contamination.
3. Cupertino asks the developer to pay \$125 million in impact fees (which are estimated real costs of the impact of the project on the City). The developer refuses. If the developer doesn't pay, taxpayers will bear the cost. So far, the developer isn't budging.
4. The Developer hasn't even submitted plans for the "green roof," and discussion so far reveals major emergency access and structural issues.

5. Yet the Developer is asking for a one-year extension beyond the Sept 21, 2021 deadline to begin vertical construction. They are nowhere near ready, and it is unlikely given their history that they'll be ready by Sept 21, 2022.
6. No demolition work has been done, nor soil even tested for known contaminants, on the east side of Wolfe Road. As the SB 35 statute calls for housing to be built before or concurrently with other uses, the Developer cannot begin construction of *any* of the project until that parcel is ready. For some reason, this issue isn't even addressed in the report(s).

### **Quotes from the Status Report**

“The initial three-year period has proven insufficient to begin vertical construction.” (detailed status report, pg. 1)

“Specifically, Vallco’s own estimates predict that the Project would bring over 8,700 new jobs to the City of Cupertino, thereby creating a need for nearly 6,000 more housing units, while only providing 2,402 of those new housing units. As a result, the Project results in the need for 3,410 more housing units than it provides, further exacerbating the Bay Area housing crisis, and seemingly in opposition to the goals of SB 35.” (summary status report, pg. 2)

“The Vallco Project anticipates that Santa Clara County Dept. of Environmental Health’s oversight will continue until Spring 2022, although recent testing has revealed even greater contamination issues than previously identified, including some measures beyond permissible residential thresholds.” (summary status report, pg. 2)

“Relatively little is known about the 30-acre “green roof” proposed on top of

most of the buildings...” (summary status report, pg. 3)

“... the applicant for the Vallco Project believes most of these (Impact) fees should be waived or significantly reduced. Payment of the fees in full or City Council approval of any reduction or waiver of these fees will be required before certain permitting and other approvals are possible, prior to the commencement of construction.” (summary status report, pg. 4)

“The three-year project approval expires on September 21, 2021, and a one-year extension of the approval would expire September 21, 2022. However, the Vallco Project applicant and the California Housing and Community Development Department have argued that the three-year deadline has been “tolled,” or extended, due to prior litigation. This argument is based on a misreading of the statutory provisions governing the term of SB 35 project approvals and is incorrect.” (summary status report, pg. 4)

“The plan review has resulted in the identification of issues related to soil remediation, fire and life safety, structural design, traffic, transit, the provision of water to the development, affordable housing, development impact fees, parcel map processing and other issues which are discussed in this report.” (detailed status report, pg. 4)

“The District views the Vallco Project as “a city within a city” in terms of its fire and emergency medical services demand.” (detailed status report, pg. 7)

“... much of the green roof is inaccessible to people and is primarily unusable open space.” (detailed status report, pg. 8)

“A large portion of the green roof is elevated approximately 100 feet above the ground. This height is beyond the reach of the Fire District’s equipment (ladder and snorkel trucks) in an emergency.” (detailed status report, pg. 9)

“The Development has not submitted any plans for the green roof at this time.” (detailed status report, pg. 10)

“The developer has indicated that they have designed their foundations, structural supports and super structure to support a 10,000 lb. weight limit for the emergency vehicles, which is inconsistent with the Fire Department specification provided above.” (detailed status report, pg. 11)

“This review revealed that twenty-one intersections could be impacted, both locally and in the region. Ten of the impacted intersections are in Cupertino.” (detailed status report, pg. 11)

“In March 2021, the City Transportation Manager requested additional analysis of the impacts of the proposed design on traffic and emergency response times. City staff repeated that request in July 2021 and again in August 2021 and are awaiting a response from the Developer.” (detailed status report, pg. 13)

“As discussed above, the Project includes a cistern system to harvest rainwater; however, it is anticipated this supply will be inadequate for the annual irrigation and cooling tower needs.” (detailed status report, pg. 16)

“The Developer is also required to prepare an affordability covenant for review by the City Attorney. The affordability covenant must be recorded prior to the issuance of the first building permit ...” (detailed status report, pg. 17)

“The Developer has raised numerous arguments that it should be entitled to a reduction in or elimination of the amount of parkland, transportation, and affordable housing impact fees to be paid to the City. The City disagrees with these arguments and had calculated that the Project owes impact fees in excess of \$125 million to the City alone” (detailed status report, pg. 18)

“Despite this determination, the outstanding issues are substantial. Prior to issuing an extension, the City plans to seek written commitments from the developer on a timeline for addressing outstanding issues...” (detailed status report, pg. 120)

**NOW is an excellent time to remind City Council and city staff that we still oppose this development and this developer. We urge you to write a letter and send to each City Council member and the City Manager** (email addresses below). If you can do it by Tuesday, even better. **And we urge you to tune in to Tuesday’s meeting and speak up** during the public comment period, which immediately follows the Vallco Town Center Status Report item (no. 12 on the agenda).

**Email addresses:**

Mayor Darcy Paul [dpaul@cupertino.org](mailto:dpaul@cupertino.org)

Vice Mayor Liang Chao [liangchao@cupertino.org](mailto:liangchao@cupertino.org)

Kitty Moore [kmoore@cupertino.org](mailto:kmoore@cupertino.org)

Jon Willey [jwilley@cupertino.org](mailto:jwilley@cupertino.org)

Hung Wei [hwei@cupertino.org](mailto:hwei@cupertino.org)

Interim City Manager Greg Larson [manager@cupertino.org](mailto:manager@cupertino.org)

## Cupertino City Council meeting Tuesday, Sept. 7, 6:45 pm

[Teleconference and commenting instructions here](#)

[Register in advance here](#)

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Sign up for the BC newsletter bt emailing [info@cupertino.org](mailto:info@cupertino.org)

[Make a contribution](#)

Thank you for your support!

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Better Cupertino · 21701 Stevens Creek Blvd #1132 · Cupertino, CALIFORNIA (CA) 95015 · USA





## Cyrah Caburian

---

**From:** stacy wilson <777swilson@gmail.com>  
**Sent:** Tuesday, September 7, 2021 10:36 AM  
**To:** Liang Chao; Hung Wei; Darcy Paul; Kitty Moore; Cupertino City Manager's Office; jwilli@cupertino.org  
**Subject:** In re the proposed development of the Vallco site

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello, I am a homeowner in Rancho Rinconada in Cupertino. I'm a faithful voter, a parent, and a scientist. I have been opposed to the development plan under consideration for the Vallco site since I heard about it several years ago. In almost no respects does this seem like a good plan for the city I've lived in for the last 32 years. It will bring in too much traffic, too much need for new housing, too much of an increase in pollution (local air quality and trash, which you \*know\* gets tossed out car windows and just from people walking around), too much pressure on an aging infrastructure (inbound water supply and outbound sewage). This developer will move on to another project once it's done and we, the citizens who live in Cupertino, will be left with a very high bill as we are forced to increase and improve our infrastructure to accommodate the new pressures on each system involved. We will be forced to increase payment for city cleanup as trash will pile up in the gutters, on sidewalks, in streets and bushes.

I have a neighbor who converted his garage into a rental living space and he routinely has 6 cars occupying street space. \*I've\* been scolded by the garbage pickup people for having my garbage cans too close to cars, but what am I supposed to do? This situation will be more and more frequently repeated in our neighborhoods as people see a way to make money by renting to the thousands of people who will be coming to work at the new development. I have NO faith that the green rooftop park will come to fruition, and think if it does, it will likely not survive the next big earthquake (I grew up in Los Angeles and I know there is always a "next big earthquake".)

When I moved from LA with a gifted small child, I specifically chose Cupertino because of the reputation of the schools. How do you really think this proposed development is going to improve the schools? There will be so many more children without the needed increase in school footprint and educators because there won't be a commensurate increase in the tax base. Our community schools, already struggling in some respects, will eventually lose their reputations for excellence.

I love Cupertino! I raised my children here, and though they try to convince me to move to their respective areas out of the Bay Area, I don't want to leave. This city has changed pretty dramatically from when I moved here, but it's still a pretty nice place to live. It's quiet, clean, and safe. How do you think all of that will change with an increase of 20% more people either coming and going or trying to find places to live here?

I'm very opposed to the Sandhill development plan. They will make a lot of money from this and move on, while people here will be left picking up the trash and paying for this poor decision till we die or move away. Please do not grant them an extension. They're just trying to wear us down, like teenagers who just want what they want and keep pestering till we don't have the energy anymore to fight them. They've had years to come up with ways to make this more palatable, to guarantee their interest in the welfare of OUR city, and they haven't done it. They don't deserve more time and they shouldn't be allowed to ruin our community for their own profit. Your jobs are to safeguard the community's interests. Please do just that by rejecting the request for more time.

Stacy Wilson  
18630 Crabtree Avenue, Cupertino

Sent from my iPad

## Cyrah Caburian

---

**From:** Rattehalli Sudesh <apple95014@gmail.com>  
**Sent:** Sunday, September 5, 2021 7:36 PM  
**To:** Cupertino City Manager's Office  
**Subject:** Vallco Town Center SB 35 Development Project

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Vallco Town Center SB 35 Development Project

I strongly oppose to this development by the present developer.

Thank you,

Rattehalli Sudesh  
7827 Creeklane Drive  
Cupertino, CA 95014

## Cyrah Caburian

---

**From:** dicksteinp@aol.com  
**Sent:** Sunday, September 5, 2021 7:33 AM  
**To:** Cupertino City Manager's Office; City of Cupertino Planning Commission; City of Cupertino Planning Dept.  
**Subject:** Fwd: [BC-StrDisc] Fw: City Council Meeting - Televised Regular Meeting (6:45) Fate of Vallco... for now

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

-----Original Message-----

From: dicksteinp@aol.com <dicksteinp@aol.com>  
To: bc-strategydiscuss@googlegroups.com <bc-strategydiscuss@googlegroups.com>; la-warren@att.net <la-warren@att.net>; citycouncil@cupertino.org <citycouncil@cupertino.org>  
Cc: peggy.griffin@gmail.com <peggy.griffin@gmail.com>; lukelang@yahoo.com <lukelang@yahoo.com>  
Sent: Fri, Sep 3, 2021 9:20 am  
Subject: Re: [BC-StrDisc] Fw: City Council Meeting - Televised Regular Meeting (6:45) Fate of Vallco... for now

-----Original Message-----

From: 'dicksteinp@aol.com' via BC-StrategyDiscuss <bc-strategydiscuss@googlegroups.com>  
To: la-warren@att.net <la-warren@att.net>; bc-strategydiscuss@googlegroups.com <bc-strategydiscuss@googlegroups.com>; citycouncil@cupertino.org <citycouncil@cupertino.org>  
Cc: peggy.griffin@gmail.com <peggy.griffin@gmail.com>; lukelang@yahoo.com <lukelang@yahoo.com>  
Sent: Fri, Sep 3, 2021 8:55 am  
Subject: Re: [BC-StrDisc] Fw: City Council Meeting - Televised Regular Meeting (6:45) Fate of Vallco... for now

To all:

An extension should not be granted on the basis of trivial, legalistic factors such as application for permits.

Given the facts:

resolution of a number of very serious health issues such as contamination and fire safety is very much up in the air  
it is now crystal clear that CA faces very serious water supply issues  
the project as designed would contradict the state goal of ameliorating traffic  
the project as designed would greatly exacerbate the state goal of improving the housing to jobs ratio  
nothing has been built anyway

the City should be well within its rights to deny the extension.

As a result, SHP would have to negotiate a new plan with the city which would reflect our needs rather than be based solely on theirs.

Phyllis Dickstein

-----Original Message-----

From: Lisa Warren <la-warren@att.net>  
To: BC-StrategyDiscuss Liana Crabtree via <bc-strategydiscuss@googlegroups.com>

Cc: Peggy Griffin <peggy.griffin@gmail.com>; Luke Lang <lukelang@yahoo.com>  
Sent: Thu, Sep 2, 2021 9:03 pm  
Subject: [BC-StrDisc] Fw: City Council Meeting - Televised Regular Meeting (6:45) Fate of Vallco... for now

ITEM 12 !!!

It would be prudent to read the report and the attached details. 5 page plus 20 pages.  
Both attached here.

Send comments, if any, prior to Tuesday's meeting.

Please forward to any individual(s) or additional group if you wish.

Thanks,  
Lisa

----- Forwarded Message -----

**From:** City of Cupertino <cupertino@public.govdelivery.com>  
**To:** "la-warren@att.net" <la-warren@att.net>  
**Sent:** Thursday, September 2, 2021, 06:34:34 PM PDT  
**Subject:** City Council Meeting - Televised Regular Meeting (6:45)

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## City Council Meeting

**September 7, 2021 at 6:45pm**

City Council Meeting

To view the current agenda and live webcast visit:

[Agenda](#)

[Live Webcast](#)

To view the minutes and webcast archives visit:

[Agenda, Minutes & Webcast Archives](#)

Contact Phone: 408.777.3223

TELECONFERENCE / PUBLIC PARTICIPATION INFORMATION TO HELP STOP THE SPREAD OF COVID-19

In accordance with Governor Newsom's Executive Order No-29-20, this will be a teleconference meeting without a physical location to help stop the spread of COVID-19.

Members of the public wishing to observe the meeting may do so in one of the following ways:

1) Tune to Comcast Channel 26 and AT&T U-Verse Channel 99 on your TV.

2) The meeting will also be streamed live on and online at [www.Cupertino.org/youtube](http://www.Cupertino.org/youtube) and [www.Cupertino.org/webcast](http://www.Cupertino.org/webcast)

Members of the public wishing to comment on an item on the agenda may do so in the following ways:

1) E-mail comments by 4:30 p.m. on Tuesday, September 7 to the Council at [citycouncil@cupertino.org](mailto:citycouncil@cupertino.org). These e-mail comments will also be forwarded to Councilmembers by the City Clerk's office before the meeting and posted to the City's website after the meeting.

2) E-mail comments during the times for public comment during the meeting to the City Clerk at [cityclerk@cupertino.org](mailto:cityclerk@cupertino.org). The City Clerk will read the emails into the record, and display any attachments on the screen, for up to 3 minutes (subject to the Mayor's discretion to shorten time for public comments). Members of the public that wish to share a document must email [cityclerk@cupertino.org](mailto:cityclerk@cupertino.org) prior to speaking.

### 3) Teleconferencing Instructions

Members of the public may provide oral public comments during the teleconference meeting as follows:

Oral public comments will be accepted during the teleconference meeting. Comments may be made during "oral communications" for matters not on the agenda, and during the public comment period for each agenda item.

To address the City Council, click on the link below to register in advance and access the meeting:

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Register in advance for this webinar:

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#### Phone

Dial: 669-900-6833 and enter Webinar ID: 953 8500 7073 (Type \*9 to raise hand to speak, \*6 to unmute yourself). Unregistered participants will be called on by the last four digits of their phone number.

Or an H.323/SIP room system:

H.323:

162.255.37.11 (US West)

Meeting ID: 953 8500 7073

SIP: 95385007073@zoomcrc.com

After registering, you will receive a confirmation email containing information about joining the webinar.

Please read the following instructions carefully:

1. You can directly download the teleconference software or connect to the meeting in your internet browser. If you are using your browser, make sure you are using a current and up-to-date browser: Chrome 30+, Firefox 27+, Microsoft Edge 12+, Safari 7+. Certain functionality may be disabled in older browsers, including Internet Explorer.

2. You will be asked to enter an email address and a name, followed by an email with instructions on how to connect to the meeting. Your email address will not be disclosed to the

public. If you wish to make an oral public comment but do not wish to provide your name, you may enter "Cupertino Resident" or similar designation.

3. When the Mayor calls for the item on which you wish to speak, click on "raise hand," or, if you are calling in, press \*9. Speakers will be notified shortly before they are called to speak.

4. When called, please limit your remarks to the time allotted and the specific agenda topic.

In compliance with the Americans with Disabilities Act (ADA), anyone who is planning to attend this teleconference City Council meeting who is visually or hearing impaired or has any disability that needs special assistance should call the City Clerk's Office at 408-777-3223, at least 48 hours in advance of the Council meeting to arrange for assistance. In addition, upon request, in advance, by a person with a disability, City Council meeting agendas and writings distributed for the meeting that are public records will be made available in the appropriate alternative format.



City of Cupertino, California  
Website | 408.777.3200  
10300 Torre Avenue, Cupertino, CA 95014-3202



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This email was sent to la-warren@att.net using GovDelivery Communications Cloud, on behalf of: City of Cupertino, CA · 10300 Torre Avenue · Cupertino, CA 95014-3202



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DISCLAIMER: BC email lists include elected officials and are subject to California Public Records Act requests. Please note that current BC email lists include a School Board Member. THANK YOU.

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To view this discussion on the web visit <https://groups.google.com/d/msgid/bc-strategydiscuss/1634337558.1356254.1630684535637%40mail.yahoo.com>.

## Cyrah Caburian

---

**From:** Joan Owyang-Lee <joanowyang@gmail.com>  
**Sent:** Sunday, September 5, 2021 11:16 PM  
**To:** Darcy Paul; Liang Chao; Kitty Moore; Jon Robert Willey; Hung Wei; Cupertino City Manager's Office  
**Subject:** Oppose Vallco Developer and Development

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Council Members and City Manager,

As a longtime Cupertino resident living near Stevens Creek and Wolfe, I vehemently oppose this development under SB 35.

This Vallco developer was irresponsible with prior Sunnyvale development and against the interests of Cupertino residents, seeking to build 2400 units when residents voted against even 800. This location does not need another 2 Million sq ft of office space, traffic already is horrendous.

This Vallco developer is concerned only with their own profit and not our city's interests.

I urge you to support our city residents who oppose this development. This location at Wolfe and Stevens Creek does not need what this developer is proposing.

Sincerely, Joan Owyang-Lee  
Cupertino resident

## Cyrah Caburian

---

**From:** Eric Schaefer <sericar7@gmail.com>  
**Sent:** Sunday, September 5, 2021 2:04 PM  
**To:** City Clerk; City Council; Cupertino City Manager's Office  
**Subject:** City Council meeting, Sept. 07 2021, item 12: Vallco SB35 extension report  
**Attachments:** CCC\_2021Sept07\_Item12\_SB35extension\_CommentByEric.pdf

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Thank you to City Manager and staff who contributed to the report.  
My comment is attached as a PDF document.

--

Eric Schaefer

“Diversity jolts us into cognitive action in ways that homogeneity simply does not.”

— Katherine Phillips



Re: Status Report on the Vallco Town Center SB 35 Development Project

My thanks to the City Manager and staff who contributed to the report.

The report confirms issues that concerned residents identified in 2018 with several large projects that were being considered for the Vallco site:

- office/housing ratio
- water resources in a drought-prone region
- the engineering viability and safety issues of a “green roof”—park on top of the buildings
- public transit and roads infrastructure
- remediation of toxic soil
- the developer’s unwillingness to pay standard impact fees

The developer’s documented poor planning and execution of the SB35 project isn’t surprising because--when seen in a broader historical context--the developer’s incompetence is a predictable delay tactic.

In 2018, the developer and his supporters used the SB35 project as an undesirable alternative to other ugly but perhaps somewhat more desirable projects. The larger Vallco Specific Plan project had many of the same issues that the Staff report details in the SB35 project. But the VSP project was a more lucrative project for the developer because it contained relatively more market-rate housing units and more office space than the SB35 project. Nevertheless, a 3-person majority of the City Council ignored residents’ concerns and approved the VSP project.

The VSP project was overturned by a popular referendum, residents who were critical of the VSP and SB35 projects were elected to council, and Mayor Vaidyanathan was not returned to the Council.

The developer might still use the SB35 project to make other ugly projects look more desirable in comparison. But the effect can not be as great for sober-minded persons who pay attention to the current Staff report.

On one hand I would like to see the SB35 project terminated so that we can move on to a better project, and so that the developer can no longer use the SB35 project to make an ugly project look less ugly in comparison.

On the other hand, I understand Staff’s prudence to extend the deadline. I believe it is likely that many issues will remain unresolved after another year and perhaps even more issues will come to light.

Again, thank you for the report.

Eric Schaefer,

Cupertino resident

## Cyrah Caburian

---

**From:** AP\_senate@columunist.com  
**Sent:** Monday, September 6, 2021 8:07 PM  
**To:** Darcy Paul  
**Cc:** Kitty Moore; Hung Wei; Jon Robert Willey; Liang Chao; Cupertino City Manager's Office  
**Subject:** Vallco construction site  
**Attachments:** IMG\_4368.jpeg

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello to all,

I am a journalist & also a chemical engineer by profession. I saw an article highlighting that the Vallco project is encountering some difficulties. Pls see the image below.

I would like to request full transparency in this matter, as I have small kids & we live very close to the site. The health & safety of my family is my top most priority & I will do everything under my power to protect that. This developer is known to have a past with problematic behavior (Palo Alto projects).

I will be attending the zoom meet tomorrow.

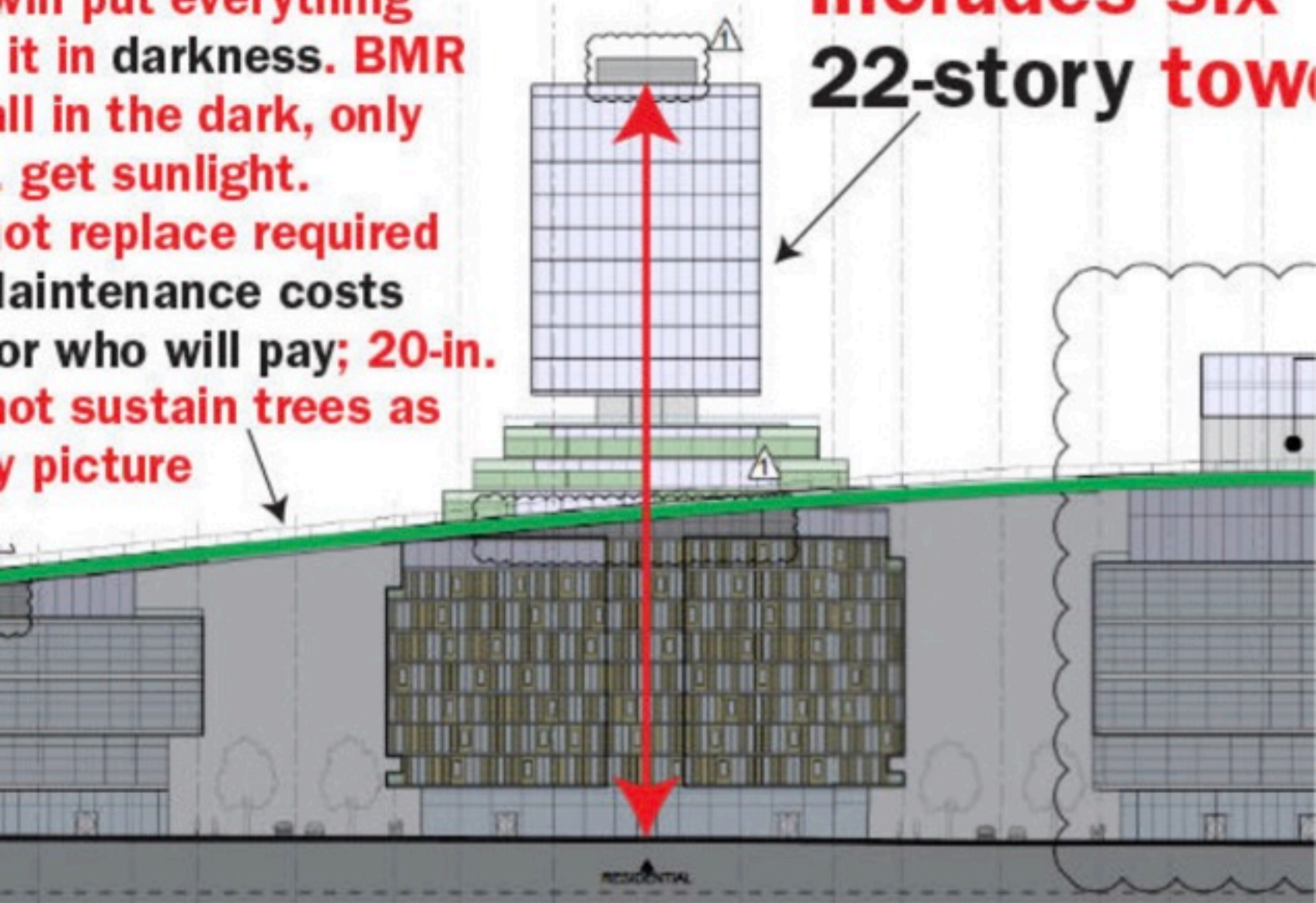
Hoping the City of Cupertino will look out for the health & safety of its residents, at all times.

Warmly,

J. Walsh

will put everything  
it in darkness. BMR  
all in the dark, only  
get sunlight.  
not replace required  
maintenance costs  
or who will pay; 20-in.  
not sustain trees as  
picture

Includes six  
22-story towers



**Detailed Vallco Status Report to be delivered tomorrow (Tuesday, Sept.7) at Cupertino City Council meeting!** Tomorrow (Tuesday, Sept. 7) at the Cupertino Council meeting, city staff will present a Status Report on the Vallco SB 35 Town Center project. Here are some things I noticed:

1. As some alert citizens have known all along, the Vallco site is contaminated with toxic chemicals and will require cleanup under the supervision of the Santa Clara County Dept. of Environmental Health. As a result, the project

## Cyrah Caburian

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**From:** Connie Cunningham <cunninghamconniel@gmail.com>  
**Sent:** Tuesday, September 7, 2021 12:06 PM  
**To:** City Council  
**Subject:** Agenda Item: Vallco. Sept 7

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mayor Paul, Vice- Mayor Chao, and Councilmembers :

I am writing as a resident of Cupertino , self only, to urge you to move forward expeditiously to build housing for all incomes at the SB 35 Vallco site. This project has been approved under SB 35 law, and will provide more sustainable housing stock in our city. This project includes market rate as well as below market rate housing , which are all needed. Housing is a regional problem. Cupertino must provide its share of the answer to the problem. This housing will contribute to solving the growing homelessness problem in Santa Clara County. Cupertino has unhoused residents. Care for all our residents includes care for all incomes.

Sincerely,  
Connie Cunningham

From Connie's iPhone

## Cyrah Caburian

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**From:** Yan Yu <yanyu2005@gmail.com>  
**Sent:** Tuesday, September 7, 2021 12:42 PM  
**To:** City Council  
**Subject:** please say NO to Vallco SB35 plan extension

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Cupertino city council members,

I hear that there is going to be discussion on Vallco SB35 plan extension, I am very concerned, please say no for the following reasons:

1. As some alert citizens have known all along, the Vallco site is contaminated with toxic chemicals and will require cleanup under the supervision of the Santa Clara County Dept. of Environmental Health. As a result, the project was never eligible for approval under the SB 35 law.
2. The soil contamination is much broader than expected, and in areas not anticipated. It was only "discovered" when the City did its own review with a third-party consultant. Both the Developer and staff had to know at least something about this, as they possessed studies that showed at least some of the contamination.
3. Cupertino asks the developer to pay \$125 million in impact fees (which are estimated real costs of the impact of the project on the City). The developer refuses. If the developer doesn't pay, taxpayers will bear the cost. So far, the developer isn't budging.
4. The Developer hasn't even submitted plans for the "green roof," and discussion so far reveals major emergency access and structural issues.
5. Yet the Developer is asking for a one-year extension beyond the Sept 21, 2021 deadline to begin vertical construction. They are nowhere near ready, and it is unlikely given their history that they'll be ready by Sept 21, 2022.
6. No demolition work has been done, nor soil even tested for known contaminants, on the east side of Wolfe Road. As the SB 35 statute calls for housing to be built before or concurrently with other uses, the Developer cannot begin construction of *any* of the project until that parcel is ready. For some reason, this issue isn't even addressed in the report(s).

Thanks for your consideration and dedication!

Yan  
Yan

## Cyrah Caburian

---

**From:** Cathy Helgerson <cathyhelger@gmail.com>  
**Sent:** Tuesday, September 7, 2021 12:48 PM  
**To:** City Clerk; Darcy Paul; Liang Chao; Kitty Moore; Hung Wei; Jon Robert Willey  
**Subject:** Vallco  
**Attachments:** Vallco 2021 City of Cupertino.docx

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Hello,

Please see that the City Council and Staff get my comments on Vallco for the City Council Meeting Tonight.

Thanks,  
Cathy Helgerson - Environmental Enforcement Advocate  
CAP-Citizens Against Pollution  
408-253-0490

To: Cupertino City Council and Staff

From: Cathy Helgerson – 408-253-0490

Subject: Vallco Town Center – SB 35 Development Project

I am commenting on item on the agenda item 12 as follows:

Sand Hill Company has had over three years to work on the issues that pertain to the Vallco Town Center and there have been many problems and now they are asking for another year the question is will another year really be enough? It is stated in the Attachment A of the staff information summary that the three-year period has proven to be insufficient my question what makes anyone think that there is a solution to this continued prolonged ongoing lack of sufficiency to lead to final decision making?

The major issue at this time is that this project should be subject to an environmental review process when it could have been conducted but was not. The one size fits all inherent in legislating solutions from Sacramento lacks the considerations that should be made to ensure the safety to the public from serious pollution issues at this site.

Major Issues – 1. Soil Remediation - the City Required the Developer to submit a Soil Characterization Report (SCR) and an Environmental Site Management Plan (ESMP) and PCB exceeded the screening levels the city further required that a soil vapor investigation report be submitted along with a PCB investitive report. The soil vapor issues are very serious the Developer entered into a Voluntary Clean-up Program to implement a soil remediation plan.

The issue of contamination to workers on the site during excavation and construction as well as the concerns to prevent long-term health hazards to the eventual residents and users of the properties is a very serious matter. Allowing the Developer to “self-monitor” with further testing and to remediate the contaminated soils, if necessary, in accordance with applicable environmental laws is not acceptable.

The vapor intrusion at the Vallco sites both West side and East side must be investigated and to leave the East side of Wolf Road as a separate plan with a separate permit is wrong. The question we should ask ourselves here is why is Sand Hill the Developer putting off the development of the east side? I am very convinced that the clean up at on the East side may be a more serious and more costly cleanup but both sites should be handled together to make sure that one site is not contaminating the other.

The even more serious issue that I would like the City Council and Staff to concern themselves with is the surrounding neighborhoods because once the land was excavated it released vapor into the community and continues to do so. I would like the City or the Bay Area Air Quality Control Division to conduct an investigation into the neighborhoods that are being exposed to this vapor Intrusion or hazardous vapors which could cause all kinds of health and safety issues. These vapor-causing issues which are forming could be a great problem later as well when the buildings are built if this problem is not resolved now. The fact that there are vapor-forming chemicals many that are not listed should be a very serious concern to all please see that these chemicals are addressed.

There are issues that also pertain to the size of the building 30 story building are not acceptable in the eyes of the public and that has totally been overlooked my question is why? The City of Cupertino is turning into a mega city without the proper precautions is this what the public really wants? I see revenue as the main issue here and that is not acceptable.

The Garden Roof not a safe situation for any one especially if your apartment is below there are also water issues and fire issues that seem to be real concerns what is the City doing about them? The traffic issue is extremely important and no report on that has been supplied why not?

There is the building of a new Fire Station at the site I am not so sure that is a good idea especially because of the noise and the possibility of accidents happening with the residence owners and shoppers.

Will Sand Hill the Developer continue to ask for extension because they can not or do not have the finances to process the complete development project with the West and East end of Vallco has anyone even found out if they can afford to take on both sites together? I think that may also be part of the problem with what is happening now. Developing one side and later years down the road developing the other is not acceptable and all kinds of health and safety issues should be considered.

We are in a drought and no one really know how long that will last seems that there is a very serious water problem recycled or not does not matter we need to consider this overall and especially with the Garden Roof which will take a great deal of water to maintain. My question here is will this be a realistic endeavor with so many problems that could evolve in the construction and also later I think this should be avoided at all costs. This is especially a problem with the Fire Department it did not meet the California Fire Code emergency access requirements it does not provide fire vehicle access. I have to wonder what this massive building project will take from the City of Cupertino's water supply how will it effect the water we in our neighborhoods are using and will we be put on water rationing it seems no one really knows or has considered this aspect.

I would like to add that the that the public needs to be more involved and that the City of Cupertino's City Council should make the decision regarding this project based on the health and safety issues that are very serious and will affect the public.

Thank you,



## Cyrah Caburian

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**From:** ying.yuehsu@yahoo.com  
**Sent:** Tuesday, September 7, 2021 12:53 PM  
**To:** City Council; Cupertino City Manager's Office; City Attorney's Office  
**Cc:** City Clerk  
**Subject:** Agenda Item 12, September 7th, 2021. Discretionary One Year Extension for Vallco SB-35 Project

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Please add this letter to the written communications for Agenda Item 12 for the September 7th, 2021 Cupertino City Council Meeting.

Dear Mayor, City Council Members, City Manager, and City Attorney:

According to the SB-35 law, approval of SB-35 projects is ministerial and is non-discretionary. A compliant project cannot be rejected. Cupertino ministerially approved the Vallco SB-35 project in September 2018. Nearly three years later, the buildings on the east side of Wolfe Road are still there and all we have is a contaminated empty lot on the west side of Wolfe Road.

While the approval of SB-35 projects is non-discretionary, SB-35 explicitly permits cities to discretionarily grant a one year extension to a project if progress is being made to obtaining building permits. However nothing in the SB-35 law requires that a city grant an extension for a project that has not yet “gone vertical,” an extension is purely discretionary.

Nothing that has occurred with the Vallco SB-35 project warrants the City of Cupertino discretionarily granting the property owner a one year extension.

No lawsuit prevented the property owner from working on the project during the past three years. While there was a Friends of Better Cupertino lawsuit that challenged the basis for the ministerial approval, that lawsuit did not prevent the property owner from demolishing part of the mall, taking down the bridge over Wolfe Road, or from proceeding with the removal of toxic contaminants.

Nothing prevented the property owner from cleaning up the site and obtaining building permits, other than it would have required admitting that the contamination actually existed.

The poorly written SB-35 law doesn't specify whether the discretionary granting of a one year extension is ministerial or if it is a decision of elected officials. Whether it's the decision of the City Manager, or of the City Council, an extension should not be granted.

By now, the property owner has almost certainly pressured HCD, and the author of SB-35, to try to force the City of Cupertino to grant a one-year extension, despite the fact that the SB-35 law does not require that the City do this. The City should deny the extension and vigorously

defend itself against any lawsuit brought by the developer, HCD, or anti-affordable housing organizations, like California YIMBY.

This project worsens Cupertino's jobs/housing ratio because the retail and office space will generate a housing deficit of over 3,400 units. This project provides no affordable housing units at all for families with children. It completely violates the spirit of the SB-35 law.

This project is opposed by most residents, Cupertino's major employers, and affordable housing advocacy organizations. Even the property owner themselves wanted to build something else and never desired to build an SB-35 project.

This project has generated negative publicity for Cupertino because of the lack of affordable housing for families, the excessive amount of office space, the lack of parkland, the soil contamination, and the poor reputation of the property owner related to projects in Cupertino, Sunnyvale, Palo Alto, San Jose, Newark, and Saratoga. A trail of broken promises follows this property owner wherever they go. When residents mobilized to collect signatures to overturn the City Council's approval of the "Tier 2" project, the developer hired thugs to intimidate residents against signing the petitions.

An independent investigation as to how this SB-35 project was ministerially approved, given the site contamination should be launched. While the former City Manager and Community Development Director are no longer employed by Cupertino, other staff members were also complacent and should be held accountable. As you are aware, the property owner also succeeded in getting the former City Attorney, Randall Hom, removed from his position, costing the City of Cupertino hundreds of thousands of dollars in legal costs and settlement costs. This property owner also complained to HCD about Cupertino's recent effort to increase the amount of affordable housing necessary to gain the maximum density bonus.

This is the time to come together and for the property owner to propose a better project. One that provides affordable housing for families as specified in Cupertino's affordable housing policies. One that does not obstruct views and does not endanger occupants. One that is environmentally sound and energy self-sufficient. One that enhances, instead of damages, Cupertino's reputation.

To summarize, while SB-35 permits cities to grant a one year extension, it does not require it. Please deny the extension. The property owner can complete the cleanup of the site and then apply for a new SB-35 project with a new three year approval window. Alternatively, the property owner can propose a non-SB-35 project for the site and apply for a General Plan Amendment.

Yue "Jessie" Ying Hsu  
Cupertino Resident  
ying.yuehsu@yahoo.com

## Cyrah Caburian

---

**From:** Michelle Jenny <michellekatyajenny@gmail.com>  
**Sent:** Tuesday, September 7, 2021 1:13 PM  
**To:** Jon Robert Willey  
**Subject:** Vallco

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Councilman Willey,

I am a Cupertino resident and have lived here for 16 years.

I am writing to ask you to put your finger on the scale in order to move the Vallco project forward.

Our family has no stake in the project itself, but rather in the vision of a City with an open and progressive attitude. I would like us to be at the forefront of creating housing for people in all walks of life and with a variety of means. I would also like to avoid the endless lawsuits associated with this project so that we might see this portion of the Cupertino budget used for more productive ends.

Sincerely,

Michelle Jenny

## Cyrah Caburian

---

**From:** Michelle Jenny <michellekatyajenny@gmail.com>  
**Sent:** Tuesday, September 7, 2021 1:14 PM  
**To:** Hung Wei  
**Subject:** Vallco

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Councilmember Hung Wei,

I am a Cupertino resident and have lived here for 16 years.

I am writing to ask you to put your finger on the scale in order to move the Vallco project forward.

Our family has no stake in the project itself, but rather in the vision of a City with an open and progressive attitude. I would like us to be at the forefront of creating housing for people in all walks of life and with a variety of means. I would also like to avoid the endless lawsuits associated with this project so that we might see this portion of the Cupertino budget used for more productive ends.

Sincerely,

Michelle Jenny

## Cyrah Caburian

---

**From:** Michelle Jenny <michellekatyajenny@gmail.com>  
**Sent:** Tuesday, September 7, 2021 1:15 PM  
**To:** Kitty Moore  
**Subject:** Vallco

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Councilmember Moore,

I am a Cupertino resident and have lived here for 16 years.

I am writing to ask you to put your finger on the scale in order to move the Vallco project forward.

Our family has no stake in the project itself, but rather in the vision of a City with an open and progressive attitude. I would like us to be at the forefront of creating housing for people in all walks of life and with a variety of means. I would also like to avoid the endless lawsuits associated with this project so that we might see this portion of the Cupertino budget used for more productive ends.

Sincerely,

Michelle Jenny

## Cyrah Caburian

---

**From:** Michelle Jenny <michellekatyajenny@gmail.com>  
**Sent:** Tuesday, September 7, 2021 1:16 PM  
**To:** Liang Chao  
**Subject:** Vallco

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Councilmember Chao,

I am a Cupertino resident and have lived here for 16 years.

I am writing to ask you to put your finger on the scale in order to move the Vallco project forward.

Our family has no stake in the project itself, but rather in the vision of a City with an open and progressive attitude. I would like us to be at the forefront of creating housing for people in all walks of life and with a variety of means. I would also like to avoid the endless lawsuits associated with this project so that we might see this portion of the Cupertino budget used for more productive ends.

Sincerely,

Michelle Jenny

## Cyrah Caburian

---

**From:** Michelle Jenny <michellekatyajenny@gmail.com>  
**Sent:** Tuesday, September 7, 2021 1:17 PM  
**To:** Darcy Paul  
**Subject:** Vallco

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Councilmember Paul,

I am a Cupertino resident and have lived here for 16 years.

I am writing to ask you to put your finger on the scale in order to move the Vallco project forward.

Our family has no stake in the project itself, but rather in the vision of a City with an open and progressive attitude. I would like us to be at the forefront of creating housing for people in all walks of life and with a variety of means. I would also like to avoid the endless lawsuits associated with this project so that we might see this portion of the Cupertino budget used for more productive ends.

Sincerely,

Michelle Jenny

## Cyrah Caburian

---

**From:** Sue Moore <suemmo@comcast.net>  
**Sent:** Tuesday, September 7, 2021 1:17 PM  
**To:** citymanager@cupertino.org; City of Cupertino Planning Dept.  
**Cc:** City Clerk; City Council; City of Cupertino Planning Commission  
**Subject:** Please deny Valco SB 35 extension. Written Communication Item 12, 9/7 CCC

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Cupertino Planning Staff and Interim City Manager, Larson,

I respectfully request the one year extension of the Valco SB 35 Project be denied.

I have read the the Status Report for The Project and have 2 rationale for the is request:

#1. The many hurdles documented in the report are too high to overcome in just a year. The toxic cleanup, the lack of concrete plans for traffic/transit, a fire station, a nebulous Green Roof with possible safety issues, water storage, etc.

#2. The Project as envisioned is not practical and makes the challenges facing California and Cupertino worse. A Pie in the Sky Green Roof is irresponsible with the State's water crisis. Office buildings which are not mitigated with enough equitable housing in all categories just adds to our housing crisis.

I request that City Staff be forward thinking and encourage a reset of The Project by denying the extension.

I request that the Developer take this opportunity to update and redefine The Project to make it relevant to current needs.

Thank you Staff and City Manager for enlightening report.

Sincerely,  
Susan Moore  
40+ year Cupertino resident

Sent from my iPad



## Cyrah Caburian

---

**From:** Jenny Griffin <grenna5000@yahoo.com>  
**Sent:** Tuesday, September 7, 2021 1:27 PM  
**To:** City of Cupertino Planning Commission; City Clerk  
**Subject:** Fwd: Concerns About Vallco Green Roof, Item No 12, 9/7/21 City Council Meeting

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

FYI. Please add to the Public Record. Thank you.

----- Original Message -----

**Subject:** Concerns About Vallco Green Roof, Item No 12, 9/7/21 City Council Meeting  
**From:** Jenny Griffin <grenna5000@yahoo.com>  
**Sent:** Tuesday, September 7, 2021, 1:24 PM  
**To:** "CityCouncil@Cupertino.org" <CityCouncil@Cupertino.org>  
**CC:** "grenna5000@yahoo.com" <grenna5000@yahoo.com>

Dear City Council:

I have a great deal of concern about SB 35 in the state of California. I have a great deal of concern about the very big green roof being built in the Vallco project. It will be one hundred feet up in the air and the housing units shouldn't be under it. Look what happened in Miami with that tall condo building collapse. That building pancaked on itself.

What will happen if that green roof fell down with the housing units under it? An earthquake could also cause it to fall down. This is not a good plan.

Also, if the green roof fell down it could fall into Stevens Creek Blvd. or Wolfe Road or into 280. Or onto Perimeter Road. In fact the 22 story buildings could fall onto the adjacent roads.

This is not a good plan to build a structure like this over housing units and so high up in the air.

SB 35 has made a lot of issues in the state. This canopy situation does not sound like a good idea at all.

Thank you.

Jennifer Griffin

## Cyrah Caburian

---

**From:** Ping Gao <gaoping@gmail.com>  
**Sent:** Tuesday, September 7, 2021 1:47 PM  
**To:** Darcy Paul; Liang Chao; Kitty Moore; Jon Robert Willey; Hung Wei; Cupertino City Manager's Office  
**Subject:** Opposing SB-35 Plan Extension on Vallco Site for Another Year

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear City Council and City Staff,

This is Ping, a 14-year Cupertino resident.

I'm writing you today to raise my concern regarding Vallco SB-35 plan extension. I'm strongly against it. As we've witnessed in the past years, not much progress has been made by the developer, and I seriously doubt if the developer is diligently working toward SB-35 plan. Not to mention the track record of this developer made it hard for me to believe it will follow SB-35 requirements.

As I read through the Status Report, there are so much evidence that speaks for itself how much progress the developer has made in the last three years and it didn't justify another year of extension in my opinion. Just to cite a few from the report:

“The Vallco Project anticipates that Santa Clara County Dept. of Environmental Health’s oversight will continue until Spring 2022, although recent testing has revealed even greater contamination issues than previously identified, including some measures beyond permissible residential thresholds.” (summary status report, pg. 2)

“Relatively little is known about the 30-acre “green roof” proposed on top of most of the buildings...” (summary status report, pg. 3)

“The plan review has resulted in the identification of issues related to soil remediation, fire and life safety, structural design, traffic, transit, the provision of water to the development, affordable housing, development impact fees, parcel map processing and other issues which are discussed in this report.” (detailed status report, pg. 4)

“A large portion of the green roof is elevated approximately 100 feet above the ground. This height is beyond the reach of the Fire District’s equipment (ladder and snorkel trucks) in an emergency.” (detailed status report, pg. 9)

“In March 2021, the City Transportation Manager requested additional analysis of the impacts of the proposed design on traffic and emergency response times. City staff repeated that request in July 2021 and again in August 2021 and are awaiting a response from the Developer.” (detailed status report, pg. 13)

Besides, there are also many other places questioning the feasibility of the developer's SB-35 plan in the Status Report. These are my two impressions from reading the Status Report: 1) Little progress has been made on the Vallco site, or, it is far from enough; 2) Its feasibility is questionable: it's far away from being implemented.

Based on the current status, please consider **NOT** to extent the developer's SB-35 plan for another year. It's simply a waste of time and effort. The construction of Vallco site will have a huge impact of our beloved city, and I hope the city council and city staff would think thoroughly of the impacts of the current plan. Please think about what we would like to leave to the future of Cupertino: a concrete monster or something memorable?

Thank you for your time and patience reading my email.

Sincerely,  
Ping

## Cyrah Caburian

---

**From:** Jennifer Goldberg <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 1:53 PM  
**To:** Liang Chao  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Councilmember Liang Chao,

I am greatly concerned by the status of Vallco, which was approved nearly 3 years ago. The City is incorrect that the project will expire—the state knows its own laws better than us. We must move forward as a city and issue any remaining permits. At this rate, we are unnecessarily stalling 1,200 affordable homes, while also putting our city in legal jeopardy. The city has already fought one expensive lawsuit.

Please stop putting up a fight against the State; we will lose. As a former resident of Cupertino who is now priced out of my own hometown, I am extremely distressed by the lack of progress on this front. We must contribute our fair share of affordable housing, and we already have an approved project to do that! Let the Vallco project move forward Now!

Jennifer Goldberg  
jennagold1326@gmail.com  
202 Saint Paul St., Apartment 32  
Brookline, Massachusetts 02446

## Cyrah Caburian

---

**From:** Jennifer Goldberg <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 1:53 PM  
**To:** Jon Robert Willey  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Councilmember Jon Wiley,

I am greatly concerned by the status of Vallco, which was approved nearly 3 years ago. The City is incorrect that the project will expire—the state knows its own laws better than us. We must move forward as a city and issue any remaining permits. At this rate, we are unnecessarily stalling 1,200 affordable homes, while also putting our city in legal jeopardy. The city has already fought one expensive lawsuit.

Please stop putting up a fight against the State; we will lose. As a former resident of Cupertino who is now priced out of my own hometown, I am extremely distressed by the lack of progress on this front. We must contribute our fair share of affordable housing, and we already have an approved project to do that! Let the Vallco project move forward Now!

Jennifer Goldberg  
jennagold1326@gmail.com  
202 Saint Paul St., Apartment 32  
Brookline, Massachusetts 02446

## Cyrah Caburian

---

**From:** Jennifer Goldberg <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 1:53 PM  
**To:** Darcy Paul  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mayor Darcy Paul,

I am greatly concerned by the status of Vallco, which was approved nearly 3 years ago. The City is incorrect that the project will expire—the state knows its own laws better than us. We must move forward as a city and issue any remaining permits. At this rate, we are unnecessarily stalling 1,200 affordable homes, while also putting our city in legal jeopardy. The city has already fought one expensive lawsuit.

Please stop putting up a fight against the State; we will lose. As a former resident of Cupertino who is now priced out of my own hometown, I am extremely distressed by the lack of progress on this front. We must contribute our fair share of affordable housing, and we already have an approved project to do that! Let the Vallco project move forward Now!

Jennifer Goldberg  
jennagold1326@gmail.com  
202 Saint Paul St., Apartment 32  
Brookline, Massachusetts 02446

## Cyrah Caburian

---

**From:** Jennifer Goldberg <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 1:53 PM  
**To:** Kitty Moore  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Councilmember Kitty Moore,

I am greatly concerned by the status of Vallco, which was approved nearly 3 years ago. The City is incorrect that the project will expire—the state knows its own laws better than us. We must move forward as a city and issue any remaining permits. At this rate, we are unnecessarily stalling 1,200 affordable homes, while also putting our city in legal jeopardy. The city has already fought one expensive lawsuit.

Please stop putting up a fight against the State; we will lose. As a former resident of Cupertino who is now priced out of my own hometown, I am extremely distressed by the lack of progress on this front. We must contribute our fair share of affordable housing, and we already have an approved project to do that! Let the Vallco project move forward Now!

Jennifer Goldberg  
jennagold1326@gmail.com  
202 Saint Paul St., Apartment 32  
Brookline, Massachusetts 02446

## Cyrah Caburian

---

**From:** Jennifer Goldberg <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 1:53 PM  
**To:** Hung Wei  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

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Councilmember Hung Wei,

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Brookline, Massachusetts 02446



## Cyrah Caburian

---

**From:** City of Cupertino Written Correspondence  
**Subject:** FW: FW: Vallco

Please include my letter in the public record for tonight's meeting.

Thank you, Michelle Jenny

Greg Larson  
City Manager - Interim  
City Manager's Office  
[GregL@cupertino.org](mailto:GregL@cupertino.org)

-----Original Message-----

From: Michelle Jenny <[michellekatyajenny@gmail.com](mailto:michellekatyajenny@gmail.com)>  
Sent: Tuesday, September 7, 2021 1:12 PM  
To: Cupertino City Manager's Office <[manager@cupertino.org](mailto:manager@cupertino.org)>  
Subject: Vallco

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Dear Mr. Larson,

I am a Cupertino resident and have lived here for 16 years.

I am writing to ask you to put your finger on the scale in order to move the Vallco project forward.

Our family has no stake in the project itself, but rather in the vision of a City with an open and progressive attitude. I would like us to be at the forefront of creating housing for people in all walks of life and with a variety of means. I would also like to avoid the endless lawsuits associated with this project so that we might see this portion of the Cupertino budget used for more productive ends.

Sincerely,

Michelle Jenny

## Cyrah Caburian

---

**From:** Kinjal Buch <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 2:35 PM  
**To:** Kitty Moore  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits ASAP

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Councilmember Kitty Moore,

I am very pained to see no movement on the Vallco site even though the project was approved nearly 3 years ago. We lost millions of dollars for schools and community when we rejected the Hill at Vallco project and even now, the city is losing millions of dollars in potential sales and property income and depriving the residents of Cupertino of much needed vibrant place for them to shop, live, work and entertain themselves. Is the opposition to the project above the need of the residents? There is dire need for housing of all kinds in Cupertino to sustain its school system. Enrollment is going down each year as young families do not have houses available for them to buy. Many residents who do not have school going kids at home would like to downsize and move to smaller units within Cupertino, but they also don't have many options. At this rate, the absence of churn in housing will make Cupertino a city of Senior citizens only. Is that the vision for Cupertino that the council sees in next 10 years? Please let this project move forward without any further road blocks. I want to see a thriving and vibrant Vallco project completed soon.

Kinjal Buch  
kinjalbuch@yahoo.com  
10307 Bret Avenue  
Cupertino, California 95014

## Cyrah Caburian

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**From:** Kinjal Buch <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 2:35 PM  
**To:** Liang Chao  
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## Cyrah Caburian

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**From:** Kinjal Buch <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 2:35 PM  
**To:** Darcy Paul  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits ASAP

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Mayor Darcy Paul,

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kinjalbuch@yahoo.com  
10307 Bret Avenue  
Cupertino, California 95014

## Cyrah Caburian

---

**From:** Xiangying Yang <yangxy@gmail.com>  
**Sent:** Tuesday, September 7, 2021 2:38 PM  
**To:** City Council  
**Subject:** Please say NO to Vallco SB35 extension plan

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear city councils,

As a Cupertino resident, I would respectfully request you to vote NO on the Vallco SB35 plan's extension. I have my detailed comments below. Please feel free to share it during the council meeting.

Thank you

Best regards,

Xiangying

The plan was flawed from the beginning:

- Powerpoint based green roof, does not really serve the true purpose of a community park. Not to mention uncertain cost. We have not seen a green roof project that has been practically successful/useful. What's developer's experience on that and who would pay the maintenance bill?
- The building height in the plan was exploiting ambiguity in the previous general zoning guideline. It is now in direct conflict with the latest zoning mandates.
- The traffic analysis was deeply flawed with false assumptions on how people will live and commute. An example, large companies have office move from one building to another almost yearly, and these buildings are widely spreaded in bay area. Living close and biking/working to office building is a wishful thinking for MOST in silicon valley. The high density nature of the project will cause a bottleneck on an already very crowded crossroad.

## Cyrah Caburian

---

**From:** Yulissa L <yl2t66@gmail.com>  
**Sent:** Tuesday, September 7, 2021 2:51 PM  
**To:** City Council  
**Subject:** Vallco SB35

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

To whom it may concern,

I am a Cupertino resident. please vote NO on Vallco SB35 plan extension.

Thanks!

Sent from my iPhone



## Cyrah Caburian

---

**From:** Connie Cunningham <cunninghamconniel@gmail.com>  
**Sent:** Tuesday, September 7, 2021 3:04 PM  
**To:** City Council  
**Subject:** Agenda Item, Vallco, Sept 7

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mayor Paul, Vice-mayor Chao, and Councilmembers:

Having thought about this item further, I would like to add the following.

The commercial elements of the Project, especially the office, pay for the Below-Market-Rate housing--BMR housing that would otherwise be impossible to build without a massive public subsidy.

The 1201 BMR homes would cut our worst-in-the-Bay-Area jobs-housing-fit in half, making Cupertino available to those who can least afford it and can least afford to commute.

It has been mentioned that the Project units are small and not conducive to families. However, my thought is that this one Project cannot solve all our housing issues. Single people and couples need housing as much as people with children. Cupertino needs to plan for all types of housing. RHNA planning needs to consider all these ideas as we look for sites for the upcoming Housing Element.

Sincerely,  
Connie Cunningham, self only  
Chair, Housing Commission

From Connie's iPhone

## Cyrah Caburian

---

**From:** Chi Yeh <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 3:15 PM  
**To:** Jon Robert Willey  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

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Councilmember Jon Wiley,

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Please stop putting up a fight against the State; we will lose. We must contribute our fair share of affordable housing, and we already have an approved project to do that! Let the Vallco project move forward Now!

Chi Yeh  
ckye@sbcbglobal.net  
21607 Villa Maria Ct.  
Cupertino, California 95014

## Cyrah Caburian

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**From:** Chi Yeh <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 3:15 PM  
**To:** Kitty Moore  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

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**Sent:** Tuesday, September 7, 2021 3:15 PM  
**To:** Hung Wei  
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21607 Villa Maria Ct.  
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## Cyrah Caburian

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**From:** Jun-Xiong Hughes <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 3:16 PM  
**To:** Darcy Paul  
**Subject:** Agenda Item 12 -- Please, No More Unnecessary Delays and Fighting

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Mayor Darcy Paul,

As a resident who is deeply concerned about the future of our City and making it a less exclusive place, I urge you to reflect on why we continue to install delays in the development process of the Vallco project.

Regardless of the merits of the project- which are not terrible and are crucial to meeting our RHNA obligations- the continual slow-walking and fighting throughout the administrative approval and permitting process is a waste of time and resources.

We need move forward as a city and stop trying to sabotage the one project contributing a significant portion of our affordable housing obligations. Moreover, the very premise that we know the intent of the state law better than the state agency tasked to implement it is ridiculous and feels like a petty, unnecessary fight. If we truly we concerned about expiration, I would imagine we would work with HCD to provide clarification- which they have- rather than flexing our imaginations to come up with alternate legal interpretations. So please stop fighting this project, and just generally, the state / HCD. So much more can get done collaboratively, and with good-faith, even if you don't support the state's intentions.

With regard to the states' intentions: as you are all well aware, we legally obligated to contribute our fair share of affordable housing, but outside of our legal obligations, I would argue that we have moral obligations to current and future generations to improve our housing options, which really begs the question of why we don't share the same goals with the state in the first place.

Finally, we all know the Vallco project has been one of the most politically-charged topics in recent times, so can you please stop putting these significant topics at the end of city meeting agendas?

At the end of the day I really hope you all can just think about why, and who you think you are fighting for - because I look around to many voices and individuals in this community (even those opposed to the project) and I am at loss for who it is you represent.

Jun-Xiong Hughes  
jxseanhughes@gmail.com  
7752 Huntridge Lane  
Cupertino, California 95014



## Cyrah Caburian

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7752 Huntridge Lane  
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## Cyrah Caburian

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**From:** Leigh Anne Gillis <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 3:34 PM  
**To:** Kitty Moore  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

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Councilmember Kitty Moore,

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Leigh Anne Gillis  
leighagillis@gmail.com  
21847 Shattuck Drive  
Cupertino , California 95014

## Cyrah Caburian

---

**From:** Leigh Anne Gillis <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 3:34 PM  
**To:** Hung Wei  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

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## Cyrah Caburian

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**Sent:** Tuesday, September 7, 2021 4:11 PM  
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## Cyrah Caburian

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**From:** Connie Cunningham <cunninghamconniel@gmail.com>  
**Sent:** Tuesday, September 7, 2021 4:21 PM  
**To:** City Council  
**Subject:** More on Agenda Item Vallco Sep 7,

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Mayor Paul, Vice- mayor Chao and Councilmembers,

>

> if this project moves forward before the new Housing Element is due, Cupertino will have a lot less work to do to support its position that individual sites can support housing in the next Housing Element. HCD's guidance on AB 1397 allows cities to rely on the percentage of housing element sites that ultimately saw housing production and how much production they saw. Vallco fulfills so much of the current requirement that it will make the 6th Cycle HE much easier to certify.

I urge you to expedite the Vallco project.  
Connie Cunningham self only  
Chair, Housing Commission

From Connie's iPhone

## Cyrah Caburian

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**From:** Stephanie Heinsohn <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 4:49 PM  
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## Cyrah Caburian

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**From:** Michael Mar <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 5:07 PM  
**To:** Kitty Moore  
**Subject:** Agenda Item 12 -- Please support Vallco SB35 project

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Councilmember Kitty Moore,

I live right next to the Vallco site, and I want to state that I support the SB35 project. The Tier 2 project was preferable, but the SB35 project is still something I want the city to support. I hope we as a city can finally unite and move forward to support the Vallco project.

Please stop fighting the state interpretation of the SB35 extension. HCD has already let the city know that Cupertino's interpretation is incorrect. HCD has significant powers to set very large fines for the city. Please do not waste tax payer money by incorrectly interpreting the law and opening us up to large fines or yet another lawsuit.

Michael Mar  
megamar88@gmail.com

Cupertino, California 95014

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---

**From:** Michael Mar <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 5:07 PM  
**To:** Darcy Paul  
**Subject:** Agenda Item 12 -- Please support Vallco SB35 project

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Mayor Darcy Paul,

I live right next to the Vallco site, and I want to state that I support the SB35 project. The Tier 2 project was preferable, but the SB35 project is still something I want the city to support. I hope we as a city can finally unite and move forward to support the Vallco project.

Please stop fighting the state interpretation of the SB35 extension. HCD has already let the city know that Cupertino's interpretation is incorrect. HCD has significant powers to set very large fines for the city. Please do not waste tax payer money by incorrectly interpreting the law and opening us up to large fines or yet another lawsuit.

Michael Mar  
megamar88@gmail.com

Cupertino, California 95014

## Cyrah Caburian

---

**From:** Michael Mar <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 5:07 PM  
**To:** Hung Wei  
**Subject:** Agenda Item 12 -- Please support Vallco SB35 project

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Councilmember Hung Wei,

I live right next to the Vallco site, and I want to state that I support the SB35 project. The Tier 2 project was preferable, but the SB35 project is still something I want the city to support. I hope we as a city can finally unite and move forward to support the Vallco project.

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Michael Mar  
megamar88@gmail.com

Cupertino, California 95014

## Cyrah Caburian

---

**From:** Michael Mar <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 5:07 PM  
**To:** Jon Robert Willey  
**Subject:** Agenda Item 12 -- Please support Vallco SB35 project

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Councilmember Jon Willey,

I live right next to the Vallco site, and I want to state that I support the SB35 project. The Tier 2 project was preferable, but the SB35 project is still something I want the city to support. I hope we as a city can finally unite and move forward to support the Vallco project.

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Michael Mar  
megamar88@gmail.com

Cupertino, California 95014

## Cyrah Caburian

---

**From:** Michael Mar <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 5:07 PM  
**To:** Liang Chao  
**Subject:** Agenda Item 12 -- Please support Vallco SB35 project

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Councilmember Liang Chao,

I live right next to the Vallco site, and I want to state that I support the SB35 project. The Tier 2 project was preferable, but the SB35 project is still something I want the city to support. I hope we as a city can finally unite and move forward to support the Vallco project.

Please stop fighting the state interpretation of the SB35 extension. HCD has already let the city know that Cupertino's interpretation is incorrect. HCD has significant powers to set very large fines for the city. Please do not waste tax payer money by incorrectly interpreting the law and opening us up to large fines or yet another lawsuit.

Michael Mar  
megamar88@gmail.com

Cupertino, California 95014

**Cyrah Caburian**

---

**From:** United Cupertino <unitedcupertino@pb05.ascendbywix.com>  
**Sent:** Tuesday, September 7, 2021 5:15 PM  
**To:** City Council  
**Subject:** Cupertino Council Continues to Block Affordable Housing

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

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# Cupertino Council Continues to Block Affordable Housing

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Cupertino Council,

You continue to employ (potentially illegal) delay tactics to block affordable housing in Cupertino.

We hope that you will disavow these tactics at tonight's Council meeting and instruct staff to process building permits in a professional and legal manner with no delay.

You've tried to run out the clock on the three-year condition in the State law, but you've neglected to understand that Councilmember Moore's litigation forestalled that strategy. The lack of acknowledgment that there is a letter from the State in the staff report is further evidence of your obstruction and tampering with staff.



Mayor Paul, you will be forever labeled as anti-housing mayor and this label will follow you in any future political aspirations you may have.

Stop the discriminatory tactics against this developer, stop blocking permits, and stop the obstruction of State mandated affordable housing that is so desperately needed.

/United Cupertino Residents

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## Cyrah Caburian

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**From:** Wendell Kerr <whkerr@comcast.net>  
**Sent:** Tuesday, September 7, 2021 7:57 PM  
**To:** City Clerk  
**Subject:** item 12 on City Council 9-7-21 agenda

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

### Council Members

I support the SB 35 Vallco development which is the subject of tonight's item 12.  
The Council needs to get moving on allowing the development to proceed.

Don't let the approved plan expire with yet more delaying tactics.

Stop spending Cupertino resident's money in further delay. Let the project proceed.

Wendell Kerr  
408-421-5380  
whkerr@comcast.net

## Cyrah Caburian

---

**From:** Neil Park-McClintick <neil@cupertinoforall.org>  
**Sent:** Tuesday, September 7, 2021 9:40 PM  
**To:** Cupertino City Manager's Office; City Clerk; City Council  
**Subject:** Analysis of AB 1174 RE Vallco  
**Attachments:** Vallco analysis via AB 1174.pdf

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

**Dear Cupertino City Council,**

I wanted to alert you all to this Bill Analysis done by the Senate Governance and Finance Committee. It specifically indicates the Vallco project as a target of these amendments, due to the perceived stalling tactics. Here is an excerpt.

the development.” Cupertino’s actions seem clearly intended to delay this project. Litigation may be the only way to ensure that Vallco is successfully constructed.

4. Let’s be clear. SB 35 currently requires “vertical” construction to have commenced for a project to qualify for the extension of an SB 35 approval. The City of Cupertino argues that because no structures have been erected on the site, vertical construction has not commenced and Vallco’s SB 35 approval will expire at the end of September. AB 1174 changes “vertical construction” to “construction activity,” but leaves it up to the Department of Housing and Community Development to define what construction activity means in its guidelines for SB 35 projects. Absent some clarification, relatively minor activity such as erecting a fence around a site might qualify as construction. The Committee may wish to consider amending AB 1174 to include a definition of construction activity.

Let's look for solutions, not problems. It should not take 3 years to process permits for a project that already has been approved. It doesn't matter if you hate it; if you think there's a better project possible. I think that a better project was certainly possible.

Any attempts to delay the process, will likely put us in court—this includes any decision to issue an extension, when one is not necessary.

AB 831 makes it clear that this extension is not necessary, and that the project's timeline has been delayed due to the exposed litigation by FOBC.

Finally, I want to say that I'm glad to finally have some more transparency and clarity on what's going on RE: Vallco, though I disagree with the City's conclusions about the need to diddle endlessly. If you would like to discuss this further, I am open to that dialogue. I ultimately just want this thing to move forward, and get this saga over with. Vallco has been subject to date for pretty much my entire life; myself and community members are eager to see this project come to life, especially with its 1,200 BMR units.

Best,  
Neil Park-McClintick  
Chair, Cupertino for All

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# SENATE COMMITTEE ON GOVERNANCE AND FINANCE

Senator Mike McGuire, Chair  
2021 - 2022 Regular

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**Bill No:** AB 1174  
**Author:** Grayson  
**Version:** 6/23/21  
**Consultant:** Favorini-Csorba

**Hearing Date:** 7/8/21  
**Tax Levy:** No  
**Fiscal:** Yes

## ***PLANNING AND ZONING: HOUSING: DEVELOPMENT APPLICATION MODIFICATIONS, APPROVALS, AND SUBSEQUENT PERMITS***

*Makes numerous changes to the streamlined housing development approval process established by SB 35 (Wiener, 2017).*

### **Background**

Planning and approving new housing is mainly a local responsibility. The California Constitution allows a city or county to “make and enforce within its limits, all local, police, sanitary and other ordinances and regulations not in conflict with general laws.” It is from this fundamental power (commonly called the police power) that cities and counties derive their authority to regulate behavior to preserve the health, safety, and welfare of the public—including land use authority.

**Planning and Zoning Law.** State law provides additional powers and duties for cities and counties regarding land use. The Planning and Zoning Law requires every county and city to adopt a general plan that sets out planned uses for all of the area covered by the plan. A general plan must include specified mandatory “elements,” including a housing element that establishes the locations and densities of housing, among other requirements. Cities’ and counties’ major land use decisions—including most zoning ordinances and other aspects of development permitting—must be consistent with their general plans. The Planning and Zoning Law also establishes a planning agency in each city and county, which may be a separate planning commission, administrative body, or the legislative body of the city or county itself. Cities and counties must provide a path to appeal a decision to the planning commission and/or the city council or county board of supervisors.

**Zoning and approval processes.** Local governments use their police power to enact zoning ordinances that shape development, such as setting maximum heights and densities for housing units, minimum numbers of required parking spaces, setbacks to preserve privacy, lot coverage ratios to increase open space, and others. These ordinances can also include conditions on development to address aesthetics, community impacts, or other particular site-specific considerations.

Local governments have broad authority to define the specific approval processes needed to satisfy these considerations. Some housing projects can be permitted by city or county planning staff “ministerially” or without further approval from elected officials, but most large housing projects require “discretionary” approvals from local governments, such as a conditional use

permit or a change in zoning laws. This process requires hearings by the local planning commission and public notice and may require additional approvals.

**SB 35 (Wiener, 2017).** In 2017, the Legislature enacted a substantial package of legislation aimed at addressing the state's housing crisis. Among other legislation, the Legislature enacted SB 35 (Wiener) to provide for a streamlined, ministerial process for approving housing developments that are in compliance with the applicable objective local planning standards—including the general plan, zoning ordinances, and objective design review standards. SB 35 was intended to enable developments that face local opposition, but are consistent with local objective development standards, to be constructed. To be eligible for streamlining under SB 35, a specified percentage of the total housing units in the development must be affordable to lower-income households (those under 80 percent of area median income), as follows:

- 10 percent, if the locality has not issued building permits for enough above moderate-income—greater than 120 percent of area median income (AMI)—units to meet their RHNA requirement. If a project is located within the nine-county Bay Area, the project may instead include 20 percent of the units affordable to moderate income households (up to 120 percent AMI).
- 50 percent, if the locality has not issued building permits for enough lower-income units to meet their RHNA requirement; or
- The percentage in a local inclusionary zoning ordinance if it is higher than the requirements above.

All but 30 cities and counties in California are subject to some streamlining under SB 35 because they have not issued building permits to housing units sufficient to meet their RHNA at one or more income levels.

SB 35 also included certain requirements for labor standards, such as the use of a skilled and trained workforce on an eligible project. However, SB 35 exempts projects of 10 housing units or less from the affordability requirements and labor standards.

Last year, the Legislature added a process to SB 35 for determining if a project would affect tribal cultural resources (AB 168, Aguiar-Curry). This process includes a consultation between the California Native American Tribes traditionally affiliated with the project area and the relevant local government to identify tribal cultural resources and agree upon mitigation measures needed to preserve them.

SB 35 sunsets on January 1, 2026.

**Vallco Town Center.** The Vallco Town Center development (Vallco) will involve the demolition of a defunct mall in Cupertino and the construction of: 2,402 residential units, half of which will be affordable to low and very low-income levels as required by SB 35; 400,000 square feet of retail and entertainment uses; and 1.8 million square feet of office space.

Vallco received approval from the City of Cupertino under SB 35 in October 2018, and demolition has begun. As one of the first, and the largest, development to go through the SB 35 process, Vallco has attracted significant attention. The project has faced opposition from local groups as well as some members of the Cupertino City Council. As a result, Vallco's experience

may illuminate challenges that future developments seeking to employ SB 35's process may also encounter.

The Legislature has enacted numerous measures in recent years to address challenges that Vallco has encountered following receipt of its SB 35 approval, including:

- AB 831 (Grayson, 2020), which was referred to the Senate Governance and Finance Committee, but that referral was rescinded due to the COVID-19 pandemic. AB 831 prohibited unreasonable delay by local governments in issuing subsequent permits for SB 35 projects, among other changes.
- AB 1485 (Wicks, 2019), which the Senate Governance and Finance Committee approved at its July 10<sup>th</sup>, 2019, hearing on a vote of 7-0. AB 1485 allowed housing projects in the Bay Area to qualify for SB 35 by including 20% moderate-income units, among other changes.
- SB 765 (Wiener, 2018), which was not referred to the Senate Governance and Finance Committee. SB 765 changed the treatment of proposed subdivisions under SB 35, among other changes.

Nearly three years after the initial approval by the City of Cupertino, Vallco has not yet commenced building structures on the site, although significant demolition and grading work has been completed.

The Bay Area Council and the San Francisco Bay Area Planning and Research Association (SPUR) want the Legislature to enact further changes to SB 35 to assist the Vallco project.

### **Proposed Law**

Assembly Bill 1174 makes numerous changes to specific provisions of SB 35, as outlined below.

Current law provides that an SB 35 approval remains valid for three years following approval of the project, and allows a city or county to extend that approval for an additional year, at its discretion. Approvals never expire for projects that include public investment in housing affordability outside of tax credits and that designate at least 50 percent of the units for affordable housing. SB 35 also extends the approval for other projects indefinitely until after litigation is resolved or if vertical construction on the site has begun and is in progress, meaning that the applicant has begun construction and has not ceased for more than 180 days, or specified actions on building permits have been taken. **AB 1174** changes “vertical construction” to “construction activity” and makes clarifying changes to the tolling of the approval for litigation.

Current law allows a developer to request a modification to an approved SB 35 project prior to the issuance of the final building permit. The local government must approve the modification if it determines that the modification is consistent with the objective planning standards that were in place when the original development application was first submitted, unless the modification would increase the square footage or number of residential units by 15 percent or more, or 5 percent if new standards are needed to mitigate a specific, adverse impact from the modification. **AB 1174** extends the validity of an SB 35 approval for the time from submittal of a modification request to the date of the request's final approval, plus an additional 180 days.

Current law allows building standards code changes to be applied to all modifications. **AB 1174** allows building code standards to only be applied to modification applications that are submitted prior to the first building permit application, unless agreed to by the developer.

Current law requires local governments to issue subsequent permits needed for an approved SB 35 project if the application substantially complies with the development as it was approved, and requires the local government to process the permit without unreasonable delay. **AB 1174** requires a local government to consider applications for such permits based on the objective standards that were in effect when the original development application was submitted, unless the development proponent agrees to a change in objective standards.

AB 1174 applies these changes retroactively to developments approved prior to January 1, 2022, and makes other clarifying and technical changes and includes findings and declarations to support its purposes.

### State Revenue Impact

No estimate.

### Comments

1. Purpose of the bill. According to the author, “The Legislature has made enormous efforts to dramatically increase our housing supply. However, ambiguities in the law have been exploited by anti-growth community groups to delay and derail desperately needed housing projects. For example, SB 35 streamlining approvals are currently valid three years after the project is approved. Some jurisdictions have used lawsuits to extend the project timeline beyond this window, and then revoke the streamlining provisions. Another issue arises when jurisdictions require a project to comply with objective standards that were not in place at the time of project approval. This can compel a project proponent to seek a modification, which can further delay or derail the project. To address these challenges, AB 1174 specifies that the “shot clock” for a development or modifications is paused when a project is sued, and clarifies that subsequent permit applications must only meet the objective standards that were in place when the project was initially approved. This measure will also clarify that construction activity must have begun on the site to maintain its permit, and that underground space does not count towards square footage when calculating development changes. These fixes are essential to ensure to facilitate the timely construction of housing at all income levels to meet California’s critical housing needs.”

2. Just sue already. The City of Cupertino has consistently identified what it considers to be loopholes in SB 35 to slow down or attempt to halt the project. For example, they have imposed new conditions, balked at minor modifications, and attempted to withhold permits for excavation and encroachment after the project’s approval. So far, they have been successful in delaying the project for almost three years, to the point where Valco’s SB 35 approval is about to expire prior to the commencement of construction. The Valco developer, Sand Hill Properties, and other advocates have returned to the Legislature in every year following the passage of SB 35 to revise its provisions in an attempt to head off the City’s efforts, spending significant time and resources. Sand Hill explains that their intent with AB 1174 is to avoid litigation. But local governments are a crafty bunch, and Cupertino will likely find additional ways to hold up Valco even with the changes in AB 1174. Furthermore, SB 35 already prohibits a local government’s review and issuance of subsequent permits from “inhibiting, chilling, or in any way precluding

the development.” Cupertino’s actions seem clearly intended to delay this project. Litigation may be the only way to ensure that Valco is successfully constructed.

3. The exception that swallows the rule. SB 35 intentionally limited the length of time that approvals would remain valid for most projects to three years, so that the legislation would result in the rapid construction of much needed new housing units. Existing law allows developers to submit modifications to the project, but currently the clock ticks down on their approval while they are working on those modifications, consistent with that intent. AB 1174 tolls the clock on the approval while a local government is reviewing the modifications, but also goes further to automatically grant an additional 180 days with each modification request. Since local governments are limited in their ability to deny modifications or impose new conditions on them, this provision would potentially allow a project developer to extend approvals indefinitely. The Committee may wish to consider limiting the number of modifications a developer can submit.

4. Let’s be clear. SB 35 currently requires “vertical” construction to have commenced for a project to qualify for the extension of an SB 35 approval. The City of Cupertino argues that because no structures have been erected on the site, vertical construction has not commenced and Valco’s SB 35 approval will expire at the end of September. AB 1174 changes “vertical construction” to “construction activity,” but leaves it up to the Department of Housing and Community Development to define what construction activity means in its guidelines for SB 35 projects. Absent some clarification, relatively minor activity such as erecting a fence around a site might qualify as construction. The Committee may wish to consider amending AB 1174 to include a definition of construction activity.

5. Charter city. The California Constitution allows cities that adopt charters to control their own “municipal affairs.” In all other matters, charter cities must follow the general, statewide laws. Because the Constitution doesn't define "municipal affairs," the courts determine whether a topic is a municipal affair or whether it's an issue of statewide concern. AB 1174 says that its statutory provisions apply to charter cities but does not include the Legislature’s reasoning supporting that conclusion. The Committee may wish to consider amending AB 1174 to include findings explaining that the production of affordable housing is a matter of statewide concern.

6. Mandate. The California Constitution requires the state to reimburse local governments for the costs of new or expanded state mandated local programs. Because AB 1174 adds to the duties of local officials, Legislative Counsel says that the bill imposes a new state mandate. AB 1174 disclaims the state's responsibility for providing reimbursement by citing local governments’ authority to charge for the costs of implementing the bill's provisions.

7. Incoming! The Senate Housing Committee approved AB 1174 at its July 1<sup>st</sup> hearing on a vote of 8-0. The Senate Governance and Finance Committee is hearing it as the committee of second reference.

### Assembly Actions

Assembly Housing and Community Development Committee:	8-0
Assembly Local Government Committee:	7-0
Assembly Appropriations Committee:	16-0
Assembly Floor:	71-0

### Support and Opposition (7/5/21)



Support: Bay Area Council (co-sponsor); SPUR (co-sponsor); California Apartment Association; California Association of Realtors; California Building Industry Association; California YIMBY; Casita Coalition; Council of Infill Builders; Fieldstead and Company, INC.; Greenbelt Alliance; Habitat for Humanity California; Hello Housing; Housing Action Coalition; Lisc San Diego; Midpen Housing; Sand Hill Property Company; Silicon Valley @ Home; The Two Hundred; TMG Partners

Opposition: None submitted.

-- END --

## Cyrah Caburian

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**From:** Munisekar <msekar@gmail.com>  
**Sent:** Tuesday, September 7, 2021 10:40 PM  
**To:** Cupertino City Manager's Office; City Clerk; Darcy Paul; Liang Chao; Jon Willey; Kitty Moore  
**Cc:** Munisekaran Madhhipatla  
**Subject:** My Comments on Item 12 today.

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Here are my public comments today on the Agenda Item 12 today for your records.

=====

Good evening Mayor, Vice Mayor, City Council & Manager,

My name is Muni Madhhipatla, and I am a Cupertino resident. I serve on Planning Commission but here speaking as a Cupertino resident.

I would like to take this moment to thank you all, staff and vigilant Cupertino community members for doing the right thing with respect to Vallco project.

The community, all along pointed out that Vallco site is a contaminated site and needed to be handled carefully and is not eligible for SB35 approval. Even though there was lot of legal wrangling around this, I am glad that our city did the right thing by hiring experts and establishing the fact it is a contaminated site needing special handling. I will read the last paragraph from staff report on Page 2.

**Soil Investigation: Due to additional review and requirements by the City, contaminated soils and soil vapor have been identified on the project site. The Project developer has entered into a voluntary clean-up agreement with the Santa Clara County Department of Environmental Health (SCCDEH). SCCDEH now has regulatory jurisdiction over continuing site investigation and remediation, and is prohibiting soil disturbance until it can validate that it is safe to do so. The Vallco Project anticipates that SCCDEH's oversight will continue until Spring 2022, although recent testing has revealed even greater contamination issues than previously identified, including some measures beyond permissible residential thresholds.**

I am also pleased that our city is engaging all the right agencies such as environmental health, fire, traffic, and water agencies to assess the impact before issuing permits. Thanks for digging into staffing details for the fire outpost that will be established at this site. As a resident, I couldn't ask for more.

I would highly encourage you to collect the impact assessment fees of \$125 mil assessed by the staff instead of waiving it. As a taxpayer, I don't want that cost transferring to ordinary residents like me as someone has to pay for those expenses. When the city doesn't waive any fees for ordinary residents, why should you waive such large fees for a wealthy developer? Please apply the rules uniformly.

Great to hear people like Mr. Paul Soto from neighboring cities complimenting you for community friendliness. Thank you and keep up the good work.

My humble request, just learn to ignore the smear bloggers and fake news reporters.

Thank you.

Muni Madhhipatla

Cupertino Resident.

=====

## Cyrah Caburian

---

**From:** Genevieve Kolar <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 6:04 PM  
**To:** Jon Robert Willey  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Councilmember Jon Willey,

I am greatly concerned by the status of Vallco, which was approved nearly 3 years ago. The City is incorrect that the project will expire—the state knows its own laws better than us. We must move forward as a city and issue any remaining permits. At this rate, we are unnecessarily stalling 1,200 affordable homes, while also putting our city in legal jeopardy.

Please stop putting up a fight against the State; we will lose. We must contribute our fair share of affordable housing, and we already have an approved project to do that! Let the Vallco project move forward Now!

Genevieve Kolar  
genevieve.kolar@gmail.com

Los Altos, California 94024

## Cyrah Caburian

---

**From:** Genevieve Kolar <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 6:04 PM  
**To:** Kitty Moore  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

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Councilmember Kitty Moore,

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**Sent:** Tuesday, September 7, 2021 6:04 PM  
**To:** Hung Wei  
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Councilmember Hung Wei,

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Los Altos, California 94024



## Cyrah Caburian

---

**From:** Grazyna Szymanska-Matusiewicz <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 6:24 PM  
**To:** Jon Robert Willey  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

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Grazyna Szymanska-Matusiewicz  
g.szymanska@gmail.com  
19479 Rosemarie Pl, Apt. 2  
Cupertino, California 95014-3452

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**To:** Hung Wei  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Councilmember Hung Wei,

I am greatly concerned by the status of Vallco, which was approved nearly 3 years ago. The City is incorrect that the project will expire—the state knows its own laws better than us. We must move forward as a city and issue any remaining permits. At this rate, we are unnecessarily stalling 1,200 affordable homes, while also putting our city in legal jeopardy.

Please stop putting up a fight against the State; we will lose. We must contribute our fair share of affordable housing, and we already have an approved project to do that! Let the Vallco project move forward Now!

Grazyna Szymanska-Matusiewicz  
g.szymanska@gmail.com  
19479 Rosemarie Pl, Apt. 2  
Cupertino, California 95014-3452

## Cyrah Caburian

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**From:** Grazyna Szymanska-Matusiewicz <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 6:24 PM  
**To:** Darcy Paul  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

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Mayor Darcy Paul,

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## Cyrah Caburian

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**From:** Grazyna Szymanska-Matusiewicz <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 6:24 PM  
**To:** Kitty Moore  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

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Councilmember Kitty Moore,

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## Cyrah Caburian

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**From:** Grazyna Szymanska-Matusiewicz <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 6:24 PM  
**To:** Liang Chao  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

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Councilmember Liang Chao,

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Cupertino, California 95014-3452

## Cyrah Caburian

---

**From:** John Zhao <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 11:14 PM  
**To:** Darcy Paul  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

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John Zhao  
jzhao098@gmail.com

Cupertino, California 95014

## Cyrah Caburian

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**From:** John Zhao <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 11:14 PM  
**To:** Hung Wei  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

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jzhao098@gmail.com

Cupertino, California 95014

## Cyrah Caburian

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**From:** John Zhao <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 11:13 PM  
**To:** Kitty Moore  
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Cupertino, California 95014

## Cyrah Caburian

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**From:** John Zhao <info@sg.actionnetwork.org>  
**Sent:** Tuesday, September 7, 2021 11:14 PM  
**To:** Jon Robert Willey  
**Subject:** Agenda Item 12--don't put us in legal jeopardy; issue all the remaining permits

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Councilmember Jon Willey,

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John Zhao  
jzhao098@gmail.com

Cupertino, California 95014

## Cyrah Caburian

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**From:** Jean Bedord <Jean@bedord.com>  
**Sent:** Tuesday, September 7, 2021 11:17 PM  
**To:** City Clerk  
**Subject:** Public comment Sept. 7, 2021 Agenda Item #12 Vallco Status Report

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Please include in written communications - Thanks.

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Good evening, Mayor Paul and council members

My name is Jean Bedord.

I am here tonight to commend the city manager and staff for this report. For too long, we as members of the public have only heard bits-and-pieces of supposed progress on the SB35 project. We can all see the big gaping hole as we go out to eat at bustling Cupertino Main Street and wonder how long it will take for this city to get its act together and make Vallco a reality. Thank you for identifying the challenges that remain...this is a big step forward in getting them resolved.

I urge you to move as quickly as possible on the Vallco Project all hands meeting so the city and the property owner can work together instead accusing each other of non-cooperation.

Even more importantly, the city work plan needs significant revision. Too much staff time is being wasted on low priority projects. At this point, the city has two, and only two, major priorities:

The first priority is the RHNA Housing Element due by the end of 2022. The city has to plan for a minimum of 4,588 housing units. This means after-the-fact revision of the General Plan and zoning will be necessary to accommodate those units, as well as comply with new state housing laws in 2022.

The second priority, which is a major component of the RHNA allocation, is major progress on Vallco. The majority city council rejected the Vallco Specific Plan which involved project negotiations. Instead, this majority council opted for the no-negotiation SB35 plan under state law, not local control. It's time for this city take ownership of that decision and move ahead. The SB35 plan is not perfect, but majority council made the choice, so let's move ahead and get construction underway.

I am also very concerned about the potential for expensive litigation. The Friends of Better Cupertino lawsuit consumed two years. This council is already under threat of a lawsuit for passing an illegal Density Bonus ordinance. Is this inviting yet more litigation to exceed the \$2 million that's already budgeted for legal expenses?

I urge you to stop fighting state law and start building for our community.

Thank you.

## Cyrah Caburian

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**From:** Vera Cai <vera\_cai@yahoo.com>  
**Sent:** Wednesday, September 8, 2021 10:55 AM  
**To:** City Council  
**Subject:** Please help to say NO to SB35 plan extension

**CAUTION:** This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Dear Cupertino City Council,

Please help cupertino citizens to say NO to SB35 plan extension. Cupertino is a small city and SB35 goes too far.

Thanks & Regards,  
Vera