



MEMORANDUM

DATE: August 14, 2019

TO: Piu Ghosh, City of Cupertino

FROM: Kristy Weis, Principal Project Manager
Judy Shanley, President

SUBJECT: Response to Comments on the Second Addendum to the 2014 Certified General Plan Amendment, Housing Element Update, and Associated Rezoning Draft EIR (SCH# 2014032007)

The City of Cupertino prepared a July 29, 2019 Second Addendum (“Second Addendum”) to the 2014 certified General Plan Amendment, Housing Element Update, and Associated Rezoning Draft Environmental Impact Report (“Final EIR”). The Second Addendum evaluated proposed modifications to the project analyzed in the Final EIR (the “Final EIR project”) pertaining to the Vallco Shopping District.

The City has received comments on the Second Addendum through August 5, 2019 from the following:

- Albert Liu
- Ann Cleaver
- Ansh Shukla
- Chi Yeh
- Chris Ambrose
- City of Santa Clara
- Connie Cunningham
- Cupertino Resident
- Doug Rowe
- Emma Bridge
- Eric Wilson
- Frank Geefay
- Gail C
- Geoffrey Paulsen
- Glenn Cabral
- James Moore
- Jean Bedord
- Joan Trampenau
- John Stubblebine
- Keith Murphy
- Kirk Vartan
- Liana Crabtree
- MingLam Choi
- R Wang
- Randy and Carle Hylkema
- Vallco Property Owner, LLC
- Sonja Trauss
- Stephanie Pressman
- Steve Kelly
- Teresa Erdman
- Valerie Szymanski

The City also received oral comments at the July 30, 2019 Planning Commission hearing. The comments received pertaining to the adequacy of the Second Addendum are summarized by topic, below, with responses. Copies of the written comments are included in Attachment A, and the oral comments provided at the Planning Commission hearing can be viewed here: <https://www.cupertino.org/our-city/videos-on-demand/all-televised-meetings>.

CEQA does not require the analysis of economic changes resulting from a project (CEQA Guidelines Section 15064[e]). For this reason, comments received regarding the economic viability of the project are not included in the summary below. In addition, comments regarding the merits of the proposed project modifications (e.g., economic feasibility) are not included in the summary below because they are not comments on environmental issues.

The comments did not raise any significant new information related to new or substantially more severe significant environmental impacts than were previously identified in the certified Final EIR.

SUMMARY OF COMMENTS AND RESPONSES

Comments on Form of Environmental Review:

- Requires environmental review
- Subsequent EIR needed because the project has substantially changed and the mall is almost completely vacant

Response regarding environmental review: Environmental review in accordance with the California Environmental Quality Act (CEQA) was completed by the City for the proposed modifications to the Final EIR project.

A Second Addendum to the Final EIR dated July 24, 2019 was prepared by the City. The standards for preparing an addendum are explained in Section 2.0 on pages 1 and 2 of the Second Addendum, and are found in CEQA Guidelines Section 15164.

A comment was made that a subsequent EIR (“SEIR”) must be prepared instead of an addendum because the mall was 85% occupied in 2014 and is now “almost completely vacant.” While it is true that the mall occupancy has declined since the certification of the Final EIR in 2015, the change in mall occupancy would require a SEIR if the change in mall occupancy causes the proposed project modifications to result in new significant environmental effects or a substantial increase in the severity of previously identified significant effects (CEQA Guidelines Section 15162).

The reduction in occupancy of the Mall since the certification of the Final EIR does not implicate any of the requirements in CEQA Guidelines Section 15162 to prepare an SEIR instead of an addendum because:

- The mall has become less occupied over time, and is now almost completely unoccupied, which is an existing condition; therefore, it would not be caused by the proposed modifications to the General Plan and zoning; and
- The proposed modifications would either reduce the impacts of redeveloping the mall site compared to the development analyzed in the Final EIR, or would have the same impacts as discussed in Section 4.0 on pages 6 through 9 of the Second Addendum.

Because the proposed modifications would not lead to or implicate any of the conditions described in CEQA Guidelines Section 15162 that would require preparation of an SEIR, pursuant to CEQA Guidelines Section 15164 an addendum is the appropriate document to analyze the environmental effects of the proposed modifications.

Comments on Environmental Impacts:

- Urban decay and blight not analyzed
- Increase in traffic due to proposed project modifications
- Need to study hazardous materials impacts
- Need to study school impacts and potential need for a new school
- Need to study parkland impacts
- Anticipated wastewater flows and impacts to the sanitary sewer system

Response regarding urban decay and blight: A comment was made that prohibiting office uses would “block redevelopment” of the site and would create urban decay because there would be “protracted vacancy.” Because the occupancy of the mall has declined and the mall is mostly vacant (which is the current, existing condition), the proposed modifications to the Final EIR project would not lead to vacancy and urban decay.

It is speculative to assume that the project modifications would cause blight. The amendments would allow redevelopment of the site with approximately 1.2 million square feet of commercial uses, a total of 339 hotel rooms, and 619 residential units. There is no substantial evidence that these uses cannot be developed on the site, which is an infill site served by existing infrastructure including utilities and service systems and transit.¹

Response regarding traffic impacts: The traffic impacts of the proposed modifications are analyzed in Section 4.2 on page 7 of the Second Addendum. As explained and shown in Table 4-1 on page 7 of the Second Addendum, the proposed modifications would result in a net reduction in daily and peak hour vehicle trips compared to the Final EIR project. The proposed modifications, therefore, would not result in new or substantially more severe significant traffic impacts than were analyzed and disclosed in the Final EIR.

Response regarding hazardous materials impacts: Hazardous materials impacts from the project are analyzed in Section 4.1 of the Second Addendum. As discussed on pages 6 and 7 of the Second Addendum, the physical condition and characteristics of the Vallco Shopping District site have not substantially changed since the preparation of the Final EIR. Since that time, further investigation of the site in the form of a Site Characterization Report has not disclosed any additional hazards, and some of the previously identified hazardous materials have been removed from the site.² The proposed modifications to the Final EIR project would take place over the same area and result in the same ground disturbance as analyzed in the Final EIR. For these reasons, implementation of the proposed modifications would have the same hazardous materials impacts as disclosed in the Final EIR.

¹ If determined to be necessary, the City could enforce Municipal Code requirements for the property owner to take action to prevent blight, such as requiring the property owner maintain the property (Municipal Code Chapter 9.22), and pursuing nuisance abatement (Municipal Code Chapters 1.09 and 1.12).

² Sources: 1) WSP. *Site Characterization Report Former Vallco Shopping Mall 10123 North Wolfe Road, Cupertino, California*. April 2019, revised August 2019. 2) Baseline Environmental Consulting. *Memorandum: Peer Review of Site Characterization Report and Environmental Site Management Plan, Former Vallco Shopping Mall, 10123 North Wolfe Road, Cupertino, California*. August 8, 2019.

(footnote continued on next page)

At the time a specific development project is proposed, project-level environmental review is required. Pursuant to Mitigation Measures HAZ-4a and HAZ-4b in the Final EIR, which was adopted and incorporated into the Final EIR project and would continue to apply to the modified project, if the project-level environmental review identifies contamination on a site, the contamination shall be remediated in consultation with the Regional Water Quality Control Board or Department of Toxic Substances Control (or other appropriate oversight agency).³

The Site Characterization Report completed in 2019 for the Vallco Shopping District site identified Recognized Environmental Conditions (RECs) on-site and completed site investigations (including soil sampling and a geophysical survey).⁴ As discussed in the report and the Environmental Site Management Plan for the site, remediation of contamination on-site would be under the oversight of the Santa Clara County Fire Department or other appropriate regulatory agency.⁵ The report did not identify any new or substantially more severe significant hazardous materials impacts than previously identified in the Final EIR and the remediation actions described in the Site Characterization Report are consistent with Mitigation Measures HAZ-4a and HAZ-4b in the Final EIR.

Response regarding school impacts: As explained and shown in Table 3-2 on page 5 of the Second Addendum, the project modifications would reduce the number of residential units assumed in the Final EIR project for the Vallco Shopping District site from 800 to 619 (a difference of 181 units) compared to the number analyzed in the Final EIR. The 181 residential units removed from the site due to the proposed project modifications could be developed elsewhere in the City, however. Therefore, the overall amount of residential development capacity citywide would remain the same as studied in the Final EIR. For this reason, the school impacts from the project would be the same as analyzed in the Final EIR.

The Final EIR concluded that no new schools would be needed and development on existing school campuses would not result in significant environmental impacts.⁶ Furthermore, it was concluded in the more recently certified 2018 Vallco Special Area Specific Plan EIR (SCH# 2018022021), which analyzed up to 4,000 new residential units at the Vallco Shopping District, that no net new or expanded school facilities would be required.⁷ For these reasons, the project modifications would not require the construction of new schools.

³ City of Cupertino. *General Plan Amendment, Housing Element Update, and Associated Rezoning Draft EIR* (SCH# 2014032007). June 18, 2014. Pages 4.7-23 and 4.7-24.

⁴ Sources: 1) WSP. *Site Characterization Report Former Vallco Shopping Mall 10123 North Wolfe Road, Cupertino, California*. April 2019, revised August 2019. 2) Baseline Environmental Consulting. *Memorandum: Peer Review of Site Characterization Report and Environmental Site Management Plan, Former Vallco Shopping Mall, 10123 North Wolfe Road, Cupertino, California*. August 8, 2019.

⁵ Sources: 1) WSP. *Site Characterization Report Former Vallco Shopping Mall 10123 North Wolfe Road, Cupertino, California*. April 2019, revised August 2019. 2) WSP. *Environmental Site Management Plan Former Vallco Shopping Mall 10123 North Wolfe Road, Cupertino, California*. April 2019, revised August 2019.

⁶ City of Cupertino. *General Plan Amendment, Housing Element Update, and Associated Rezoning Draft EIR* (SCH# 2014032007). June 18, 2014. Pages 4.12-18 through 4.12-20.

⁷ City of Cupertino. *Vallco Special Area Specific Plan Draft Environmental Impact Report*. (SCH #2018022021). May 2018. Page 254.

Response regarding parkland impacts: As discussed in Section 4.2 on page 8 of the Second Addendum, the project modifications would result in the removal of 2.0 million square feet of office development allocated to the Vallco Shopping District. The remaining amount of development studied in the Final EIR citywide would remain the same. Because the proposed modifications would result in less development citywide, the impacts to parkland would be similar but less than described in the Final EIR. For this reason, the project modifications would not result in new or substantially more severe significant parkland impacts than disclosed in the Final EIR.

Response regarding sewer system capacity: The proposed project modifications would result in less development than was analyzed in the Final EIR. As described in Section 4.2 on page 8 of the Second Addendum, less development would result in similar but lesser impacts to utilities and service systems (including the sanitary sewer system) than disclosed in the Final EIR because less development would result in less demand for utilities and service systems.

As explained in the Final EIR, when new development projects are proposed, the City requires the developer to demonstrate that either adequate sanitary sewer system capacity exists or to identify necessary mitigations.⁸ Mitigation Measures UTIL-6a, UTIL 6b, and UTIL- 6c in the Final EIR, which were adopted and incorporated into the Final EIR project and would continue to apply to the modified project, require the City to work with the Cupertino Sanitary District to increase citywide wastewater transmission and treatment capacity based on a study of estimated wastewater generation rates of proposed General Plan development to be prepared by the CSD in cooperation with the City, and requires the City to establish a system for monitoring and tracking development for comparison to the treatment capacity threshold. If new development would exceed the treatment capacity threshold, no building permits would be issued if prior to increasing citywide contractual capacity. If proposed development would generate substantial increases in wastewater, the developer is required to prepare a hydraulic model of the pipe system between the development site and downstream facilities.⁹ The City would require new development to increase capacity, as necessary, to ensure sufficient capacity is provided. No specific development is proposed at this time; therefore, no wastewater flow calculations or hydraulic modeling is required.

⁸ Sources: 1) City of Cupertino. *General Plan Amendment, Housing Element Update, and Associated Rezoning Draft EIR* (SCH# 2014032007). June 18, 2014. Pages 4.14-36 and 4.14-37. 2) City of Cupertino. *General Plan Amendment, Housing Element Update, and Associated Rezoning Responses to Comments Document* (SCH# 2014032007). August 28, 2014. Pages 3-13 and 3-14.

⁹ City of Cupertino. *General Plan Amendment, Housing Element Update, and Associated Rezoning Draft EIR* (SCH# 2014032007). June 18, 2014. Page 4.14-36.