

## Questions about the Regnart Creek Library Trail from Concerned Neighborhood Residents

### Cost

1. The trail is approximately 2.4 acres of land, and the expected price is \$2.4M. There are only three 'in-town' Cupertino lots currently listed for sale (source: Coldwell Banker Realty, 5/14/19): two at \$1.88M for 0.13 acres (\$14.46M per acre) and one at \$9M for 1.3 acres (\$6.92M per acre). Using these as price comparisons, the trail at \$2.4M for 2.4 acres of usable recreational space is significantly less than it would be to purchase this land at the expected price of \$16.61M to \$34.70M plus the cost to improve it to make a trail. Given this, why is this trail being considered "expensive" or not a good value?
2. The City received funding for six of the nine grants proposals that were applied for recently (per a November 2018 summary). Are there more grants available for bicycle and pedestrian projects in our city or are there new grant cycles for these same grant programs each year, which would provide funds?
3. Are there any other available parcels on the east side of Cupertino that are being considered for recreational space, other than the strip of land along Lawrence Expressway?

### Ethical Considerations

1. Many current residents on La Mar Drive have back gates that open onto the trail for personal use, with some having paved pathways through their backyards leading to the gates. Do these residents have agreements with the city and the Santa Clara Water District to have private access to the trail?
2. There is currently a bicycle and pedestrian trail in front of the homes on Lozano Lane and the western side of De Palma Lane, which has been there since the homes were built in 2004 and 2008. Every homeowner that lives there was aware it existed before buying their homes, though some have recently disputed this. What steps has the City taken to communicate that this trail has already been in existence for more than 10-15 years?
3. Also regarding the Lozano Lane/De Palma Lane area - Is there any encroachment onto homeowners' land planned for this area, or will the trail be strictly on the Water District property? Has there ever been anything in concepts or design which shows the Regnart Trail encroaching onto land owned by residents?
4. Why is City Staff spending their very limited resources working on Alternative 4 despite being given no official direction to do so? The direction from City Council in August 2018 was to release funds to pay for a design of the Regnart Creek Trail, not Alternative 4,

which was assessed as not meeting the recreation needs of the community. It does not meet the criteria of the 2018 Pedestrian Plan, the 2016 Bicycle Plan, the Parks & Recreation Master Plan, Cupertino's General Plan: Community Vision 2015-2040 Policy M-1.3: Regional Trail Development, Policy M-2.3: Connectivity, and Policy M-5.3: Connections to Trails. Further, there has been no city vote instructing the City Staff to work on Alternative 4 and Councilmembers are not allowed to give 'behind-the-scenes' direction to City Staff to work on items not in the Workplan or without a vote.

5. Why is the City and the City Council ignoring all the years of input from Cupertino residents that resulted in the 2018 Pedestrian Plan, the 2016 Bicycle Plan, and the Parks & Recreation Master Plan and trying to go back to the drawing board on the trail?
6. Several of the residents on La Mar have said in City Council meetings that the trail would be unsafe for residents. Have these residents been offered the option to build a tall wall between their property and the trail, similar to the wall on Creekside park trail?
7. Does the input from the residents in the 80 homes who are against the trail count as more important than the input from the over 60,000 residents who live within easy walking distance of the proposed trail and stand to benefit from it? How is the City Staff making sure that the needs of these 60,000 residents are not ignored?

## Safety

1. There are many creek trails locally and some in Cupertino. A Google search did not come up with any incidences where someone has fallen into a creek from using a trail next to it. Has the Santa Clara Valley Water District (SCVWD) seen any problems with this?
2. Does it seem to increase falls into a creek whether the creek trail has a fence or not between the trail and the creek? Has Saratoga Creek Trail, the trail located about a mile away (about a mile long, in a similar neighborhood, runs along a creek, policed by the Santa Clara County Sheriff, and has houses that are directly adjacent to it) had any issues with people, especially children, falling into the creek?
3. The new crossings at Blaney and E. Estates will have curb extensions, which will visually narrow the streets. Have these been shown to reduce car speeds? Will they be only as wide as the width of a parked car (so won't change the travel path for cars) or will they be wider?
4. The new crossings at Blaney and E. Estates will include push-button flashers when pedestrians or bikes want to cross. Have these been shown to help increase visibility or safety?
5. Current *Safe Routes to School* routes use the existing city streets. Have the number of children walking and biking to school to the local schools of Eaton and Cupertino High been increasing using these routes based on the SR2S Progress Reports? This would be a

good indication whether parents feel that the existing streets are safe to use, and whether the current street conditions are encouraging more biking and walking to school.

6. Has there been any indication from the Santa Clara County Sheriff Department that adding this new trail will increase crime in this area, including to adjacent residents? Have any public statements regarding trail safety been made by the Sheriff Department, such as in a public meeting?
7. Many people are seen speeding on La Mar Drive, making it a less safe street than expected based on its 25 mph speed limit. Is data available from the electronic speed monitoring cameras that show how fast people are driving? What percentage of them are exceeding the speed limit?

## Public Outreach

1. Was there public outreach for Cupertino's Pedestrian Plan and Cupertino's Bicycle Plan before they were approved? What kind? How long was the process? Did these plans get discussed by the Bicycle Pedestrian Commission before they went to City Council? Was the Regnart Trail project in the plans before they went to City Council for approval?
2. How many public meetings have there been on the Regnart Trail since September 2017 when this trail started its Feasibility Study? Has this been discussed at the Bicycle Pedestrian Commission? Were neighbors notified that at each workshop they could see the complete length of the trail from inside the locked gates?
3. The City Staff have had one-on-one meetings with neighbors adjacent to the trail at their homes in March and April. This seems to be because neighbors that have fences next to the Water District land have complained so much about their privacy and security that this was a necessary step. Did those neighbors talk about their concerns to City Staff at those meetings? How long were the neighbors given to talk about their concerns? Since these neighbors have claimed to be very concerned about their privacy and noise, it should be assumed that they would welcome the opportunity to talk to City Staff about how they could mitigate the problem through a wall or new fence. How many (please specify number or percent) of those neighbors were willing to tell City Staff which mitigation solutions they preferred to address their concerns of privacy and noise, such as fences or walls?
4. The City Staff has been sending out weekly email updates on the Regnart Trail since last year. How many people are on this email list getting the updates each week? Can anyone be on the list to get this information to stay up to date?

## Usefulness



1. Eaton is very close by the exit from the trail, and Cupertino High School is also very close to the exit from Creekside Park which would connect to the Regnart Trail. How many students could use this trail to get to school?
2. Increased safety, by walking or biking away from cars, is one important consideration in building a Class 1 trail, but it doesn't seem like it should be the only one. What are other factors that were considered when this project was made a Tier 1 Pedestrian project and a Tier 2 Bicycle project for the city?
3. This trail is ranked very high (Tier 1 on the Pedestrian Plan) as trail that would be used by pedestrians. Why are a Councilmember and some residents calling it a "bike path"? Is there something in the design that shows it won't be used by pedestrians?
4. Width of the trail seems to be a common topic, and comparisons to the Creekside Trail which is immediately adjacent and used everyday by Cupertino High students should be made. After measuring that path next to the creek, it was found that it was an 8 feet paved path, with one 1 ½- 2 foot shoulder, and over the bridge it was just 8 feet wide with no shoulder. It sounds like the Regnart Trail will be 8 feet wide plus two 2-foot shoulders from E. Estates to Blaney, and even wider (10 feet with two 2-foot shoulders) heading farther west. Is this accurate? Wouldn't these widths be even more comfortable to use than the Creekside Trail?

## Comparison to 'Alternative #4'

1. As mentioned, this trail is ranked very high (Tier 1 on the Pedestrian Plan) as a trail that would be used by pedestrians. The alternative to the trail being proposed, called 'Alternative #4' only considers bikes. How is this being addressed to make a fair comparison (apples-to-apples) in use for the residents between the Regnart Trail and Alternative 4?
2. The City Staff have proposed for Alternative #4 to be Class III or maybe Class II lanes on La Mar and Pacifica. Class III lanes generally consist of painted sharrows ('share the lane' markings on the road) and some signs saying 'bike route'. How can this be compared reasonably to an off-street trail? The bicycles will still need to mix with cars as they do today, not providing any improvement for them.
3. The Alternative #4 includes a left turn in both directions directly onto Blaney, a road with 8,000 cars per day and a 30mph speed limit. The cyclist then must travel along Blaney, only divided from all these cars by a paint stripe, until reaching another turn. How can this be considered as safe for cyclists as a trail, which is separated completely from cars?
4. The latest speed data (April 2019) from the electronic speed monitors show that 43% of vehicles are speeding on La Mar Drive, both heading east and heading west. Does Alternative #4 address the issue of having vehicles driving faster than expected (posted)?

speed limits? Is it reasonable to expect children to ride their bikes mixing with cars on streets that have vehicles traveling up to 40-45mph, as the data shows?

5. Everyday, there are students crossing the Library parking lot to get to Eaton Elementary and then to go to the Cupertino Library after school. They do this because it is the most direct route to Eaton. The trail would allow these students to safely do this along the same path but away from cars and the busy parking lot. How does Alternative #4 address this issue? If a comparison is being made between the trail and the Alternative #4, then it's important to make sure that they are doing the same thing.
6. Alternative #4 is being marketed by those opposing the trail as a better alternative with the following statements (from questions on 4/12/19, published on the Cupertino City website): "...the trail is 0.8 miles of non-contiguous path and requires crossing several busy streets to enter and exit, the riskiest being the introduction of new mid street crossing at Blaney." Does the Alternative #4 have fewer than two (not "several") crossings shown for bikes and pedestrians on the Trail? Heading west, the count appears to be six turning/crossings for Alternative #4 to get from Creekside Park to the library for bikes, and three for Alternative #4 to get to the library for pedestrians. Also, doesn't Alternative #4 also require left turn crossings for bikes (unmarked) at both Blaney/La Mar and at Blaney/Pacifica?
7. Also stated (from questions on 4/12/19, published on the Cupertino City website) by those opposing the trail is that, "*Research shows most bike accidents happen at the crossings versus when bicyclists rides perpendicular to cars.*" Is there any such research that bikes crossing perpendicular to cars have fewer accidents than when they cross at a marked crossing? This seems contrary to common sense.
8. Also stated (from questions on 4/12/19, published on the Cupertino City website) by those opposing the trail is that, "*The ...crossing on Blaney as a proposed trail connector – is an accident waiting to happen - This puts the children and bikers in blind spots...*" Is there any "blind spot" in the design of the trail crossing at Blaney? Are there any design standards that aren't being used that would make residents think it will be "an accident waiting to happen"?
9. The Bicycle Pedestrian Commission at the April meeting approved a motion to state it was against Alternative #4 because not only did it not provide any new facilities for pedestrians but it was also not in the Pedestrian Plan or the Bicycle Plan. They further stated that if it was considered, then a fair comparison to a Class I trail for bikes at least would need to be made, which would be Class IV bike lanes on La Mar Drive and Pacifica Drive. Would the cost for comparable bike lanes (Class IV) on these streets be similar to what is expected for the McClellan Class IV bike lanes (\$4.9M total, from the 2017-18 CIP Budget)? This works out to \$3.06M per mile, or significantly more than the expected trail cost of \$2.4M, which also gives a new trail for walking and running.

## Liability



1. There's been a lot of discussion about liability for the city if this trail is built. Here is information about California State Code on trail liability:

**"GOVERNMENT CODE § 831.4 – TRAILS**

Government Code § 831.4 provides that **public entities are not responsible for injuries caused by a condition of any unpaved road or any trail** which provides access to fishing, hunting, camping, hiking, riding (animal and vehicular), watersports, recreational or scenic areas. The law also protects private property owners who deed public easements (trails) to municipalities for those same recreational purposes. **California courts interpret the immunity provided by Section 831.4 broadly, encompassing paved and unpaved trails and roads, even sidewalks and paths that are used for a recreational purpose, including hiking, biking, skating, etc., or used for providing access to another recreational area. The immunity applies to negligent maintenance, design or the location of trails."**

This seems to mean that there is no increased liability for Cupertino under California State Code. Is there a reason to believe that this law does not apply to Cupertino?

2. Has Cupertino seen increased liability for other biking or pedestrian infrastructure, such as sidewalks or bike lanes, or seen it for other trails (such as the Saratoga Creek Trail)?
3. Is it typical for Cupertino to indemnify (or take on liability) homeowners' property that is adjacent to parks, schools, trails, etc.? What about homeowners' property that is adjacent to sidewalks? Does this ever happen?

Thank you to the City Staff for answering these questions to help the Regnart Trail neighborhood residents.

Remarks to Cupertino City Council – May 21, 2019

By: Gary Wong, President – Campo De Lozano HOA

Topic: Regnart Creek Progress Report – 65% Design Plan

Mayor Scharf, Vice Mayor Chang and council members

Representing the homeowners at Campo De Lozano Homeowners Association, in my 3 minutes I want to provide the Council with an update pertaining to our homes on Lozano Lane and the Regnart Creek Trail. About 10 months ago, when the Feasibility Study was approved, Mayor Paul requested that staff work with our group of homeowners to find a mitigating solution to the fact that the trail will cross directly in front of our homes. At the beginning of the year, Vice Mayor Chao, suggested staff work on the hardest parts of the trail.

We have expressed our concerns to staff, yet as of today, we have not advanced our discussions and are likely at an impasse. It was our hope that at the 65% design completion milestone, we would all have a better understanding what is being proposed. A request to release the 65% plan was made, but it is being withheld, despite the fact that information was shared with the public in April and that it was supposed to be discussed and voted on tonight. So that we can continue to make progress, we urge the Council to authorize release of the 65% design plan. We have not seen it, the Water District has not seen it, the Council has not seen it.

At the April 24th update, we learned that the trail width continues to be overstated and the proposed solution to our concerns for privacy and safety was the installation of removable planter boxes. Those who participated on the Trail Walk probably didn't notice that our section was the only one without the red trail markers that dotted the rest of the trail. 10 months and we have planter boxes as an option.

Other speakers believe that outstanding issues pertaining to the trail are engineering issues and can be resolved with additional funding. The truth of the matter is there is insufficient width for the Water District to conduct its























