

Beth Ebben

From: Kevin Burke <kevin@burke.dev>
Sent: Monday, May 11, 2020 9:54 PM
To: City of Cupertino Planning Commission
Subject: Chair owes a large debt to a developer with business before the city

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,

In a ruling filed last week, a judge ruled against "Friends of Better Cupertino", Kitty Moore, Ignatius Ding, and Petty Griffin. Notably, the judge ruled that the City of Cupertino and the "real party in interest," Sand Hill, can collect attorneys fees from the petitioners.

One of the petitioners is the Chair of the Planning Commission. If she remains on the commission, one of two things will happen:

- She pays the attorneys fees owed to Sand Hill, a party with business before the city, and the City of Cupertino, both of which may affect her judgment on rulings before the city
- Either or both groups decide not to collect. This seems like it would qualify as a gift in excess of the allowable limits for appointed officials in the state of California.

Personally I find the Chair's involvement in this suit embarrassing. The petitioners hoped that raising many arguments, each poorer than the next, would somehow overwhelm the judge, or perhaps that they would get lucky and find some basis for stalling the development. I encourage you to read the decision from the judge, which lays out the (many) ways in which the suit is deficient. The tone used by the judge resembles comments made about me by my 9th grade English teacher. Okay for a 13 year old, really not great when you are on a committee that is supposed to decide land use planning decisions for a city that's home to a \$1 trillion corporation.

It's her fault for getting into a situation where she owes a large debt to a party with business before the city and I think the only way forward is for her to resign.

Kevin

Beth Ebben

From: Jennifer Griffin <grenna5000@yahoo.com>
Sent: Thursday, May 7, 2020 8:53 AM
To: City Council; City of Cupertino Planning Commission
Cc: City Clerk; grenna5000@yahoo.com
Subject: Los Altos Drama Unfolding

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:

We would be wise to observe what is unfolding in Los Altos in light of a recent ruling. There is an attempt in progress to break a one hundred year old California city. It involves High Drama from Sacramento. I am sure there are individuals who backed Wiener and Associates and SB 35 and they are ruining the fact that now the worst of SB 35 has descended on Los Altos and the beloved city is being subjected to forces now beyond anyone's control or predictions. All of the worst of the Big Housing Bills has descended on the theatre that is now Los Altos. The people of Los Altos are resourceful and are fighting for their city.

Well, at least the apricot orchard is safe.

Sincerely,

Jennifer Griffin

Beth Ebben

From: Jennifer Griffin <grenna5000@yahoo.com>
Sent: Thursday, May 7, 2020 6:17 AM
To: City Council; City of Cupertino Planning Commission; City Clerk
Cc: grenna5000@yahoo.com
Subject: Los Altos Ruling on April 28th

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:

Los Altos had an SB 35 decision made on April 28th to allow a five story building. Okay, yes, let's build that five story building in an area of maximum height of two stories. Let's involve Sacramento in the day to day drama of a small town fighting for its very soul. Lets have Big Time Sacramento Drama in a Small Town of California.

Convenient that the decision was made now in a Pandemic.

Will Saratoga be next?

These are our towns and they are fighting for their very souls.

Sincerely,

Jennifer Griffin

Beth Ebben

From: Jennifer Griffin <grenna5000@yahoo.com>
Sent: Thursday, May 7, 2020 7:43 AM
To: City Council; City of Cupertino Planning Commission; City Clerk
Cc: grenna5000@yahoo.com
Subject: Lets Flood Cupertino High School With More Students

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:

Oh boy! We get to add 9000 new residents to the already overloaded Eastern end of Cupertino! Lets add all those millions of cars to the already over-congested roads at Wolfe and Stevens Creek Blvd. Lets dump all that traffic out on Wolfe in the middle of the Apple campus 2 traffic No, those people won't have cars! They will levitate around Cupertino.

And then we have all the new children who need to go to high school. And they get to walk across Stevens Creek Blvd. to already over-crowded Cupertino High School. I am sure these 2500 new families will only have 2 new high schoolers! Well, out of 9000 new people we could have 1000 new high schoolers! Lets put a third story on Cupertino High School. No wait. The state does not care about whether children can get an education with any of these housing bills We will just pack the kids in the local schools and let the poor uneducated locals deal with it.

Okay, so every body building some project in San Jose's Stevens Creek Blvd. Urban Village already has their dibs on Cupertino High School too. So we will have 2000 students at Cupertino High School. Add a 4th story to the school.

Well, here is an idea. Lets send the children of the 9000 to Lynbrook in San Jose? They have a wonderful school with declining enrollment. The children of the 9000 can levitate over there to beautiful West San Jose and go to high school. That high school is rated higher than Cupertino anyway.

Or maybe we can send them to Prospect High School! That is a great school in Saratoga no less! Oh, but wait! That school is potentially going to get another 9000 children of its own from another adjacent project.

Yes, I really hope Sacramento is really happy that Cupertino High School is being overloaded with the children of 9000 new residents of Cupertino! I know us locals are thrilled. Thanks Sacramento. The Apple Employees will thank you too as they struggle to get to their work place too.

Not like there was no drama on Wolfe Road already!

Sincerely,

Jennifer Griffin

Beth Ebben

From: Jennifer Griffin <grenna5000@yahoo.com>
Sent: Thursday, May 7, 2020 6:47 AM
To: City Council
Cc: City of Cupertino Planning Commission; City Clerk
Subject: Remember the November Elections

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:

We need remember we have elections in November coming up and some of the positions are very important, local and statewide.

One should probably not vote for anyone who backs CASA interests or supports any of the myriad of housing bills being pumped out by Senator Wiener and Associates. Or any of the Pro-Density, High Rise Housing bills that seem to be written for hire by certain electeds in the state. That is how we got SB 330 and SB 35 and ADUs four feet from property lines and Urban Villages and Ministerial Spaghetti and Public Officials Statewide and Local yelling at residents that they should be ashamed to live in their neighborhoods and they should move out of the state. Move out of the state? Why? Because some people think they are entitled to our neighborhoods and homes?

Some of these people who are yelling at the public to move and give up their homes are even elected. They are appointed. And many are not even qualified to have been appointed. The people appointing them are not even beholden to their own public.

I am assuming the California voters will still have a way to vote in the upcoming November elections (unless that "by right" has been taken away by then too). Remember the November elections and do not vote for anyone who tells you that you are not entitled to live in your home, in your neighborhood or in California. Believe me you that we do not need to move to Oregon or Washington State. They have their own problems and many of those problems are the same ones we have in California with people telling them that they are not allowed to live in their neighborhoods and that they should move away too.

I am not convinced that their problems were not actually stated in California by the same people who started them here and then just decided that they would continue their dogma up the west coast. Hey, first California and now Oregon and Washington. My as well take them too.

Please remember who you are voting for in November and what their Modus Operandi is. If they are telling you that you are not good enough to live in your home in your neighborhood in your community in your city, then don't vote for them.

Sincerely,

Jennifer Griffin

Beth Ebben

From: Jennifer Griffin <grenna5000@yahoo.com>
Sent: Wednesday, May 6, 2020 11:30 PM
To: City of Cupertino Planning Commission
Cc: City Clerk
Subject: Fw: California Senate and SB 902

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FYI. Dear City Clerk. Please include this in 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: Tuesday, May 5, 2020, 01:15:13 AM PDT
Subject: California Senate and SB 902

Dear City Council:

The California Senate is going to start reappearing in Sacramento this week of May 4. The California Assembly does not seem to be coming back yet for various reasons to Sacramento.

It is very much hoped that Senator Wiener and Associates bill, SB 902, which is the replacement for SB 50 and SB 827 does not continue on any further. Now that there is common knowledge of how these bills are authored and funded, it is all the more imperative to start questioning of whose "by right" these bills are being written for and who they are meant to actually empower.

Bills such as SB 902 do not take the public or local cities interests or concerns to heart. They are not designed to deal with the public or local cities. They are just huge machinery units that plow over existing infrastructure to build someone else's vision of what California should be. Their "by right" is not the public or the local cities "by right." The public and the local cities have no right in these bills' eyes to even exist.

SB 902 is an artificial construction that has no basis in reality or any relevance to the actual state of California. It is not even a panacea. It is hoped it does not continue down any further path to state law.

Sincerely,

Jennifer Griffin

Beth Ebben

From: Jennifer Griffin <grenna5000@yahoo.com>
Sent: Tuesday, May 12, 2020 8:29 AM
To: City Council; City of Cupertino Planning Commission
Cc: City Clerk; grenna5000@yahoo.com
Subject: Cupertino is My City By Right

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:

The writers or backers of the Big Housing Bills cannot take over cities in California "by right". They cannot steal City Charters or take cities away from citizens. This cannot even be done by Sacramento or even for that matter, San Francisco.

There are a lot of groups or individuals that for some reason think that taking over a City Charter is a right that they have. No one elected them. They have no right to take over cities at all. Where they came up with a sense of entitlement that California cities are theirs for the taking is beyond comprehension, though there are sneaking suspicions.

But, California cities come with people. Others are trying to take the cities with the land inside them, but there are people on that land. Those people are not theirs too "by right". The people live in the cities. and have their "by rights" to their own city.

City Charters are not for the taking. Unfortunately, there are individuals or groups who write and back the Big Housing Bills in various ways who think that they have a right to these City Charters. They have no right. They cannot change the California Constitution. And that Constitution comes with the people of the State, It is ours by right also just as are our City Charters.

Sincerely,

Jennifer Griffin

PAST HOUSING APPROVALS

- Main Street – backed out of senior housing!
- Hamptons – still not built!
- Marina – still not built!

BONUS DENSITY LAW – intended to provide

- a variety of affordable housing types and costs
- blended housing community

REQUEST

Request the Planning Commission to review and update our Bonus Density Law (Municipal Code Section 19.56) for clarity and objectivity.

- Define waiver, concession and incentive; what are the differences
- Clarify what waivers can/cannot be requested.
- Clarify what incentives and concessions can/cannot be requested.
- Add time constraints
- Add AS A LAW that agreements must be finalized and recorded prior to the issuance of the first construction document and verified by the City Attorney or City Manager.

**When our laws are clear and objective,
*everybody benefits.***



**COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION**

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

May 12, 2020

To: Planning Commission members
From: Gian Paolo Martire, Senior Planner

Re: Desk Items Regarding Modifications to certain Conditions of Approval (DP-2018-05, EXC-2019-03)

Modified Conditions of Approval

The following Conditions of Approval are recommended to be modified. Underline means additional text, while ~~cross through~~ means text that has been removed.

Draft Resolution for DP-2018-05

BMR UNIT TERMS OF AFFORDABILITY: (Rewritten)

Prior to occupancy, the proposed project shall record covenants that require 36 of the BMR senior units to be occupied at rents that are affordable to very low or low-income households at a ratio of 60% very low-income (22 units) to 40% low-income (14 units) for a period not less than 99 years from the date of first occupancy of the unit pursuant to CMC Section 19.56.050.B and the City's Below Market Rate Housing Program. Also prior to occupancy, for the remaining 12 BMR senior units, the proposed project shall record covenants that require the units to be occupied at rents that are affordable to very low or low-income households at a ratio of 60% very low-income (7 units) to 40% low-income (5 units) for a period of not less than 55 years from the date of first occupancy of the unit pursuant to CMC Section 19.56.050.A.

STREET IMPROVEMENTS & DEDICATION

Provide street dedication in fee title and frontage improvements along the project frontage to the satisfaction of the Director of Public Works. The street improvement plans must be submitted and approved prior to the Final Map approval.

Street improvements may include, but are not limited to, sidewalk, curb & gutter, ADA ramps, city standard driveways, storm drain and sanitary sewer system, street tree installations, street lights (new and/or relocate), bus stop, concrete bus pad, bus shelter and other related bus

improvements, upgrade the existing pedestrian warning device at the mid-block crossing on Mary Avenue to rectangular rapid flashing beacons (RRFB), pavement, signs and pavement markings. And, installation of a Class IV Separated Bikeway between Mary Ave and Hwy 85 NB on-ramp per the approved Cupertino Bicycle Transportation Plan Implementation along project frontage on Stevens Creek Blvd. The installation will require traffic signal modifications at the intersections of Stevens Creek Blvd & Mary Ave and Stevens Creek Blvd & Hwy 85. The Applicant will be required to coordinate with Caltrans, all work located within Caltrans' jurisdiction.

At the street improvement plan stage, the proposed bus stop design (shown on VTM-6) on Stevens Creek Blvd., west of Mary Ave. shall be further reviewed and the final design must be approved by both VTA and City of Cupertino prior to issuance of Final Map. The City may require a bus duckout. As result, an additional easement may be required for proposed bus shelter.

Pursuant to Government Code Section 66020(d) (1), these Conditions constitute written notice of a description of such dedication. You are hereby further notified that the 90-day approval period in which you may protest this dedication, pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such dedication.

PEDESTRIAN AND BICYCLE IMPROVEMENTS

The Applicant shall provide pedestrian and bicycle related improvements, including but not limited to, ~~Class I~~ pedestrian and bike paths and bicycle racks throughout the project site, and RRFB consistent with the Cupertino Bicycle Transportation Plan and the Pedestrian Transportation Guidelines, and as approved by the Director of Public Works.

FINAL MAP

Prior to recordation of final map, all building(s) that straddle the new property line must be removed. Project is required to dedicate Public Access Easements to facilitate on-site bike and pedestrian paths as identified in the Cupertino Bicycle Transportation Plan and Pedestrian Transportation Plan and shall be substantially consistent with those shown on the Vesting Tentative Map. Public Access Easements will be required at the northwestern and southwestern property corners, along the west side of the project site connecting north to south between Stevens Creek Boulevard and Mary Avenue. Final alignment of the public paths and easements shall be approved by the City Engineer.

Pursuant to Government Code Section 66020(d) (1), these Conditions constitute written notice of a description of such dedication. You are hereby further notified that the 90-day approval

period in which you may protest this dedication, pursuant to Government Code Section 66020(a), has begun. If you fail to file a protest within this 90-day period complying with all of the requirements of Section 66020, you will be legally barred from later challenging such dedication.

Draft Resolution for EXC-2019-03

EXCEPTION

A Heart of the City Exception is granted to allow the construction of the proposed project with a maximum of 40% of the building frontage along Stevens Creek Boulevard and 75% of the rear of the building to be occupied by non-retail uses in substantial conformance with the Level 1 Layout as illustrated in Sheet A201.



This Bulletin is an overview of the State Density Bonus Law and describes the implementation procedures for projects seeking to use the program in San Francisco.

PLANNING DIRECTOR BULLETIN NO. 6

Implementing the State Density Bonus Program

First Issued:
DECEMBER 2018
Revised:
JULY 2019

References:
Government Code Section 65915
Planning Code Section 206.6

BACKGROUND:

The California State Density Bonus Law (“State Law”) offers development incentives to projects that provide on-site affordable housing. The State Law offers three categories of benefits to incentivize on-site affordable housing:

1. A project may seek up to 35% additional residential density;
2. A project may receive up to three incentives or concessions (generally, defined as a reduction of development standards, modifications of zoning code requirements, or approval of mixed-use zoning) to offset the costs of providing affordable housing on-site; and
3. The City must waive any local development standard required to construct the on-site affordable housing and the incentives or concessions.

The amount of the density bonus and the number of incentives or concessions depends on the amount and level of affordability of the affordable units in the project.

The City adopted the Individually Requested State Density Bonus Program (Planning Code Section 206.6) in 2017 to implement the State Law.

HOW DOES SAN FRANCISCO IMPLEMENT THE STATE DENSITY BONUS PROGRAM?

Calculating a Density Bonus

Base Density

State Law allows projects to receive up to 35% additional residential density. To determine the amount of additional density, Planning Department staff must calculate the principally permitted density under current controls (“base density”). This calculation is referred to as a base density study. The “base density” is the maximum allowable gross residential density principally permitted under the current zoning. Residential density regulations in San Francisco vary by zoning district. In some districts, residential density is regulated by a ratio of units to lot area, such as one unit per 600 square feet. In these districts, base density is the maximum number of units allowed by the zoning district. Other districts use form-based density, where residential density is regulated by the permitted building volume – either the maximum floor area ratio (FAR) or a maximum building volume controlled by height, bulk, and setback controls (“form-based zoning”). In areas with form-based zoning, the base density is interpreted to be the maximum residential gross floor area principally permitted on the site under the current zoning.

In some cases, the Planning Code allows for increased density through a discretionary entitlement process (i.e. Conditional Use Authorization). For example, projects in the Residential Transit Oriented (RTO) District have a principally permitted dwelling unit

density of one unit per 600 square feet of lot area and require a Conditional Use Authorization to exceed one unit per 600 feet of lot area. Because the base density is determined only by the principally permitted density, additional density achieved through required discretionary entitlements, such as the RTO example above, shall not be included in the calculation of base density.

Other provisions of the Planning Code require a discretionary entitlement due to the size of the lot and are not directly related to the size and/or density of a proposed development. For example, Neighborhood Commercial Districts (NC) often require a Conditional Use Authorization for projects on lots greater than 10,000 square feet. In these cases, a project may still assume the maximum allowable density permitted on the site as the base density, provided that the base density study is otherwise Code-compliant.

The Planning Department applies the following provisions when calculating the base density:

- Base Density is calculated using “Residential Gross Floor Area,” which means any floor area that would be counted as Gross Floor Area as defined in Planning Code Section 102 that is dedicated to the residential uses in the property. (December 2018)
- The base density does not need to account for compliance with wind or shadow requirements. (December 2018)
- Sub-grade residential floor area¹ will not be counted as residential floor area in the base density study or bonus project for the purposes of calculating the maximum residential floor area. This interpretation is narrowly applied to the calculation of maximum residential density for the purpose of implementing the State Law and does not apply to the calculation of Gross Floor Area for other purposes, including FAR and Impact Fee assessments. (July 2019)
- Certain zoning districts do not have a rear yard setback requirement under Section 134. Instead, these districts are controlled by lot coverage provisions. Projects in Central SOMA (Section 249.78(d)(6)) and the Downtown Residential District (DTR – Section 825(b)(2)) must calculate base density assuming 80% coverage on all residential levels. The base density study may not assume full lot coverage. (July 2019)

Bonus Project

The amount of density bonus that a project may seek is set forth in the State Law. The maximum density bonus is an additional 35% above the base density. The table below summarizes the amount of density bonus allowed based on the level of affordability. In areas where density is controlled as a ratio of units to lot area, the maximum density bonus will be calculated as 135% of the base density represented as number of units allowed on the site. Any resulting remainder is rounded up to the next whole number. In areas with form-based density, the maximum density bonus will be calculated as 135% of the residential gross floor area permitted in the base density study.

Restricted Affordable Units Category	Minimum Percentage of Restricted Units	Percent of Density Bonus Granted	Additional Bonus for Each 1% Increase in Restricted Units	Percentage of Restricted Units Required for Max. Bonus
Very Low Income (up to 50% AMI)	5%	20%	2.5%	11%
Low Income (up to 80% AMI)	10%	20%	1.5%	20%
Moderate Income (up to 120% AMI)	10%	5%	1%	40%
Senior Housing	100%	50%	-	-
Transitional Aged Youth	10%	20%	-	-

¹ Sub-Grade residential floor area is defined as any floor area that is located below the First Story, as defined in Section 102.

Requests for Waivers, Incentives, and Concessions

Incentives or Concessions

The State Law offers project the right to receive one, two, or three incentives or concessions “that are required to provide for affordable housing costs.”² An incentive or concession can be a reduction in site development standards, a modification of zoning code requirements, approval of mixed-use zoning, or other regulatory incentives or concessions that “result in identifiable and actual cost reductions.”³ The terms “incentives” and “concessions” are interchangeable; for the purposes of this document they will be referred to simply as “incentives.”

The number of incentives the project may receive depends on the number of affordable units provided and the level of affordability, as described in the table below.

Target Group	Restricted Affordable Units		
Very Low Income	5%	10%	15%
Low Income	10%	20%	30%
Moderate Income	10%	20%	30%
Maximum Number of Incentives	1	2	3

The applicant must provide a written statement describing the requested incentives and may request a meeting with Planning staff to discuss the request. The City must approve the requested incentives unless it finds that they 1) will not result in identifiable and actual cost reductions; 2) will have specific adverse impacts on public health or safety of the physical environment, or 3) will have specific adverse impacts on property that is listed on the California Register of Historic Resources. The Project Sponsor must include the requested incentive(s) in the [Individually Requested State Density Bonus Supplemental Application](#), along with the base density study and density bonus project. The Department may request additional documentation and verification regarding cost reductions and/or impacts on public health, safety, or historic property. Required verification may include a site-specific analysis (i.e. a pro forma) of the costs reductions to a project that will be provided by the requested incentive. The Department may require an evaluation of the financial analysis by a qualified third-party consultant.

The Planning Department applies the following additional requirements related to incentives:

- All projects, including Density Bonus Projects, must comply with any required entitlement process and pay all required development impact fees.
- Incentives shall be granted only from Planning Code provisions, not standards in other City regulations.
- All projects, including Density Bonus Projects, shall comply with Dwelling Unit Mix requirements included in Planning Code Sections 207.6 and 207.7.

Waivers

The Planning Code currently regulates the physical dimensions of residential development through requirements limiting height and bulk, or requiring open space, rear yards, dwelling unit exposure, and other requirements that can preclude the ability to construct the project with the bonus density and the requested incentives.

In accordance with the State Density Bonus Law, the City must grant a waiver of any development standards that will preclude the construction of the project with the bonus density and incentives within the permitted building envelope, unless the City finds that the requested waiver 1) would have a specific, adverse impact upon health, safety, or the physical environment, or 2) would have an adverse impact on any property listed in the California Register of Historical Resources.

2 CA Govt. Code Section 65915(k)

3 CA Govt. Code Section 65915(k)

Additionally, the following provisions apply to requests for waivers:

- Waivers shall be granted only from Planning Code provisions, not standards in other City regulations.
- Waivers shall not be granted from Dwelling Unit Mix requirements included in Planning Code Sections 207.6 and 207.7.

To determine whether waivers are necessary to construct the density bonus project, applicants must submit a base density study and a bonus project. The applicant must include the requested waivers in the [Individually Requested State Density Bonus Supplemental Application](#). The Department may request additional documentation to demonstrate that the development standard would preclude construction of the project with the additional density and the incentives.

Review Process

Eligibility

A project must provide at least five net new units in the base portion of the project to qualify for the State Density Bonus Program. Please see Section 206.6(b) for other eligibility requirements.

Submittal Requirements

Applicants must complete the [Individually Request State Density Bonus Supplemental Application](#). Applicants will be required to provide a calculation of the base density consistent with the current Planning Code, and a calculation of the allowable density bonus.

In zoning districts where density is regulated by volume (“form-based” zoning), applicants must demonstrate that the base density can be achieved as a Code-conforming project that requires no waivers, modifications, exceptions, or variances from zoning requirements. This evidence must be presented in the form of a “base density study” submittal, which is a set of schematic plans that comply with [Planning Department’s Plan Submittal Guidelines](#). Architectural details, including floor plans for each floor, will not be required for a base density study. The applicant must submit a Code-compliant building massing, building section, and floor plans for the ground floor. Performance-based standards, such as wind controls, will not be evaluated as part of the base density study.

In addition to the base density study, the applicant must submit plans for the density bonus project. The plans for the bonus project must comply with the [Department’s Plan Submittal Guidelines](#) before the application will be accepted for review.

The bonus project submittal must include a description of the requested incentives and any necessary waivers, and all relevant supporting documentation. Graphic representations to support the requests for waivers are required, and must include a step-by-step illustration of how the massing of the proposed project shifts as the density bonus and incentives are incorporated into the project. The first step should illustrate a Code-compliant base project massing and should include the total residential gross floor area included in the massing.⁴ Each subsequent step should demonstrate how the proposed massing is changing and should include the corresponding increase in residential gross square feet, as well as any incentives, concessions, and waivers that are required to achieve that massing. The last step should illustrate the final massing, describe the final requested waivers, and the final residential gross floor area. Each step in the diagram should clearly delineate between requested incentives and requested waivers by using a different color or hatch for each. A sample massing diagram is included as Exhibit A of this document.

⁴ *Residential Gross Floor Area means any floor area that would be counted as Gross Floor Area, as defined in Planning Code Section 102 that is dedicated to the residential uses on the property. For the purpose of calculating the base density, sub-grade residential floor area will not be counted. Additional information on calculating a base project may be found on page 2 in the “Base Density” Section.*

Process

Projects that are subject to specific entitlements without the density bonus must still secure that specific entitlement with the density bonus. For example, a project in Eastern Neighborhoods that requires a Large Project Authorization approval by the Planning Commission because the base project is over 25,000 square feet will continue to require approval by the Planning Commission. For projects that do not require a Planning Commission entitlement, the Planning Commission must adopt findings that the requested incentives will result in actual cost reductions for the project, and the requested waivers and incentives will not negatively impact public health, safety, or historic property. An applicant may not seek an incentive or waiver from a required entitlement process or any required development impact fees.

Below market rate units provided as part of a density bonus project are administrated by MOHCD. Planning Code Section 206.6 requires that the applicant enter into a regulatory agreement with the City that will be recorded on the deed of the property. The agreement will include details on the number, location, and affordability of the restricted units, a description of incentives and waivers approved by the City, and other provisions to ensure compliance with Section 206.6. The regulatory agreement must be finalized and recorded prior to the issuance of the first construction document. Please contact the staff planner prior to the issuance of the site permit for the project to request a draft regulatory agreement.

Applicants must submit an [Individually Requested State Density Bonus Supplemental Application](#) along with the [Preliminary Project Assessment \(PPA\) Application](#) or [Project Application](#). Note that projects that do not submit a complete base density study and bonus project will be considered incomplete and will not be accepted for review.

Inclusionary Affordable Housing requirements in State Density Bonus projects

San Francisco's Inclusionary Affordable Housing Program (Planning Code section 415 et seq.) applies to the entirety of any development project with 10 or more units, regardless of whether the project includes additional density through a state or local program. Section 415 requires a project to pay the Affordable Housing Fee. In lieu of the Affordable Housing Fee, projects may elect to provide a percentage of units as "below market rate" (BMR) units at a price that is affordable to a specified mix of low, moderate, and middle-income households either on-site or off-site, referred to as the On-Site Alternative or Off-Site Alternative, respectively.

Projects that opt to include on-site units in order to qualify for a density bonus under the State Law may also be able to satisfy all or part of the Affordable Housing Fee requirement, by receiving a "credit" for the on-site units provided. This "credit" is calculated in accordance with Planning Code Section 415.5(g)(1)(D), referred to as the Combination Alternative. The Combination Alternative allows projects to satisfy the Inclusionary Housing requirement through a combination of payment of the fee and provision of on-site units. An example of how to apply the Combination Alternative to a Density Bonus project is provided below.

Under State Law and the Individually Requested State Density Bonus Program, projects may only receive a density bonus for below market rate units provided at a single income level; projects cannot combine different below market rate income levels to receive a greater density bonus. The Inclusionary Affordable Housing Program requires projects with 25 or more units that elect the On-Site Alternative to provide BMR units at three different income levels, or "tiers." These tiers are set at different levels depending on the tenure of the proposed projects. Rental projects must provide units at 55% AMI, 80% AMI, and 110% AMI. Ownership projects must provide units at 80% AMI, 105% AMI, and 130% AMI. When using the required On-Site units to qualify for a density bonus, the tiers may not be lowered or combined in any way, except that the 55% AMI tier may be lowered to 50% AMI.

Calculating the Inclusionary Housing Fee for Density Bonus Projects

To calculate the applicable Inclusionary Housing Fee for projects seeking a “credit” for on-site units provided to qualify for a density bonus, applicants must submit the following information:

- the number and type of on-site units to be provided, and the percentage of the total number of units in the proposed project these represent;
- documentation that all on-site units comply with the affordability levels, unit size, unit mix, unit distribution and equivalency, and other requirements of Section 415.6 (as further specified in Zoning Administrator Bulletin No. 10), depending on the location, tenure, and number of total units in the project, and the date that the Project Application was accepted; and
- necessary AMI information to verify if/how the project qualifies for a State Density Bonus.

The remaining portion of the Fee requirement not satisfied by the credit for on-site units shall then be provided by payment of a pro-rated amount of the Affordable Housing Fee. The following examples illustrate how the Inclusionary requirement may be satisfied in 1) areas where density is regulated by a ratio of units to lot area, and 2) in areas where density is regulated by the permitted volume on the site (form-based density).

Example 1: Zoning District establishes density as ratio of units to lot area

Project Location: Polk NCD Zoning District

Project Tenure: Rental

On-Site/Fee Rate: 19% / 30%

Maximum Allowable Residential Density (Base Density): 93 units

Bonus Project Total Area: 96,292 gross square feet

Bonus Project Total Number of Units: 115

Step 1: Determine the total Fee and total on-site units due as if applied to the entire project.

- Total Fee: Residential Gross Floor Area x Fee rate x Affordable Housing Fee amount:
 $96,292 \text{ gsf} \times 30\% \times \$199.50 = \$5,763,076.20$
- Total On-Site: 115 units x 19% = 21.9 = 22 units

Step 2: Determine the number of on-site units required for the project as proposed.

- 93 units (base density) x 19% = 17.7 = 18 units required

Step 3: Determine the proportion of the Inclusionary requirement satisfied by on-site units

- 18 units provided/22 units to satisfy the On-Site Alternative = 81.8% = 82%

Step 4: Determine the Fee amount required to satisfy the remainder of the Inclusionary requirement

- 82% of Inclusionary requirement met by providing on-site units
- 100% - 82% = 18% of Inclusionary requirement remains
- Total Fee amount x remainder: $\$5,763,076.20 \times 18\% = \$1,037,353.72$

Example 2: Zoning District with form-based zoning

The Combination Alternative works similarly to the example above, with one additional step (step 2) to convert the maximum allowable residential density from floor area into units, and to determine that the applicant will provide the on-site units required to qualify for the requested density bonus.

Project Location: C-3-G Zoning District

Project Tenure: Rental

On-Site/Fee Rate: 20%/30%

Base Density Study: 100,000 gross square feet

Bonus Project Size: 135,000 gross square feet

Number of Units: 200

Step 1: Determine the total Fee and total on-site units due as if applied to the entire project.

- Total Fee: Residential Gross Floor Area x Fee rate x Affordable Housing Fee amount:
 $135,000 \text{ gsf} \times 30\% \times \$199.50 = \$8,079,750$
- Total On-Site: 200 units x 20% = 40 units

Step 2: Convert maximum allowable floor area into units, and apply the on-site rate

- Determine the ratio of the project represented by the maximum allowable residential density (base density): $100,000 \text{ gross square feet} / 135,000 \text{ gross square feet} = 74\%$
- Apply that ratio to the total number of units in the project to determine the maximum allowable residential density in units (base density): $200 \text{ total units} \times 74\% = 148 \text{ units (base density)}$
- Apply the on-site rate to the maximum allowable residential base density in units:
 $20\% \times 148 \text{ units} = 29.6 = 30 \text{ units}$

Step 3: Determine the proportion of the Inclusionary requirement satisfied by on-site units

- 30 units provided/40 units required to satisfy the On-Site Alternative: $30/40 = 75\%$

Step 4: Determine the Fee amount required to satisfy the remainder of the Inclusionary requirement

- 75% of Inclusionary requirement met by providing on-site units
- 25% of Inclusionary requirement
- Total Fee amount x remainder: $\$8,079,750 \times 25\% = \$2,019,937.50$

Director's Bulletin No. 6 will be updated periodically as the Department continues to issue interpretations related to the implementation of the State Density Bonus Program in San Francisco, and to clarify existing policies as needed. The Department will apply any updates to the Bulletin to projects currently under review. Please check the Planning Department website at sfplanning.org for the most recent version of this Bulletin.

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RESOURCES

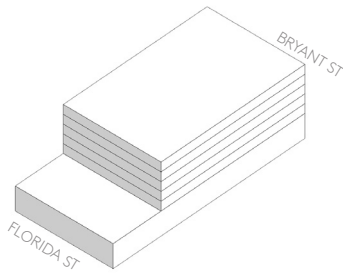
[Individually Requested State Density Bonus Informational and Supplemental Application Packet](#)

[Planning Code Section 206.6](#)

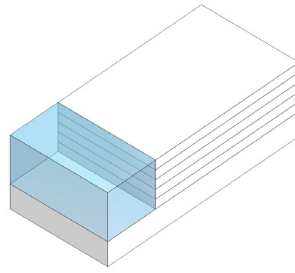
[Planning Code Section 415](#)

[Planning Department Plan Submittal Guidelines](#)

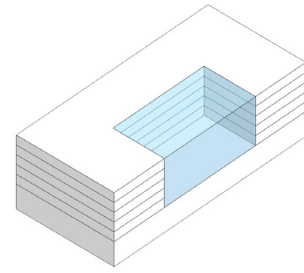
EXHIBIT A



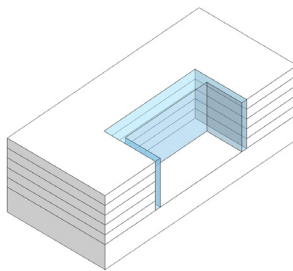
BASELINE: Full ground floor with 5 stories of housing above;
resid. gross sq. ft. = approx. 87,500



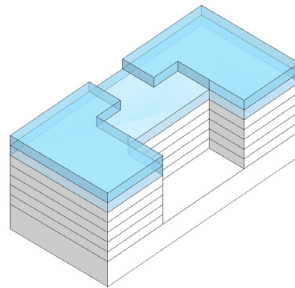
STEP ONE: Size of code-compliant rear yard = 25% of lot depth located along one of the street frontages



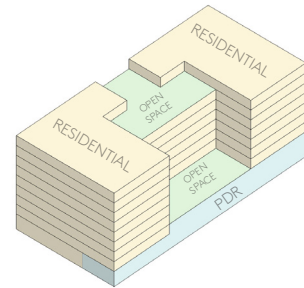
STEP TWO: Relocate rear yard to center of massing as courtyard



STEP THREE: Reduce rear yard and unit exposure to allow room for double-loaded corridors
+ approximately 10,750 residential SF



STEP FOUR: ADD one full story of units and one partial story of units with additional roof-top open space
+ approximately 19,800 residential SF



FINAL MASSING: full ground floor with 8-9 stories of housing above
resid. gross sq. ft. = approx. 118,050

MITHUN

Diagram provided by Mithun San Francisco



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FOR MORE INFORMATION: Call or visit the San Francisco Planning Department

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*Planning staff are available by phone and at the PIC counter.
No appointment is necessary.*

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Aileen T. Nguyen

August 10, 2018

Andrew Faber
Berliner Cohen LLP
10 Almaden Boulevard, Eleventh Floor
San Jose, CA 95113

Re: 21265 Stevens Creek Boulevard (Westport Cupertino) Application

Dear Mr. Faber:

Our firm represents the City of Cupertino ("City") in connection with KT Urban, Inc.'s (the "Applicant") application for a development permit, architectural and site approval, tentative map, tree removal, and environmental assessment (the "Application") to develop 21267 Stevens Creek Boulevard as a mixed use project with 204 residential units and 20,000 square feet of commercial space (the "Project").

On May 16, 2018, you submitted the Application to the City on behalf of the Applicant. On June 12, 2018, the City sent the Applicant a letter of incompleteness, highlighting many areas where the Application failed to provide required information for the City to begin processing the Application. On July 13, 2018, the City received your letter in response providing additional detail about the Project and updating the Application.

We have reviewed the Application and your letters to the City. This letter identifies areas where additional information is required from the Applicant before the City can determine that the Application is complete. In addition to the items discussed below, other City departments may identify other areas where the current Application is deficient and what additional information is required before the Application can be accepted as complete.

In addition, your two letters make a number of assertions regarding the requirements of the Housing Accountability Act (Government Code § 68559.5) and State Density Bonus Law (Government Code § 65915), and this letter is intended to clarify state law requirements as applied to the Project.

1. Housing Accountability Act Requirements.

Under the Housing Accountability Act, if a proposed "housing development project" conforms to all applicable "objective general plan, zoning, and subdivision standards and criteria," the City may not "disapprove the project," nor may it "impose a condition that the project be developed at a lower density" unless it makes specific findings

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supported by a preponderance of the evidence. (Gov't Code § 65589.5(j).) A "housing development project" includes mixed use projects where at least two-thirds of the project's square footage is designated for residential use. (*Id.* at § 65589.5(h)(2).)

Here, the Application proposes approximately 392,790 square feet of residential use for 204 units and 20,000 square feet of commercial use; because more than two-thirds of the Project's square footage would be designated for residential use, we agree that the Project is considered a "housing development project" for purposes of the Housing Accountability Act. Therefore, once the Application is complete, the City will provide the Applicant with written documentation of any inconsistencies between the Application and the City's applicable plans, programs, policies, ordinances, standards, and requirements within 60 days after the Application is complete. (*Id.* at § 65589.5(j)(2)(A)(ii).)

Consistent with the Housing Accountability Act's requirements, if the City determines that the Project is consistent with the City's objective standards, it would not deny the Project or impose conditions reducing its density without making the findings required under Government Code Section 65589.5(j). However, contrary to the assertions in Mr. Farber's two letters, nothing in the Housing Accountability Act prevents the City from evaluating the Project for consistency with the General Plan, the Heart of the City Specific Plan, and other applicable sources of development standards. Furthermore, provided that the City does not deny the Project or impose conditions reducing its density without making appropriate findings, nothing prevents the City from imposing conditions of approval on the Project to bring it into conformance with applicable planning standards, even if some of the standards are subjective in nature.

Regardless, before the City can evaluate the Project for consistency, the Application must be completed. As discussed below, the Application is not yet complete, and the Applicant must provide the City with additional information so that the City can evaluate the Project for consistency. Additionally, review under the California Environmental Quality Act must be completed before the City makes a decision on the project.

2. Density Bonus Application Requirements.

As an initial matter, the Application mistakenly claims that it requires a density bonus to develop 204 units. Although the Housing Element identifies a "realistic capacity" of 200 units for the Project site, this figure is not a limitation on development, but rather an estimate for purposes of demonstrating that the City has adequately zoned land to accommodate its share of regional housing needs. Likewise, the General Plan's allocation of 200 units can be exceeded by applying for a use permit, provided that the project is consistent with the maximum density allowed in the General Plan and zoning code.

The Project site's General Plan and zoning designations permit a maximum base density (prior to any density bonus) of 30 dwelling units per acre, but the Application proposes a density of just 25.8 dwelling units per acre: less than is permitted on the site without need for a density bonus. Therefore, the Application does not need to request any bonus units. Instead, the Application

should be revised to include a use permit for the four units that are within the permitted density for the site but above the General Plan's allocation.

Both State Density Bonus Law and the Cupertino Municipal Code (Chapter 19.56) permit projects to request incentives or concession, waivers, and parking reductions in addition to bonus units. Because the Project would not be consistent with the City's objective height and slope line standards, the Application requests a waiver for these standards. In addition, the Application requests the City waive its requirements that affordable units be dispersed throughout an entire project.

Unless specific findings can be made, the City must waive "any development standard that will have the effect of physically precluding the construction of a development [qualifying for a density bonus] *at the densities or with the concessions or incentives permitted.*" (*Id.* at § 65915(e)(1) (emphasis added).) Because the proposed Project is consistent with the density permitted on the site, and no concessions that conflict with the City's development standards have been requested, the Project is not eligible to request a waiver.

As an alternative, the Project proposes enough affordable housing to qualify for one incentive or concession under Government Code Section 65915(d). Should the Applicant prefer to propose a concession rather than a waiver, the Applicant must provide reasonable documentation to demonstrate that the requested incentive or concession would "result in identifiable and actual cost *reductions* . . . to provide for affordable housing costs." (*Id.* at § 65915(d)(1)(A).) A pro forma analysis is one method of documenting identifiable and actual cost reductions that provide for affordable housing costs Consistent with Government Code Section 65915(a)(2), which permits the City to require "reasonable documentation" from the Applicant to demonstrate eligibility for requests under the state density bonus law.

If the Application establishes eligibility for a concession, it would then be able to request a waiver for a development standard that would physically preclude development with the permitted concession. At that time, the Application must be revised to demonstrate eligibility for any requested waivers. Consistent with Government Code Section 65915(a)(2), Cupertino Municipal Code Section 19.56.060.B.9 requires that an application requesting a waiver provide plans showing how the generally applicable standard would physically preclude construction of the development at the density or with any incentives or concession to which the project is entitled. In addition, an application must include a site plan that designates the location of proposed affordable units and density bonus units and the type, size, and construction scheduling of affordable and market-rate units. (CMC § 19.56.060.B.2.) These requirements are necessary to establish that a project meets the legal standard to qualify for waivers.

Until the Applicant provides an Application that meets the standards of Cupertino Municipal Code Section 19.56.060, the Application cannot be considered complete.

3. Information required by the City's BMR Housing Mitigation Program Procedural Manual.

Cupertino Municipal Code Section 19.172.030 requires that the City adopt implementation procedures for the City's Below Market Rate (BMR) Housing Mitigation Program, and such procedures are documented in the BMR Housing Mitigation Program Procedural Manual (the "BMR Manual"). BMR Manual Section 2.3.3 identifies the contents of an Affordable Housing Plan, which must be provided in connection with a development application.

Among other items, the Affordable Housing Plan must demonstrate how the Project complies with the BMR Manual's affordability requirements. The BMR Manual requires 15% of units be made available as BMR units, and the units must be distributed throughout the project and include a proportionate mix of unit sizes and number of bedrooms as the market rate units. (BMR Manual §§ 2.3.4.A, 2.3.4.D.)

Here, the Application proposes 204 units, which is within the density permitted on the Project site with a use permit. Therefore, 15% of the 204 units, or 31 total units, must be designated as affordable. The Application only proposes 30 affordable units, and it also proposes to cluster all of the affordable units in a single building for senior citizens, with smaller units and fewer bedrooms than in the market rate project.

Although providing senior housing at deeper affordability levels than are otherwise required could be considered a benefit, because the Application requests deviations from the City's BMR requirements, the Affordable Housing Plan must explain how the Application is equivalent to the City's BMR Requirements in the format set forth in BMR Manual Section 7.2. Because the Application does not include an Affordable Housing Plan that conforms to the BMR Manual, it is not yet complete.

Prior to resubmitting the Application, the Applicant is encouraged to meet with the City to confirm that any resubmittal complies with City standards. Moreover, the Applicant is encouraged to meet with the City's design consultant to review project plans. The City's design consultant will help provide feedback that may influence any conditions of approval necessary to bring the Project into conformity with applicable plans, policies, and development standards.

For example, the Application currently includes a tentative map application, which does not conform to the General Plan's policies against parcelization. The General Plan discourages parcelization because the City believes larger lots with a single-entity owner are easier to manage and monitor for compliance with conditions of approval, and allows for a more straightforward redevelopment process in the future. In addition, the City has more ownership residential units than rental units, and it desires to encourage a better mix of housing tenure options within the City.

Andrew Faber
August 10, 2018
Page 5

Early consultation with City staff and the design consultant can help provide the Applicant with insight as to what conditions of approval might be likely be imposed in connection with the Project to achieve City goals, providing the Applicant and the City an opportunity to collaborate on a Project that complies with City standards and that is feasible to develop at the Applicant's proposed density and unit count.

Very truly yours,

A handwritten signature in blue ink, appearing to read "ESPH", followed by a long horizontal line.

ERIC S. PHILLIPS



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www.cupertino-chamber.org

Anjali Kausar
Chief Executive Officer

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May 11, 2020

Cupertino Planning Commission
Cupertino City Council Members
10300 Torre Avenue
Cupertino, CA 95014

Re: Senior Housing in Cupertino

Dear Commissioners and Council Members,

There are few issues more central to the life of a community than housing.

As recently as 2018, the Cupertino Chamber of Commerce has identified affordable housing as a priority for the community. New senior housing is especially beneficial to the community as it allows members of our community with grown children to move from the larger homes they no longer need while remaining in the community (aging in place).

The Harvard Joint Center for Housing Studies recently published a [report](#) indicating that by 2035, one-in-three U.S. households (versus one-in-five now), will be headed by someone 65 or older. Many of these Baby Boomers, the report notes, intend to “age in place,” or stay in their homes or communities.

Yet, only one percent of housing stock is currently equipped with no-step entrances, single-floor living, wide halls, and doorways to allow a wheelchair, electrical controls reachable from a wheelchair, and lever-style handles on faucets and doors—[“universal design”](#) elements that help occupants age in their homes.

Appropriate senior housing is needed by our community now. And the need will continue to grow.

It is the sincere hope of the Cupertino Chamber of Commerce that the Cupertino Planning Commission and City Council will give the current proposal for senior housing their most serious consideration and support.

Sincerely,

Anjali Kausar
CEO, Cupertino Chamber of Commerce

May 12, 2020

Cupertino Planning Commission
10300 Torre Ave, Cupertino
Cupertino, CA 95014



For public comment: Item 2, Westport/The Oaks

To the Cupertino Planning Commission and city staff:

The Westport proposal before you today represents an important opportunity for Cupertino to provide much-needed housing for our community—especially below market rate and senior housing. While we remain disappointed that a project at this site could better serve the community given its prominent location at the western gateway to the Heart of the City, and proximity to De Anza College, Memorial Park, and the Senior Center, we understand the project applicant’s desire to avoid a General Plan amendment that would otherwise facilitate an even better use of this space.

As you review the project today, we encourage you to be mindful of current developments in the direction of the law with respect to the Housing Accountability Act (“HAA”) and the Density Bonus Law (“DBL”). To that end, we draw your attention to the recent Santa Clara County Superior Court ruling in *40 Main Street Offices LLC v. City of Los Altos, et al.*, Case No. 19CB349845, which we have attached herewith for your reference. We note that this case—as a trial-level decision—does not constitute binding authority. However, it is exhaustive in its review of both the facts and the law and represents the most thorough local judicial treatment of these to laws to date. As such, we expect it to be highly persuasive with the bench of the Superior Court in Santa Clara County and very likely to inform the reasoning of its judges.

We also ask that you, with the assistance of the city attorney’s office, be mindful of how subdivision (f)(4) of the HAA (codified at section 65589.5 of the Government Code) applies to the project applications before you. That subdivision reads:

For purposes of this section, a housing development project or emergency shelter shall be deemed consistent, compliant, and in conformity with an applicable plan, program, policy, ordinance, standard, requirement, or other similar provision if there is substantial evidence that would allow a reasonable person to conclude that the housing development project or emergency shelter is consistent, compliant, or in conformity. Cal. Gov’t Code § 65589.5(f)(4).

The above subdivision thus fulfills a sorting function to ensure that if substantial evidence—and not some other higher evidentiary standard or discretionary preference—exists in support of a project’s conformity with relevant planning standards and policies, that the HAA would mandate a finding of consistency with such standards and policies.

Given the city's current financial strain amid the coronavirus pandemic, we strongly urge you to avoid recommending any findings of fact or interpretive conclusions that would tend to increase the city's legal exposure under either the HAA or the DBL. Should the city's ultimate decision on this set of applications result in litigation, it would not only needlessly damage the city's treasury in a time of crisis, but cement the city's already unfortunate image as opposing housing production.

On behalf of Cupertino for All and its membership,



Neil Park-McClintick
Chair, CFA



J.R. Fruen
Chair, CFA Housing Policy Committee

Attachment: Copy of Superior Court of the State of California, County of Santa Clara Order dated April 24, 2020 disposing of *40 Main Street Offices LLC v. City of Los Altos, et al.*, Case No. 19CB349845.

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA CLARA

40 MAIN STREET OFFICES, LLC,

Petitioner,

vs.

CITY OF LOS ALTOS, et al.,

Respondents.

Case No. 19CV349845 (Lead case,
consol. with Case No. 19CV350422)

ORDER GRANTING CONSOLIDATED
PETITIONS FOR WRIT OF MANDATE

CALIFORNIA RENTERS LEGAL
ADVOCACY & EDUCATION FUND, et al.,

Petitioners,

vs.

CITY OF LOS ALTOS, et al.,

Respondents.

ORDER ON SUBMITTED MATTER

These consolidated petitions for writ of mandate came on for hearing before the
Honorable Helen E. Williams on January 15, 2020, at 9:00 a.m. in Department 10 of the court.
Daniel R. Golub and Genna Yarkin of Holland & Knight appeared for petitioner 40 Main Street
Offices, LLC (Developer); Emily L. Brough of Zacks, Freedman & Patterson appeared for

1 petitioners California Renters Legal Advocacy & Education Fund, San Francisco Bay Area
2 Renters Federation, Victoria Fierce, and Sonja Trauss (collectively, Renters); Arthur J. Friedman
3 of Sheppard Mullin Richter & Hampton LLP appeared for respondents the City of Los Altos, the
4 City of Los Altos City Council, and the City of Los Altos Community Development Department
5 (collectively, the City). The matter having been argued and submitted after the filing of post-
6 hearing supplemental briefing, no party having requested a statement of decision under Code of
7 Civil Procedure section 632 and rule 3.1590 of the California Rules of Court in this hearing
8 lasting less than eight hours, and the Court having carefully considered the pleadings, the papers
9 filed by the parties, the matters of which the Court takes judicial notice, the record received into
10 evidence, the arguments of counsel, and the applicable law, Court finds and orders as follows:

11 *I. Statement of the Case*

12 The lead case of these two consolidated actions is one for relief in mandate brought under
13 Code of Civil Procedure sections 1085 and 1094.5 (first-third causes of action), as well as for
14 declaratory relief (fourth cause of action). It is brought by Developer against the City. Developer
15 has been trying to develop a mixed-use building in downtown Los Altos for many years, having
16 previously submitted multiple proposals all subject to discretionary review by the City.
17 Developer primarily alleges in its petition that the City unlawfully rejected its latest proposal
18 submitted under new, streamlined procedures established by Senate Bill 35 (Govt. Code,
19 § 65913.4, hereafter section 65913.4 or SB 35; further unspecified statutory references are to the
20 Govt. Code), remedial legislation enacted to promote the construction of housing within
21 California. Developer further alleges that in rejecting the proposal, the City also violated the state
22 Density Bonus Law (§ 65915) and the Housing Accountability Act (§ 65589.5), the provisions of
23 both of which may be invoked, as they were here, in a development application submitted under
24 SB 35.

25 Renters separately filed their petition challenging the City's course of conduct with
26 respect to Developers' proposed project (Case No. 19CV350422). They allege their own direct
27 and beneficial interests having been harmed in the City's denial of Developer's application for
28 streamlined approval. This separate action against the City, commenced one day before

Developer's action, has since been consolidated with Developer's action. Renters' petition in mandate is also brought under Code of Civil Procedure sections 1085 and 1094.5, and seeks relief in the first cause of action for the City's alleged violations of SB 35 and the Housing Accountability Act. The second cause of action is for declaratory relief. Thus, Developer's and Renters' claims for relief against the City essentially overlap.

A. Summary of Administrative Record

1. Developer Applies for Streamlined Review

On November 8, 2018, Developer applied for permission to construct a mixed-use building with office space on the ground floor and residential units on the floors above at 40 Main Street in downtown Los Altos. (AR000001–AR000126 [application].) On the application cover sheet—a City form entitled “City of Los Altos General Application”—Developer checked boxes indicating that the “type of review requested” was “Commercial/Multi-Family” and “Use Permit.” (AR000004.) The City had no other application form cover sheet specific to a streamlined SB 35 application. In Developer's application, it stated that it sought and qualified for streamlined review of its proposed development under SB 35. (AR000006–AR000017.) Developer's application included a project summary, a discussion of and chart detailing the proposed development's compliance with objective standards, renderings, blueprints, proposed landscaping, a preliminary plan to manage construction, and a title report. (AR000006–AR000126.)

2. The City's Initial Response

On December 7, 2018, the City—acting through Community Development Director Joe Biggs—sent Developer correspondence in which it expressed its refusal to conduct either a further streamlined or standard, discretionary review. (AR000127–AR000149.) The correspondence reflects that the City appeared to treat Developer's single development application as two distinct “applications submitted on November 8, 2018”—one for streamlined review under SB 35 and one for standard, discretionary review—which perceived dual applications purportedly could not be concurrently processed. (AR000129, AR000127.) In this

1 regard, the City said, “this application results in two applications that have been submitted for
2 this site. One or the other of the projects must be withdrawn.” (AR000127.)

3 As for the City’s direct response to the application for streamlined review—a letter that
4 contained within its subject line the reference “SB 35 Determination” and which letter
5 specifically referenced SB 35—the City stated that it had conducted a review, made a decision,
6 and determined that the proposed development did not qualify for streamlined review under
7 section 65913.4. The letter enumerated two reasons for the City’s denial decision. First, “the
8 project does not provide the percentage of affordable dwelling units required by the State
9 regulations.” (AR000127.) The City cited section 65913.4, subdivisions (a)(4)(A) and (B)(ii) and
10 a document prepared by California’s Department of Housing and Community Development
11 (HCD). (AR000127.) The HCD report lists Los Altos as a municipality in which streamlining
12 applications can be submitted for proposed developments with “≥ 50% affordability” due to the
13 failure to meet the [Regional Housing Needs Allocation or Assessment (RHNA), per § 65580 et
14 seq.] for low income households as compared to the “≥ 10% affordability” threshold for
15 streamlining applicable to municipalities that missed their targets for both low *and* moderate
16 income households. (AR000127, citing HCD Determination Summary (Jan. 31, 2018)
17 <[https://www.hcd.ca.gov/community-development/housing-](https://www.hcd.ca.gov/community-development/housing-element/docs/SB35_StatewideDeterminationSummary01312018.pdf)
18 [element/docs/SB35_StatewideDeterminationSummary01312018.pdf](https://www.hcd.ca.gov/community-development/housing-element/docs/SB35_StatewideDeterminationSummary01312018.pdf)> [as of Mar. 2, 2020].)
19 Second, the City cited section 65913.4, subdivision (a)(5)—the provision of SB 35 requiring
20 consistency with objective zoning standards and objective design review standards¹—and stated
21 that the project lacked “the required number of off-street residential and visitor parking spaces”
22
23

24 ¹ Under section 65913.4, subdivision (a)(5): “ ‘objective zoning standards’ and ‘objective
25 design review standards’ mean standards that involve no personal or subjective judgment by a
26 public official and are uniformly verifiable by reference to an external and uniform benchmark or
27 criterion available and knowable by both the development applicant or proponent and the public
28 official before submittal. These standards may be embodied in alternative objective land use
specifications adopted by a city or county, and may include, but are not limited to, housing
overlay zones, specific plans, inclusionary zoning ordinances, and density bonus ordinances”

1 and “adequate access/egress to the proposed off-street parking.” (AR000127.) The City did not
2 identify what these parking standards were or where they could be located.

3 The letter concluded by saying, “If you elect to pursue *other* approval/permit avenues for
4 the project that is the subject of this notice, the applications, fees, deposits, studies, and
5 information contained in the attached Notice of Incomplete Application are required to continue
6 an evaluation of the project.” (AR000128, italics added.) The letter did not say that Developer’s
7 submitted SB 35 application was perceived to be incomplete, or suggest that the City’s further
8 review of Developer’s SB 35 application was conditioned on receipt of additional specified
9 materials or information. Rather, the letter denied that application for the reasons stated.

10 As for the purported discretionary application, the City declined to review it on the
11 asserted basis that it was “incomplete.” (AR000128.) The City’s letter, titled “Notice of
12 Incomplete Application” and which omitted SB 35 in the subject line, listed 24 items that
13 Developer needed to submit before the City would treat the application as complete and consider
14 it on its merits. (AR000129–AR000132.) For example, the City asserted that Developer had not
15 submitted complete documentation to substantiate its density-bonus request. (AR000148.) The
16 City indicated that the additional materials had to be provided within 180 days—by June 6,
17 2019—or the application would be deemed expired. (AR000129.)

18 3. *Developer Responds*

19 On January 10, 2019, Developer wrote to the City to point out perceived errors in the
20 City’s correspondence rejecting the application for streamlined review under SB 35.
21 (AR000150–AR000166.) Developer argued that the City’s stated reasons for its decision were
22 facially inadequate and substantively incorrect. (AR000151.) Developer stated that because the
23 City had not “validly” identified a conflict with applicable statutory objective standards and
24 could no longer do so within the statutory SB 35 statutory timeframe, the project was deemed to
25 comply and therefore qualified for streamlined review and permitting. (AR000151.)

26 In support, as for the City’s first stated basis for denial, Developer explained that the City
27 had improperly relied on an outdated HCD determination of the municipalities subject to
28 streamlining. (AR000151.) Developer pointed out that while the City had relied on a January

1 2018 determination, HCD had updated its determination in June 2018. (AR000151.) The June
2 2018 determination said that the City's threshold for streamlining is the more inclusive, 10
3 percent threshold. (AR000151, AR000161.) On this basis, Developer asserted that the City had
4 erroneously determined that it was only subject to the streamlining process for projects with 50
5 percent as compared to 10 percent affordability. (AR000151–AR000152.)

6 Next, as for the City's second stated reason for the denial—insufficient parking spaces
7 and “adequate access/egress to the proposed off-street parking”—Developer asserted that the
8 City had failed to identify the objective standards with which the project conflicted; relied in part
9 on a subjective, discretionary standard; and was otherwise incorrect. (AR000152–AR000154.)
10 Developer elaborated that no standard addressing ingress and egress from the parking area was
11 identified in the City's decision and that the adequacy of ingress and egress was not an objective
12 standard that could be evaluated in the course of streamlined review. (AR000154.) Developer
13 also pointed out that section 65913.4, subdivision (d)(2) prohibited the City from requiring more
14 than one parking space per unit of housing. (AR000153.) According to Developer, it had
15 proposed more than adequate parking because it planned to develop 18 parking spaces for only
16 15 units of housing and was not required to develop additional parking for the offices due to the
17 City's public parking district. (AR000153–AR000154; AR000166 [architect statement on
18 parking compliance, including ADA].)

19 Developer also asserted that the City had not made the requisite findings for having
20 rejected the project under section 65589.5, the Housing Accountability Act. (AR000155.) Then,
21 Developer remarked that, based on the City's own representations in the incomplete notice, that
22 notice was immaterial to the application for streamlined review and the points it contained solely
23 concerned issues that might be addressed in a standard, discretionary review process.
24 (AR000156–AR000157.) Developer concluded by asserting its expectation that any streamlined
25 public oversight must be completed by February 6, 2019, in accordance with the section 65589.5
26 90-day deadline.

1 4. *The City Stands Its Ground*

2 On February 6, 2019, the City responded to Developer's letter. (AR000168–AR000172.)
3 The City asserted that it had correctly determined that the project was inconsistent with the
4 streamlining criteria while simultaneously asserting that the application for streamlined review
5 did not have sufficient information to allow the City to fully evaluate the criteria in section
6 65913.4. (AR000168.) The City then stated that it "*finds and determines that the Project is not*
7 *eligible for issuance of a streamlined ministerial permit.*" (AR000169.) The City agreed to
8 consider any request that would "*enable a determination of the Project's SB 35 eligibility or*
9 *otherwise process the Application if and when*" additional information was provided.
10 (AR000169.)

11 Next, the City responded to some of the specific points raised by Developer.
12 (AR000169.) The City conceded the error in its earlier, first-stated reason for having denied the
13 streamlining application; it acknowledged that under the correct and operative determination
14 from HCD, the affordability threshold for streamlining was 10 percent, not 50 percent.
15 (AR000169.) As for the City's earlier second-stated reason for having rejected the streamlining
16 application, the City turned to the notice of incomplete application instead of the denial letter.
17 (AR000169.) The City concluded that notes 18 and 19 in that notice of incomplete application
18 were sufficient to apprise Developer of the problem with its proposal and the inability of the City
19 to evaluate the proposed parking.² (AR000169–AR000170.)

20 Finally, the City said that because the streamlining application was incomplete, the City
21 was not required to comply with the Housing Accountability Act and also had properly rejected
22 the application based on its inability to evaluate the project's eligibility for a density bonus.
23 (AR000170.)

24
25
26 ² Notes 18 and 19 do not identify any objective standard or clear inconsistency with such
27 a standard in any event. (AR000131.) Note 18 states that two parking spaces will be affected by
28 the driveway. (AR000131.) Note 19 states that parking circulation is "inadequate" and questions
 where cars would wait to enter the underground parking garage. (AR000131.)

1 5. *Developer States Intent to Pursue Legal Action*

2 On February 19, 2019, Developer countered the City’s response in a letter documenting
3 the problems with and inconsistencies between the City’s initial action on December 7, 2018,
4 and how it had attempted to recharacterize that action in the February 6th letter. (AR000172–
5 AR000182.) Developer recounted the history of its attempts to develop the project through the
6 discretionary review process since 2013 and the purpose of section 65913.4, emphasizing the
7 ways in which the statute was designed to remedy precisely the type of agency conduct at issue
8 here. (AR000175–AR000176.) Developer also addressed the specific legal issues raised in the
9 parties’ preceding correspondence. (AR000177–AR000181.)

10 In concluding, Developer observed that the City appeared to be unwilling to follow the
11 law or work with Developer on approving the SB 35 proposal, leaving it with no option other
12 than legal action. (AR000181.) Developer said that it did not appear there was any available
13 administrative remedy, such as an appeal, to be exhausted before commencing suit. (AR000181.)
14 Nevertheless, Developer indicated that it had submitted a claim³ to the City Clerk under the
15 Government Claims Act (§ 900 et seq.) out of an abundance of caution and invited the City to
16 advise if it concluded that some applicable administrative procedure, in fact, existed that
17 Developer should pursue before initiating legal action. (AR000181.) Developer offered that it
18 remained open to discussing alternatives to litigation but otherwise intended to file suit within 90
19 days of the City’s February 6th letter. (AR000181.)

20 6. *Developer Administratively Appeals*

21 On February 21, 2019, the City informed Developer by email and through written
22 delivery of the same that its SB 35 denial *was* subject to an administrative appeal. (AR001203–
23 AR001206.) The City insisted an administrative appeal was required despite acknowledging that
24 Los Altos Municipal Code section 1.12.020, entitled “No appeal from ministerial acts,” provides
25 that appeal procedures do not apply when an act or decision is ministerial. The City informed
26 Developer that if it wished to “challenge the City’s decision on this matter, an appeal must be
27

28 ³ Developer’s claim appears in the record at AR001201–AR001202.

1 filed by no later than fifteen calendar (15) days from the date of the [February-6] letter, by the
2 close of business 4:30 pm on THURSDAY FEBRUARY 21, 2019." (AR001205.) The City
3 provided Developer with the mandatory application form for the appeal and stated that "[f]ailure
4 to timely appeal will preclude you, or any interested party, from challenging the City's decision
5 in court." (AR001205–AR001207.)

6 In other words, the City gave Developer less than eight hours' notice of its interpretation
7 of the Los Altos Municipal Code and position that an administrative appeal was required.

8 That same day, Developer submitted its appeal form along with a statement of the
9 grounds for its appeal and the record on which it was relying (including the correspondence
10 summarized above).⁴ (AR001208–AR001210.) In the weeks that followed, Developer frequently
11 corresponded with the City in an effort to ascertain what the process for the appeal would be and
12 when it would be heard. (AR001311–AR001328.)

13 On March 26, 2019, the City noticed the appeal for a public hearing before the City
14 Council to be held on April 9, 2019.⁵ (AR001216.) In correspondence from counsel for the City
15 to Developer the week before the hearing, it was asserted that the appeal was required because
16 the decision that the project was not eligible for streamlined review was not a ministerial act.
17 (AR001306.) Counsel went on to assert that April 9th was the earliest available time that the
18

19
20 ⁴ In Developer's cover letter for its appeal, it maintained that it did not believe there was
21 an avenue for appeal of a ministerial decision but was submitting the appeal to avoid any dispute.
(AR001210.)

22 ⁵ The City noticed this appeal for public hearing based on a staff report and
23 recommendation from counsel. (AR001238–AR001252 [staff report]; AR001253–AR001257
24 [presentation from Best Best & Krieger LLP].) The staff report delves into new substantive
25 issues on the SB 35 proposal, such as whether the project satisfies the two-thirds residential-use
26 requirement, that were not raised in the City's December 7, 2018 denial letter. (AR001242; see
27 also AR001260 [summarizing staff's reasons for denial that are purportedly the subject of the
28 appeal].) This seems to be because the City was advised that in determining the appeal, it would
conduct a de novo review of whether the project in fact complied with section 65913.4, instead
of ascertaining whether the initial denial had been insufficient or invalid such that the application
was deemed approved under SB 35. (AR001255.) Developer responded to these new points in
correspondence sent in connection with the appeal. (AR001284–AR001300.)

1 appeal could be heard based on the City Council's schedule and existing obligations.
2 (AR001308.) Counsel also maintained without explanation that the appeal was subject to a
3 public hearing, but that Developer would be allowed to present its case as well. (AR001309.)

4 On April 9th, Developer presented its appeal to the City Council, which also heard public
5 comment⁶ on the matter (including comments from Renters to the effect that the project was
6 deemed approved for streamlined permitting). (AR001231–AR001237; AR001928–AR002047
7 [hearing transcript].) On April 23, 2019, the City, acting through its City Council, denied the
8 appeal and did so by resolution. (AR002056–AR002078 [City Council minutes, report, and
9 resolution].)

10 *B. Summary of Allegations and Proceedings*

11 Renters and Developer (collectively, petitioners) commenced their respective actions on
12 June 12 and 13, 2019. Their hybrid petitions for writ of mandate and complaints for declaratory
13 relief essentially raise the same claims. They allege that in proceeding as described above in the
14 summary of the administrative record, the City unlawfully denied Developer's proposal in
15 violation of the streamlining statute (SB 35), the Housing Accountability Act (§ 65589.5), and
16 the Density Bonus Law (§ 65915). Based on these allegations, petitioners seek writs of mandate
17 under either Code of Civil Procedure section 1085 or section 1094.5, compelling the City to
18 approve Developer's streamlined application. They also seek a judicial declaration of their
19 entitlement to that approval under Code of Civil Procedure section 1060, along with injunctive
20 relief.⁷ The City separately answered both petitions.

21 On August 28, 2019, the Court consolidated the petitions for all purposes, and designated
22 Developer's action as the lead case. The City then lodged the administrative record with the
23 Court. And, on October 21, 2019, the City lodged a supplement. Petitioners filed a joint opening
24 brief, accompanied by a request for judicial notice, on November 1, 2019. The City opposed the

25
26 ⁶ Public comments can be located in the record along with other hearing materials.
(AR001333–AR001351, AR001907–AR001922, AR001924–AR001926.)

27 ⁷ Although Renters and Developer organized the causes of action in their petitions
28 differently, they seek the same types of relief on the same factual and legal bases.

petition on December 6, 2019, and presented the declaration of Jon Biggs, the City's Director of Community Development. Petitioners then filed a joint reply and request for judicial notice before the hearing scheduled for January 15, 2020. The hearing went forward as scheduled. Upon receipt of post-hearing supplemental briefing ordered by the Court, the matter was submitted.

II. Petitioners' Requests for Judicial Notice

Petitioners jointly request judicial notice of portions of the Los Altos Municipal Code (RJN Ex. K) as well as legislative history materials, namely digests, reports, floor analyses, and amendments to section 65913.4 (RJN Exs. A–J). With their reply, they seek judicial notice of correspondence from HCD in response to their request for assistance. (See Golub Decl., Ex. 1.) For the reasons that follow, petitioners' requests are granted.

A court may take judicial notice of municipal law. (Evid. Code, § 452, subd. (b); *The Kennedy Com. v. City of Huntington Beach* (2017) 16 Cal.App.5th 841, 852 (*Kennedy*).) Thus, the Court takes judicial notice of the Los Altos Municipal Code.

Next, a court may consider legislative history materials as an interpretative aid, but the means of consideration and weight ascribed to these kinds of materials vary. (Cf. *People v. Cruz* (1996) 13 Cal.4th 764, 773, fn. 5 (*Cruz*) with *Cummins, Inc. v. Super. Ct.* (2005) 36 Cal.4th 478, 492, fn. 11.) As for the text of enacted legislation (Assembly Bill 101 and Assembly Bill 1485), including a redline version showing section 65913.4 as amended and in force today, (RJN Exs. C, G–H), the Court takes judicial notice under Evidence Code section 452. While the California Supreme Court has relied on precedent to take judicial notice of other legislative history materials, such as committee reports and bill analyses, some dissenters have aptly observed that such materials do not clearly fall within any enumerated category of Evidence Code sections 451 and 452. (*Cruz, supra*, 13 Cal.4th at p. 794 (dis. opn. of Anderson, J.).) Accordingly, here, the legislative reports and analyses are not subject to judicial notice under the Evidence Code. Nevertheless, precedent allows the Court to consider these reports and analyses and to ascribe to them an appropriate weight in light of their authorship and function within the legislative process.

1 Finally, “[w]here the meaning and legal effect of a statute is the issue, an agency’s
2 interpretation is one among several tools available to the court.” (*Yamaha Corp. of America v.*
3 *State Bd. of Equalization* (1998) 19 Cal.4th 1, 7 (*Yamaha*)). “An agency interpretation of the
4 meaning and legal effect of a statute is entitled to consideration and respect by the courts;
5 however, unlike quasi-legislative regulations adopted by an agency to which the Legislature has
6 confided the power to ‘make law,’ and which, if authorized by the enabling legislation, bind this
7 and other courts as firmly as statutes themselves, the binding power of an agency’s interpretation
8 of a statute or regulation is contextual: Its power to persuade is both circumstantial and
9 dependent on the presence or absence of factors that support the merit of the interpretation.”
10 (*Ibid.*) A formal opinion letter or informal correspondence expressing the position of the agency
11 may be presented to a court for consideration under *Yamaha* by way of a request for judicial
12 notice under Evidence Code section 452, subdivision (c). (See generally *Field v. Bowen* (2011)
13 199 Cal.App.4th 346, 370, fn. 5 [agency-prepared documents come within Evid. Code, 452,
14 subd. (c); see, e.g., *Linda Vista Village San Diego H.O.A., Inc. v. Tecolote Investors, LLC* (2015)
15 234 Cal.App.4th 166, 186.) Consequently, the Court takes judicial notice of HCD’s letter to
16 petitioners.

17 *III. Discussion*

18 The Court must answer two central questions to resolve the petitions. First, did
19 petitioners timely commence their respective actions? Second, do petitioners establish that they
20 are entitled to relief on the merits? The answer to both questions is yes.⁸

21
22 ⁸ As noted, both petitions are brought under Code of Civil Procedure sections 1085,
23 traditional mandate, and 1094.5, administrative mandate, without specification of which form of
24 mandate may apply to all or each of the discrete causes of action. Likewise, the City takes no
25 position on this question. Each of these statutes, by its terms and as discussed in case law,
26 typically applies in different, specified circumstances or settings. And each typically invokes
27 judicial review through its own nuanced lens or standard. As SB 35 involves an agency’s
28 ministerial duty to approve a qualifying development proposal and no administrative or public
hearing is contemplated, judicial review of an agency’s decision to reject a project for
streamlined review and permitting under SB 35 is more likely in traditional mandate under Code
of Civil Procedure section 1085. But here, the City insisted that an administrative appeal to the
City Council heard through the vehicle of a public hearing was required, which typically leads to
judicial review in administrative mandate under Code of Civil Procedure section 1094.5. And the

1 A. *The Action Is Not Time-Barred*

2 The City's primary opposing argument is that petitioners failed to timely file and serve
3 their respective petitions within the 90-day limitations period set forth in section 65009. In
4 advancing this argument, the City asserts that it is not estopped from raising this defense based
5 on its insistence that Developer exhaust its administrative remedies by appealing to the City
6 Council (or, implicitly, that Renters so exhaust by their participation in this same administrative
7 process) before bringing this action. Petitioners argue both assertions are incorrect. And, in
8 supplemental briefing, petitioners contend and the City disputes whether the statute-of-
9 limitations defense is further overcome by the doctrine of equitable tolling. For the following
10 reasons, the Court rejects the City's defense.

11 As a threshold matter, the City argues that the Court should assess the "gravamen" of the
12 claims and subject all of them to the 90-day limitations period in section 65009, subdivision
13 (c)(1)(E). Petitioners take issue with this approach. (RT at p. 25.) And the Court perceives the
14 City's treatment of all the claims collectively based on their assessed "gravamen" to be imprecise
15 and problematic.

16 "[A] plaintiff is generally permitted to allege different causes of action—with different
17 statutes of limitations—upon the same underlying facts." (*Thomson v. Canyon* (2011))

18
19
20 Housing Accountability Act, which a development proposal submitted under SB 35 may invoke,
21 specifically references judicial review in administrative mandate under Code of Civil Procedure
22 section 1094.5. (§ 65589.5, subd. (m).) Further, courts have reviewed a challenge to an agency's
23 decision under the Density Bonus Law likewise through administrative mandate. (See, e.g.
24 § 65915, subd. (d)(3); *Friends of Lagoon Valley v. City of Vacaville* (2007) 154 Cal.App.4th 807,
25 812, 816–817 (*Lagoon Valley*).) The parties appear to proceed here on the assumption that
26 because the overarching relief in mandate sought by petitioners is deemed approval of the
27 development proposal under SB 35, relief under the Housing Accountability Act and the Density
28 Bonus Law is subsumed within that. In any event, both forms of mandate ultimately review for
and address an agency's abuse of discretion, which would include a failure to perform a duty
compelled by law or a failure to proceed in a manner required by law—the fundamental essence
of all the claims here. Because of this, and because the particular form of mandate that is
applicable is not articulated or disputed by the parties, the Court proceeds to conduct its judicial
review and to adjudicate the action focused on abuse of discretion as so framed and without
specifically deciding whether the ultimate relief afforded comes through Code of Civil Procedure
section 1085 or section 1094.5.

1 198 Cal.App.4th 594, 605 (*Thomson*).) “A complaint may allege facts involving several distinct
2 types of harm governed by different statutory periods and, where it does so, one cause of action
3 may survive even if another cause of action with a shorter limitations period is barred.” (*Ibid.*)
4 But in doing so, “a plaintiff is not permitted to evade a statute of limitations by artful pleading
5 that labels a cause of action one thing while actually stating another.” (*Id.* at p. 606.) “California
6 courts therefore look to the gravamen of the cause of action.” (*Ibid.*) “‘[T]he nature of the right
7 sued upon and not the form of action nor the relief demanded determines the applicability of the
8 statute of limitations under our code.’ [Citation.]” (*Hensler v. City of Glendale* (1994) 8 Cal.4th
9 1, 22–23.)

10 Here, as is permissible, petitioners allege that one set of facts gives rise to multiple claims
11 for relief based on different statutes. And, in pleading these distinct theories, petitioners do not
12 attempt to artfully mislabel their claims to evade the statute of limitations. They assert that they
13 are independently entitled to relief on all of the pleaded bases. Consequently, contrary to how the
14 City proceeds, this is not a scenario in which it is necessary to drill down to the gravamen of
15 each claim to uncover its true nature. And the City’s suggestion that the gravamen of each
16 independent claim is relief under section 65913.4 is not quite accurate. It follows that the City
17 errs in addressing all of the claims collectively as though they are necessarily subject to one
18 statute of limitations in lieu of establishing the limitations period applicable to each claim
19 pleaded.⁹

20 To illustrate, the Housing Accountability Act contains its own 90-day statute of
21 limitations. (§ 65889.5, subd. (m).) This limitations period runs “from the later of (1) the
22 effective date of a decision of the local agency imposing conditions on, disapproving, or any
23 other final action on a housing development project or (2) the expiration of the time periods
24
25
26

27 ⁹ To be clear, the City does not argue that each distinct claim incidentally happens to be
28 subject to the same statute of limitations. Rather, the City asks the Court to treat the different
claims as identical and, on that basis, to apply one statute of limitations to all claims.

1 specified in subparagraph (B) of paragraph (5) of subdivision (h).”¹⁰ (§ 65589.5, subd. (m),
2 citing § 65950 [Permit Streamlining Act].) This particular statute of limitations applies to causes
3 of action based on the Housing Accountability Act.

4 Next, the Legislature enacted section 65009 because it found “there currently is a housing
5 crisis in California and it is essential to reduce delays and restraints upon expeditiously
6 completing housing projects.” (§ 65009, subd. (a)(1).) The statute “is intended ‘to provide
7 certainty for property owners and local governments regarding decisions made pursuant to this
8 division’ (§ 65009, subd. (a)(3)) and thus to alleviate the ‘chilling effect on the confidence with
9 which property owners and local governments can proceed with projects’ (*id.*, subd. (a)(2))
10 created by potential legal challenges to local planning and zoning decisions.” (*Travis v. County*
11 *of Santa Cruz* (2004) 33 Cal.4th 757, 765.) “To this end, section 65009 establishes a short statute
12 of limitations, 90 days, applicable to actions challenging several types of local planning and
13 zoning decisions” (*Ibid.*)

14 The City relies on the 90-day limitations period in section 65009 based on language in
15 subdivision (c)(1)(E), which provides that it applies when a petitioner seeks “[t]o attack, review,
16 set aside, void, or annul any decision on the matters listed in Sections 65901^[11] and 65903^[12], or
17 to determine the reasonableness, legality, or validity of any condition attached to a variance,
18 conditional use permit, or any other permit.” Based on the contents of sections 65901 and
19 65903—section 65009, subdivision (c)(1)(E) is best summarized as applying when a petitioner
20

21 ¹⁰ Section 65889.5, as effective January 1, 2020, contains an outdated reference to
22 subparagraph (B) of former paragraph (5) of subdivision (h) that cites to time standards in
23 section 65950 (the Permit Streamlining Act). Subparagraph (B) and the time standards therein
24 are now codified in paragraph (6) of subdivision (h), not paragraph (5), but the Legislature failed
25 to conform the reference in subdivision (m) upon making this amendment to subdivision (h),
26 which is clearly the result of oversight.

27 ¹¹ Section 65901 governs hearings on “conditional uses or other permits” as well as
28 zoning variances.

¹² Section 65903 governs appeals of a decision of the board of zoning adjustment or
zoning administrator.

1 challenges (1) the underlying decision of the board of zoning adjustment or zoning administrator
2 on a conditional use permit, other permit, or zoning variance; (2) the outcome of an appeal of
3 such a decision; or (3) the particular terms of a conditional use permit, other permit, or variance
4 (as compared to the ultimate decision to issue or refuse to issue the permit or variance). (See
5 generally *Save Lafayette Trees v. City of Lafayette* (2019) 32 Cal.App.5th 148, 155–159
6 [discussing scope and construction of section 65009].)

7 Petitioners argue that, if anything, the 180-day period in subdivision (d)(1) of
8 section 65009 applies because this action meets both of the criteria specified therein, namely:

9 “(A) It is brought in support of or to encourage or facilitate the
10 development of housing that would increase the community’s
11 supply of housing affordable to persons and families with low or
12 moderate incomes, as defined in Section 50079.5 of the Health and
13 Safety Code, or with very low incomes, as defined in Section
14 50105 of the Health and Safety Code, or middle-income
15 households, as defined in Section 65008 of this code. This
16 subdivision is not intended to require that the action or proceeding
17 be brought in support of or to encourage or facilitate a specific
18 housing development project.

19 “(B) It is brought with respect to the adoption or revision of a
20 housing element pursuant to Article 10.6 (commencing with
21 Section 65580) of Chapter 3, actions taken pursuant to Section
22 65863.6, or Chapter 4.2 (commencing with Section 65913), or to
23 challenge the adequacy of [a density bonus] ordinance adopted
24 pursuant to Section 65915.

25 Petitioners’ interpretation of section 65009, subdivision (d)(1) is not entirely persuasive.
26 While the project does seem to encourage housing development within the meaning of section
27 65009, subdivision (d)(1)(A), it is not especially clear that this proceeding is brought with
28 respect to “actions taken pursuant to Section 65863.6, or Chapter 4.2 (commencing with Section
65913)” within the meaning of section 65009, subdivision (d)(1)(B). This is because this latter
subdivision focuses on challenges to legislative actions as compared to ministerial or
adjudicatory permitting decisions. The legislative actions enumerated in section 65009,
subdivision (d)(1)(B) include the adoption or revision of a housing element, adoption of a zoning
ordinance, and the adoption of a density bonus ordinance. (See *Calvert v. County of Yuba* (2006)

1 145 Cal.App.4th 613, 623.) The only other action identified in that subdivision is an action taken
2 under Chapter 4.2 (commencing with section 65913). Petitioners assume that this reference
3 necessarily encompasses section 65913.4, SB 35, because it is part of Chapter 4.2. But this
4 interpretation does not necessarily appear to be correct under the principle of *noscitur a sociis*
5 that directs interpretation of a term in a list by reference to the other items in that list. (See *Kaatz*
6 *v. City of Seaside* (2006) 143 Cal.App.4th 13, 40.) Under that principle of interpretation, a court
7 interprets a term more narrowly if an expansive interpretation would make the term markedly
8 dissimilar from the other list items or make the other list items unnecessary or redundant. (*Ibid.*)

9 Here, interpreting “actions taken pursuant to ... Chapter 4.2 (commencing with Section
10 65913)” as encompassing the decision to ministerially approve a particular project under section
11 65913.4 would create a marked dissimilarity between that term and the other legislative actions
12 enumerated in section 65009, subdivision (d)(1)(B). Additionally, section 65913.4 is not the only
13 section within Chapter 4.2. Section 65913.1 requires that when zoning land or revising a housing
14 element a city designate sufficient land for residential use. And so, an action taken under section
15 65913.1 falls within Chapter 4.2 and constitutes a legislative action like the other actions
16 enumerated in section 65009, subdivision (d)(1)(B). Similarly, section 65913.2, also in Chapter
17 4.2, imposes limitations on the types of legislative actions a city may take when it comes to
18 regulating subdivisions. Thus, it seems the Legislature intended section 65009, subdivision
19 (d)(1)(B) to encompass legislative actions taken under Chapter 4.2, but not necessarily
20 ministerial or adjudicatory decisions. Consequently, petitioners’ interpretation of section 65009,
21 subdivision (d)(1)(B) as encompassing streamlined approvals or denials of projects under section
22 65913.4 is not convincing.

23 The City’s interpretation of section 65009, subdivision (c)(1)(E) is slightly more
24 appealing. While it is true that projects subject to streamlined review do not require conditional
25 use permits, section 65009, subdivision (c)(1)(E), including as incorporated in section 65009,
26 subdivision (c)(1)(F), encompasses a decision on “any other permit.” And so, arguably, even
27 when a project is subject to streamlined, nondiscretionary review, there is still a decision as to
28 whether to permit—meaning to allow—the development, which decision may be signified by the

1 issuance of a document or series of documents denominated as a “permit.” And a decision made
2 under section 65913.4 might otherwise qualify within the meaning of section 65009, subdivision
3 (c)(1)(F) as a decision made before the issuance of any other permit.

4 Petitioners do not convince the Court that *Urban Habitat Program v. City of Pleasanton*
5 (2008) 164 Cal.App.4th 1561 (*Urban Habitat*) precludes the application of section 65009 here.
6 First, the facts of that case are distinct because the petitioners there claimed that the City of
7 Pleasanton had failed to update the housing element of its general plan and local development
8 law to meet its RHNA such that an impermissible inconsistency arose over time; in other words,
9 the city had failed to adapt to updated needs and requirements for adequate housing. (*Urban*
10 *Habitat*, at pp. 1566–1570, 1577.) The issue here is not whether the City failed to bring local law
11 and planning documents into compliance, but rather, whether it took an affirmative action on a
12 specific project that was unlawful. While petitioners characterize this as a failure to comply with
13 mandatory duties, this is not the same type of failure or omission that occurred in *Urban Habitat*.
14 Because that case is circumstantially distinguishable from the case now before this Court, and
15 given the broad interpretation afforded to section 65009 by other courts, petitioners’ analogy is
16 not compelling.

17 Ultimately, even assuming all of petitioners’ claims are subject to a 90-day statute of
18 limitations under either section 65009 or, as to the Housing Accountability Act claims,
19 section 65889.5, subdivision (m), they commenced their respective actions with 90 days of the
20 City’s decision on the administrative appeal, which process the City insisted, full stop, was
21 required for exhaustion purposes. The City, through its City Council, made that “final” decision
22 on April 23, 2019. (AR002313.) Petitioners filed their petitions in June and served them by July
23 10th, within 90 days of the April 23rd adopted resolution. Accordingly, each petition in this
24 consolidated action is timely.

25 The Court accordingly rejects the City’s contention that its initial rejection of the
26 streamlining application on December 7, 2018, necessarily accrued a cause of action under SB
27 35 or triggered the running of the statute of limitations as to any or all claims asserted. Contrary
28

1 to what it anticipatorily argues in its opposition, the Court finds that the facts here warrant
2 estoppel of this defense. Equitable tolling applies as well.

3 Equitable tolling and equitable estoppel are two distinct doctrines. (*Ashou v. Liberty*
4 *Mutual Fire Ins. Co.* (2006) 138 Cal.App.4th 748, 757–758.)

5 “ ‘Generally speaking, four elements must be present in order to apply the doctrine of
6 equitable estoppel: (1) the party to be estopped must be apprised of the facts; (2) he must intend
7 that his conduct shall be [*sic*] acted upon, or must so act that the party asserting the estoppel had
8 a right to believe it was so intended; (3) the other party must be ignorant of the true state of facts;
9 and (4) he must rely upon the conduct to his injury.’ [Citations.]” (*Feduniak v. California*
10 *Coastal Com.* (2007) 148 Cal.App.4th 1346, 1359, quoting *Driscoll v. City of Los Angeles*
11 (1967) 67 Cal.2d 297, 305.) And “ ‘[t]he government may be bound by an equitable estoppel in
12 the same manner as a private party when the elements requisite to such an estoppel against a
13 private party are present *and*, in the considered view of a court of equity, the injustice [that]
14 would result from a failure to uphold an estoppel is of sufficient dimension to justify any effect
15 upon public interest or policy [that] would result from the raising of an estoppel.’ [Citation.]”
16 (*Feduniak, supra*, 148 Cal.App.4th at pp. 1359–1360.) “[C]ourts will not hesitate to estop the
17 government from asserting a *procedural barrier*, such as the statute of limitations or a failure to
18 exhaust remedies; as a defense to claims against it, where the government’s affirmative conduct
19 caused the claimant’s failure to comply with the procedural requirement.” (*Id.* at p. 1372.)

20 While estoppel typically arises from misrepresentations of fact, it may also apply when a
21 municipality or agency does not accurately advise a potential plaintiff about the existence or
22 availability of an administrative remedy, which advice may depend in part on mixed questions of
23 fact and law. (See, e.g., *Shuer v. County of San Diego* (2004) 117 Cal.App.4th 476, 487 (*Shuer*).)
24 For example, when the availability of an administrative remedy is unclear and the administrative
25 regulations are susceptible to different interpretations, a public entity may be estopped from
26 raising the failure to exhaust administrative remedies as a defense. (*Ibid.*)

27 “The equitable tolling of statutes of limitations is a judicially created, nonstatutory
28 doctrine. [Citations.]” (*McDonald v. Antelope Valley Community College Dist.* (2008) 45 Cal.4th

1 88, 99 (*McDonald*).) “It is ‘designed to prevent unjust and technical forfeitures of the right to a
2 trial on the merits when the purpose of the statute of limitations—timely notice to the defendant
3 of the plaintiff’s claims—has been satisfied.’ [Citation.]” (*Ibid.*, quoting *Appalachian Ins. Co. v.*
4 *McDonnell Douglas Corp.* (1989) 214 Cal.App.3d 1, 38.)

5 “Where exhaustion of an administrative remedy is mandatory prior to filing suit,
6 equitable tolling is automatic: ‘It has long been settled in this and other jurisdictions that
7 whenever the exhaustion of administrative remedies is a prerequisite to the initiation of a civil
8 action, the running of the limitations period is tolled during the time consumed by the
9 administrative proceeding.’ [Citations.]” (*McDonald, supra*, 45 Cal.4th at p. 101, quoting *Elkins*
10 *v. Derby* (1974) 12 Cal.3d 410, 414.) “This rule prevents administrative exhaustion requirements
11 from rendering illusory nonadministrative remedies contingent on exhaustion.” (*McDonald,*
12 *supra*, 45 Cal.4th at p. 101.) In other words, the doctrine of equitable tolling preserves a party’s
13 right to judicial review that would otherwise be rendered infeasible due to the consumption of
14 the limitations period by the administrative review process.

15 The facts here support the application of both equitable tolling and equitable estoppel.

16 The City mandated an administrative proceeding that consumed the limitations period
17 that it now contends was triggered by the initial denial letter on the streamlined application on
18 December 7, 2018. (AR001205.) But the City emphatically said to Developer that “an appeal
19 must be filed” and that “[f]ailure to timely appeal will preclude you, or any interested party, from
20 challenging the City’s decision in court.” (AR001205.) The City then insisted on scheduling a
21 public hearing on the administrative appeal before the City Council and delayed in doing so.
22 (AR001318–AR001324.) For mandamus claims brought under Code of Civil Procedure section
23 1094.5—and for any other claims in light of the emphatic language of the letter—the
24 administrative proceeding was mandatory. This is because a “writ is not available ... to
25 intermeddle in the preliminary stages of an administrative planning process” (*California*
26 *High-Speed Rail Authority v. Super. Ct.* (2014) 228 Cal.App.4th 676, 707; see also *California*
27 *Water Impact Network v. Newhall County Water District* (2008) 161 Cal.App.4th 1464, 1482–
28 1483 [only final decisions subject to review].) And, as petitioners point out, even if they contend

1 that the City's December 7, 2018 correspondence resulted in their SB 35 application being
2 deemed approved under streamlined review, with the City then insisting instead on an
3 administrative appeal, petitioners could pursue that appeal with the goal that the City Council
4 would not proceed to decide de novo whether the SB 35 application in fact qualified for
5 streamlined review but, rather, to recognize and decide that "deemed" approval of the SB 35
6 application under section 65913.4, subdivision (b)(2) for objective planning standards had
7 already occurred as a matter of law obviating the need for litigation.

8 And even treating the administrative proceeding as voluntary, tolling still applies.
9 (*McDonald, supra*, 45 Cal.4th at p. 105.) The Court rejects the City's rather incredible and
10 unsubstantiated claim that Developer's acquiescence under protest means that it did not
11 voluntarily pursue the administrative proceeding. The City fails to justify (through reasoned
12 analysis or authority) the insertion of a scienter requirement into the definition of voluntary in
13 this particular legal and procedural context. Accordingly, whether viewed as mandatory or
14 voluntary in character, the administrative proceeding that occurred here is the type of intervening
15 activity that tolls the limitations period.

16 Also, petitioners provided sufficient notice of their claims thereby fulfilling the purpose
17 of the statute of limitations before and during the administrative proceeding. The City asserts
18 without authority that Renters' submission of public comments was insufficient to put it on
19 notice of their claims. (See AR001334–AR001338; AR002344–AR002345.) Given the
20 specificity and content of Renters' communications with the City, the Court is not convinced by
21 the City's conclusory and unsubstantiated assertion. And, as a practical matter, it is unclear how
22 Renters could have proceeded without waiting for the disposition of Developer's administrative
23 appeal. Especially given the City's insistence on that appeal, it would result in an unjust and
24 technical forfeiture to allow the City to now disclaim the necessity of this administrative
25 proceeding. Because of the brevity of the 90-day limitations period, the absence of tolling during
26 the administrative proceeding would render judicial review illusory. Equitable tolling is just and
27 warranted under the facts and circumstances presented here. The City's supplemental brief does
28 not persuade the Court to reach a contrary conclusion.

1 Next, the City anticipatorily argues in opposition to the petitions that it is not equitably
2 estopped from raising the statute of limitations as a defense because estoppel applies when a
3 party misrepresents or conceals facts and not matters of law. (Opp. at p. 19:6–17, citing *Jordan*
4 v. *City of Sacramento* (2007) 148 Cal.App.4th 1487 (*Jordan*).) While the City’s statement of law
5 is not inaccurate on its face, it is incomplete and misleading. And the City’s analysis is
6 underdeveloped. Moreover, the City relies exclusively on *Jordan*, which is not analogous.

7 Here, the City vehemently asserted by letter that an administrative appeal was mandatory
8 and that it would raise the defense of exhaustion of administrative remedies to preclude
9 Developer from seeking judicial review of the City’s conduct absent an appeal. The City’s
10 representation as to the position it was taking, and would take in any litigation, is a
11 representation of fact. And, although Developer stated its opinion or belief that the City’s legal
12 analysis was incorrect, Developer was at the mercy of the City’s interpretation of its own
13 municipal code. In other words, the parties differed in their understanding of the law and in their
14 authority to interpret and enforce that law. As in *Shuer*, this type of informational and
15 interpretive asymmetry is sufficient to justify estoppel.

16 As for the second and fourth elements of estoppel—that the party to be estopped intended
17 that his conduct be acted upon, or that this party so acted such that the other party had a right to
18 believe the conduct was so intended, and that the other party relied on the conduct to his injury—
19 the City’s letter informing Developer of the requirement of an administrative appeal contained
20 such emphatic and mandatory language that it is reasonable to conclude the City intended to
21 induce Developer’s reliance thereon. And Developer acquiesced to the City’s representation to
22 its detriment, pursuing an administrative appeal albeit under protest. When faced with the
23 untenable choice of either suing immediately and facing dismissal for failure to exhaust, or
24 exhausting administrative remedies to preserve its claim of unlawful conduct, it was reasonable
25 for Developer to rely on the City’s interpretation of its own code and representation of the
26 exhaustion defense it intended to raise, particularly given the unequivocal and emphatic language
27 the City used to express this position. Further, under these circumstances, before having to
28 initiate litigation, Developer could reasonably so acquiesce to the City’s demand in an effort to

1 get the City Council to recognize the mandatory timelines and requirements of SB 35 and the
2 consequences of its having earlier failed to meet those provisions, and to correct its prior
3 erroneous approach.

4 Finally, the Court concludes that the injustice that would result in the absence of estoppel
5 is enough to justify application of the doctrine here.

6 For all of these reasons, the Court rejects the City's statute-of-limitations defense and
7 reaches the merits of petitioners' claims.

8 *B. Petitioners Are Entitled to Relief on the Merits*

9 Petitioners allege that the City's conduct violated three different housing statutes:
10 (1) the streamlining statute (§ 65913.4, SB 35); (2) the Density Bonus Law (§ 65915); and
11 (3) the Housing Accountability Act (§ 65589.5).

12 *1. The City Failed to Comply with Section 65913.4*

13 *i. Statutory Background*

14 In 2017, the Legislature passed SB 35 to reform land-use and housing law, including by
15 creating "a streamlined, ministerial approval process for infill developments in localities that
16 have failed to meet their regional housing needs assessment [] numbers."¹³ (Sen. Rules Com.,
17 Rep. on Sen. Bill No. 35 (2017–2018 Reg. Sess.) May 27, 2017.)

18 Section 65913.4, subdivision (a) states in relevant part: "A development proponent may
19 submit an application for a development that is subject to the streamlined, ministerial approval
20 process provided by subdivision (b) and not subject to a conditional use permit if the
21 development satisfies all of the [] objective planning standards" set forth further in subdivision
22 (a).

23
24 ¹³ As part of the housing element of a municipality's general plan, it must calculate its
25 Regional Housing Needs Allocation or Assessment (RHNA), which is the "existing and
26 projected need for housing" in the area for individuals and households of all income levels.
27 (*Fonseca v. City of Gilroy* (2007) 148 Cal.App.4th 1174, 1186, fn. 8, quoting Gov. Code,
28 § 65583.) If a municipality's present and projected housing needs exceed its housing stock and
land available for development, it must work to satisfy its RHNA by increasing the availability
of land for housing development by, for example, changing zoning and development restrictions.
(Gov. Code, § 65583, subd. (c)(1)(A).)

1 The objective planning standards that operate as eligibility criteria for streamlined,
2 ministerial review consist of inclusionary and exclusionary criteria. In the abstract, the
3 inclusionary and exclusionary criteria balance the primary policy of expediting housing
4 construction with the competing policy of safe, well-designed construction as embodied in
5 existing law. To illustrate, a proposed development must be “a multifamily housing development
6 that contains two or more residential units” in an urban area that will not displace existing rent-
7 controlled and income-restricted housing. (§ 65913.4, subds. (a)(1)–(2), (a)(7).) A mixed-use
8 development still qualifies if “at least two-thirds of the square footage of the development [are]
9 designated for residential use.” (§ 65913.4, subd. (a)(2)(C).) Exclusionary criteria disqualify a
10 development proposed for construction in or on a coastal zone, fire zone, flood plain, earthquake
11 fault zone, hazardous-waste site, wetland, or prime farmland. (§ 65913.4, subd. (a)(6).)

12 Currently, the statute specifies that when evaluating consistency with the standards
13 above, a development is consistent “if there is substantial evidence that would allow a reasonable
14 person to conclude that the development is consistent with the objective planning standards.”¹⁴
15 (§ 65913.4, subd. (b)(3).) Unless an agency timely explains to a developer in writing the reasons
16 why the proposed development is not consistent with the eligibility criteria, “the development
17 shall be deemed to satisfy the objective planning standards in subdivision (a).” (§ 65913.4,
18 subds. (b)(1)–(2).) An agency’s deadline for notifying a project proponent of ineligibility for
19 streamlined, ministerial review is either 60 or 90 days depending on the size of the proposed
20 development. (§ 65913.4, subds. (b)(1)(A)–(B).)

21 Proposed developments that qualify for streamlined, ministerial review may still be
22 subject to design review or public oversight with the limitation that this oversight “shall be
23 objective and be strictly focused on assessing compliance with criteria required for streamlined
24 projects, as well as any reasonable objective design standards published and adopted by
25 ordinance or resolution by a local jurisdiction before submission of a development application,
26

27 ¹⁴ Section 65913.4, subdivision (b)(3) became effective January 1, 2020. (Sen. Bill
28 No. 235 (2019–2020 Reg. Sess.) § 5.3; Assem. Bill No. 1485 (2019–2020 Reg. Sess.) § 1.)

1 and shall be broadly applicable to development within the jurisdiction.” (§ 65913.4, subd. (c)(1).)
2 The design review must be completed, if at all, within 90 or 180 days¹⁵ depending on the size of
3 the development and “shall not in any way inhibit, chill, or preclude the ministerial approval
4 provided by this section or its effect”¹⁶ (§ 65913.4, subd. (c)(1).)

5 *ii. Application*

6 The City’s notice of inconsistency here, its SB 35 denial letter of December 7, 2018, was
7 neither code-compliant nor supported by substantial evidence.

8 Section 65913.4 subdivision (b)(1) provides: “If a local government determines that a
9 development submitted pursuant to this section is in conflict with any of the objective planning
10 standards specified in subdivision (a), it shall provide the development proponent written
11 documentation of which standard or standards the development conflicts with, and an
12 explanation for the reason or reasons the development conflicts with that standard or standards
13” The Court concludes here that the City failed to comply with this notice requirement
14

15 ¹⁵ This means that for a smaller development, the deadline for notice of ineligibility is
16 60 days (§ 65913.4, subd. (b)(1)(A)) and an agency may take an additional 30 days to complete
17 design review or public oversight for a total of 90 days (§ 65913.4, subd. (c)(1)). For a larger
18 development, the deadline for notice of ineligibility is 90 days (§ 65913.4, subd. (b)(1)(B)) and
19 an agency may take an additional 90 days to complete design review or public oversight for a
20 total of 180 days (§ 65913.4, subd. (c)(2)).

21 ¹⁶ Notably, while section 65913.4, subdivision (c) gives localities additional time to
22 review objective design standards, the Legislature also enumerates compliance with “objective
23 design review standards” as an objective planning standard—an eligibility criterion—in
24 subdivision (a)(5). There does not appear to be a substantive distinction between these two terms.
25 The descriptions in subdivisions (a)(5) and (c) of what design standards may be applied are so
26 similar that they suggest the terms are equivalent. The statutory framing of design standards as
27 both eligibility criteria and criteria capable of review during the extended timeframe for public
28 oversight is problematic because of the distinct deadlines for making those distinct
determinations. Treating compliance with objective design standards as an objective planning
standard under subdivision (a) arguably renders as surplusage the later deadline for design
review in subdivision (c)(1). Courts typically avoid interpreting statutes in such a manner.
(*Arnett v. Dal Cielo* (1996) 14 Cal.4th 4, 22.) Ultimately, the Court need not resolve this
ambiguity based on the particular record and arguments advanced here. The City did not comply
by either deadline and does not ask for additional time to conduct public oversight in its
supplemental brief on the scope of relief that is warranted.

1 because the City did not adequately identify objective standards and provide an explanation of
2 inconsistencies supported by substantial evidence in its SB 35 denial letter.

3 First, the City did not adequately identify applicable objective standards with which the
4 project did not comply. The City conceded its initial error in asserting that a higher percentage of
5 affordable units was required; it had relied on an outdated and incorrect HCD determination.
6 (AR000169.) Thus, it is undisputed that the first bullet point in the City's denial letter was based
7 on an incorrect and inapplicable standard.

8 As for the other two bullet points, the City did not adequately identify the standards or
9 code provisions it was referring to or relying on. It concluded the project lacked "the required
10 number of off-street residential and visitor parking spaces" and "adequate access/egress to the
11 proposed off-street parking." (AR000127.) But it is not apparent from this vague statement just
12 what those purported standards are or where they can be located. Thus, the City did not
13 adequately identify the parking standards it was relying on. And notwithstanding the opacity and
14 ambiguity of the City's statement, it is apparent that it was not relying on permissible, objective
15 standards for parking. First, section 65913.4, subdivision (d)(2) states that "the local government
16 shall not impose automobile parking requirements for streamlined developments approved
17 pursuant to this section that exceed one parking space per unit." (§ 65913.4, subd. (d)(2).) And
18 for projects meeting certain criteria—such as projects within one-half mile of transit—no parking
19 requirements may be imposed. (§ 65913.4, subd. (d)(1).) Consequently, the City not only failed
20 to identify the purported parking requirement but also failed to account for the prohibitions in
21 section 65913.4, subdivision (d) as well. Moreover, the City has yet to identify any evidence in
22 the record to support the conclusion that it could require more parking based on the location and
23 characteristics of the project here.

24 As for ingress and egress, "adequacy" is not an objective standard that may be applied to
25 streamlined projects. Objective standards are those "that involve no personal or subjective
26 judgment by a public official and are uniformly verifiable by reference to an external and
27 uniform benchmark or criterion available and knowable by both the development applicant or
28 proponent and the public official before submittal." (§ 65913.4, subd. (a)(5).) What qualifies as

adequate—in the absence of an identifiable standard or definition—is simply a matter of personal or subjective judgment. To date, the City has not identified a uniformly verifiable, knowable standard for adequate ingress and egress. Accordingly, it impermissibly relied on a subjective standard in its denial letter.

What’s more, there is no explanation in the denial letter about how the proposal was inconsistent with the unspecified standards applied by the City. For example, the City did not explain that the project provided only X number of parking spaces when the required number was Y. So, the City’s denial letter was not code-compliant in this regard as well.

The City does not present a convincing argument to support a contrary conclusion. In the City’s papers, it does not clearly and directly counter petitioners’ supporting points. For example, the City does not argue that it adequately identified all of the objective standards set forth in its denial letter or that all of the standards it identified qualified as objective standards permissibly applied in the course of streamlined review. And the City does not explain how its cursory reference to such standards qualified as “an explanation for the reason or reasons the development conflicts with that standard or standards.” (§ 65913.4, subd. (b)(1).)¹⁷ Instead, the City argues the denial letter, when read in conjunction with the incomplete notice, put Developer on sufficient notice so as to somehow satisfy section 65913.4. This argument lacks merit.

The first problem with the City’s contention is that it relies on an unspecified standard for the sufficiency of notice in lieu of the standard spelled out by the Legislature in section 65913.4, subdivision (b)(1). Although not clearly articulated by the City, it seems to invoke the concept of notice in the context of the constitutional minimum for procedural due process. (See generally *Gilbert v. City of Sunnyvale* (2005) 130 Cal.App.4th 1264, 1275–1280.) But the issue here is not whether the City met the constitutional minimum. The issue is whether it complied with the applicable statutory requirements.

¹⁷ Section 65913.4 does not merely require a statement of reasons for denying an application for streamlined review. Rather, it imposes the more specific requirement of an explanation of how the proposed development conflicts with the objective standards that the municipality identifies.

1 The City does not advance a persuasive argument for disregarding the specific statutory
2 requirements for notice. While it purports to invoke a principle of statutory construction that
3 places substance over form, it is not necessary to rely on, and the City does not fairly interpret
4 and rely on, that principle. (See generally *Troyk v. Farmers Group, Inc.* (2009) 171 Cal.App.4th
5 1305, 1332 [discussing scope and limitations of concept of substantial compliance].) In actuality,
6 the City urges a complete disregard for the language of the statute in a vacuum and without
7 regard for the statute's purpose. In other words, the City disregards the form and the substance of
8 the statute. The language the City asks the Court to ignore—what it suggests is a mere
9 formality—is in fact the specific procedure at the heart of the statute that effectuates its purpose.
10 In the absence of deemed compliance under section 65913.4, subdivision (b), the statute would
11 operate as a mere suggestion without an enforcement mechanism. And, because section 65913.4,
12 subdivision (b) is consistent with and effectuates the purpose of the statute, there is no
13 inconsistency between that “form” and the substance of the statute necessitating a reconciliation
14 of those concepts under the canon invoked by the City. The City's argument in this regard is
15 questionable and its reliance on *County of Kern v. TCEF, Inc.* (2016) 246 Cal.App.4th 301 is
16 misplaced. The Court applies the requirements for a notice of inconsistency that are plainly
17 spelled out in the statute, not an amorphous due process standard that would do violence to its
18 very language and purpose.

19 The second problem with the City's argument is that it relies on an implausible and
20 unreasonable interpretation of the record. The City states that its incomplete notice and denial
21 letter provide sufficient documentation when read together. But the terms of these documents do
22 not support such a construction. The City explicitly stated that it was proceeding as though it had
23 two applications submitted by Developer in November 2018. It purported to deny one application
24 and find the other incomplete. The correspondence setting forth those distinct decisions, while
25 issued together, cannot be fairly read and interpreted in the manner the City now urges. The
26 incomplete notice does not purport to specify inconsistencies with objective standards under SB
27 35; it purports to specify the additional information required before a traditional, *discretionary*
28 *review* could be commenced. Similarly, the denial letter does not purport to require additional

1 information so an SB 35 determination could be made; the letter purports to finally reject the
2 streamlining application upon completion of the City's review. And so, the City's own belief that
3 there were two applications and the unequivocal statements in each discrete item of
4 correspondence purporting to separately dispose of each application cannot fairly be read
5 together as one, code-compliant letter documenting inconsistencies with objective standards
6 under section 65913.4, subdivision (b)(1). The City's post-hoc, revisionist interpretation lacks
7 credibility.¹⁸

8 The City explicitly represented that it had made a decision to deny the streamlining
9 application. Because of this, it cannot now claim that, in fact, it did not make such a decision and
10 lacked sufficient information to do so, all to avoid the consequences of the inadequate notice of
11 inconsistency it had provided. And, even if it could take this inconsistent position, it fails to
12 substantiate the same. The City cites no authority for the proposition that it may evade the
13 statutory deadlines in section 65913.4 by claiming incompleteness. In actuality, it appears the
14 Legislature enacted section 65913.4, in part, to address the use of such delay tactics under
15 existing law:

16 [T]he 1977 Permit Streamlining Act requires public agencies to act
17 fairly and promptly on applications for development permits,
18 including new housing. If they don't, the project is deemed
19 approved. Under the act, public agencies must compile lists of
20 information that applicants must provide and explain the criteria
21 they will use to review permit applications. Public agencies have
22 30 days to determine whether applications for development
23 projects are complete; failure to act results in an application being
24 "deemed complete." However, local governments may continue to
25 request additional information, potentially extending the time
26 before the application is considered complete, which is the trigger
27 for the approval timeline to commence. This has led to the Permit

24 ¹⁸ The Court also finds unpersuasive the City's assertion that Developer somehow created
25 confusion over its application based on the cover sheet it used. (Opp. at p. 9:20-28.) The City
26 had not updated its cover sheet to account for streamlining applications and does not point to any
27 evidence in the record that it had created and made available a separate form or cover sheet for
28 them. Thus, under the circumstances and given the explicit and clear statements in the
application itself about the nature of the review Developer was requesting, this assertion and
characterization by the City also lacks credibility.

1 Streamlining Act to be characterized as a “paper tiger” that rarely
2 results in accelerated development approvals.

3 (Sen. Gov. & Finance Com., Rep. on Sen. Bill No. 35 (2017–2018 Reg. Sess.) April 26, 2017.)

4 Arguably, if the City had truly lacked sufficient information on which to make an SB 35
5 determination, it could have endeavored to follow section 65913.4 in stating as much by
6 identifying the objective standards that it was applying and explaining how it could not conclude,
7 or lacked sufficient information to conclude, that the project was consistent with those standards.

8 Furthermore, the City does not present reasoned analysis to support the conclusion that a
9 reasonable person simply could not find that the project was consistent with objective standards
10 without all of the information set forth in the notice of incomplete application. The bullet points
11 at page 23 of the City’s opposition do not cure the gaps in its analysis or appear, on their face, to
12 encompass objective standards.

13 In sum, the City does not establish that it properly concluded that Developer’s application
14 was incomplete as a matter of law or fact (e.g., the contents of the denial letter). The City
15 unequivocally denied the streamlining application and will be held to the reasons articulated in
16 its denial letter.

17 For all of these reasons, petitioners show and the City does not effectively refute that it
18 did not provide a code-compliant notice of inconsistency. This conclusion is corroborated by the
19 opinion of HCD. (See AR1330; see also Pet. Supp. RJN.) It follows under section 65913.4 that
20 Developer’s proposal was deemed to comply with objective standards as a matter of law and
21 irrespective of whether the proposal is consistent with those standards as a matter of fact. The
22 City’s points on whether the proposal was, in fact, inconsistent are immaterial, particularly to the
23 extent the City addresses purported inconsistencies other than those identified in the denial letter
24 and within the statutory timeframe for notice.¹⁹ (Opp. at pp. 24:9–27:18.)

25
26 ¹⁹ Because of the essential statutory deadlines in section 65913.4, the Court does not
27 address the City’s belated and post-hoc rationales in detail. That said, petitioners present a
28 number of cogent points about the legal and factual illegitimacy of these belated rationales (Pet.
Brief at pp. 27:6–33:1), which points the City largely fails to address in opposition (Opp. at
pp. 24:21–29:2).

[illegible]

“To ensure compliance with section 65915, local governments are required to adopt an ordinance establishing procedures for implementing the directives of the statute.” (*Latinos Unidos, supra*, 217 Cal.App.4th at p. 1164, citing § 65915, subd. (a).) The general rule is that a city’s density-bonus ordinance must be consistent with the statewide Density Bonus Law and is preempted to the extent it conflicts. (*Lagoon Valley, supra*, 154 Cal.App.4th at p. 830.) That said, while the Density Bonus Law establishes the minimum bonuses and incentives a municipality is required to provide, the law does not preempt a municipality from providing greater bonuses or incentives in its own ordinance. (*Id.* at pp. 825–826.) Additionally, a density-bonus ordinance must establish a procedure and timeline for evaluating density-bonus requests that is consistent with the Density Bonus Law, including by enumerating the documents and

²⁰ In the event of an inconsistency between the maximum density allowed under the zoning ordinance and the general plan, the general plan controls and provides the limit used to calculate (using the specified bonus percentage) the number of bonus units that may be built. (*Wollmer v. City of Berkeley* (2011) 193 Cal.App.4th 1329, 1344–1345 (*Wollmer II*).)

1 information that must be submitted as part of a complete request. (§ 65915, subds. (a)(2)–(3).) In
2 codifying a transparent and expeditious procedure, a municipality “shall not condition the
3 submission, review, or approval of an application [for a density bonus] on the preparation of an
4 additional report or study that is not otherwise required by state law, including [the Density
5 Bonus Law].” (§ 65915, subd. (a)(2).)

6 The City’s density-bonus ordinance is codified in Los Altos Municipal Code section
7 14.28.040. Under section 14.28.040, subdivision (C)(1)(a)(i) of the City’s code, a development
8 with 10 percent of its units designated for low-income households “shall be granted” a 20
9 percent density bonus. This density bonus increases by 1.5 percent, up to a maximum of 35
10 percent, for each additional percentage point of low-income housing provided. So, for example, a
11 development with 11 percent of its units designated for low-income households is entitled to a
12 21.5 percent density bonus. As relevant here, a development with 20 percent or more units
13 designated for low-income households will be granted the maximum, 35 percent density bonus.
14 That density bonus is calculated as a percent “increase over the otherwise maximum allowable
15 gross residential density” (Los Altos Mun. Code, § 14.28.040, subd. (B)(2); see also
16 § 65915, subd. (f).)

17 A developer may additionally obtain an incentive for designating units for low-income
18 households. (Los Altos Mun. Code, § 14.28.040, subd. (C)(1)(a)(ii).) A developer must be
19 granted one incentive for designating 10 percent of units for low-income households, two
20 incentives for designating 20 percent, and three incentives for designating 30 percent or more.
21 (*Ibid.*; see also § 65915, subd. (d)(2)(A)–(C).) The City has codified “on-menu incentives”—
22 incentives that “would not have a specific adverse impact”—in the density-bonus ordinance.
23 (Los Altos Mun. Code, § 14.28.040, subd. (F).)

24 A city “shall grant” a bonus or incentive unless it makes written findings supported by
25 substantial evidence that: there will be no identifiable and actual cost reduction to provide for
26 affordable housing costs; there will be a specific, adverse, unmitigable impact on public health
27 and safety, the environment, or registered historic places; or granting the bonus or incentive is
28 contrary to state or federal law. (§ 65915, subd. (d)(1); see also Los Altos Mun. Code,

1 § 14.28.040, subd. (F)(3).) And, “[i]n no case may a city ... apply any development standard that
2 will have the effect of physically precluding the construction of a development meeting the
3 criteria of subdivision (b) at the densities or with the concessions or incentives permitted by [the
4 Density Bonus Law].” (§ 65915, subd. (e)(1).) A developer may seek a waiver or reduction of
5 such standards that physically impede construction of the development. (*Ibid.*)

6 “The applicant may initiate judicial proceedings if the city ... refuses to grant a requested
7 density bonus, incentive, or concession.” (§ 65915, subd. (d)(3).) As noted, this proceeding is
8 ordinarily brought in administrative mandamus. (See, e.g., *Lagoon Valley, supra*,
9 154 Cal.App.4th at pp. 812, 816–817.) The city “shall bear the burden of proof for the denial of a
10 requested concession or incentive.” (§ 65915, subd. (d)(4).) “If a court finds that the refusal to
11 grant a requested density bonus, incentive, or concession is in violation of this section, the court
12 shall award the plaintiff reasonable attorney’s fees and costs of suit.” (§ 65915, subd. (d)(3).)

13 In Developer’s application (inclusive of its density bonus report), it proposed designating
14 two of eight base units—i.e. 25 percent of the base units—for low-income households.
15 (AR000010, AR000061.) Developer asserted that this level of affordability entitled it to: 1) a 35
16 percent density bonus; and 2) two concessions, only one of which it sought to use. (AR000010,
17 AR000061.) Developer selected an 11-foot height increase—which is on-menu (Los Altos Mun.
18 Code, § 14.28.040, subd. (F)(1)(d))—as its concession. (AR000010, AR000061.) Based on the
19 bonus and concession, Developer proposed constructing seven additional units. (AR000061).²¹ It
20

21 ²¹ Consistently with state law, the Los Altos Municipal Code defines a density bonus as
22 an “increase over the otherwise maximum allowable gross residential density” (Los Altos
23 Mun. Code, § 14.28.040, subd. (B)(2); see also § 65915, subd. (f).) The maximum allowable
24 density means the density allowed under a local zoning ordinance or general plan, with the
25 maximum density in the general plan controlling in the event of an inconsistency. (§ 65915,
26 subd. (o)(2); see also *Lagoon Valley, supra*, 154 Cal.App.4th at p. 824.) Developer asserts and
27 the City does not seem to dispute that there is no standard for units or intensity (Floor Area
28 Ratio) applicable to buildings, like the proposed development, that are zoned Commercial-Retail
Sales/Office-Administrative District (CRS/OAD). (AR000011, AR000062 [Density Bonus
Report].) Perhaps there is no standard because housing above the ground floor qualifies as a
conditionally-permitted use under Los Altos Municipal Code section 14.54.040 as compared to
an office or retail use that is permitted by right under section 14.54.030. In any event, instead of
applying the density bonus to the maximum density allowed under the law (either the ordinance

1 appears the seven units exceed the number authorized by the 35 percent density bonus standing
2 alone, so the parties' dispute seems to hinge on whether the right to an 11-foot height increase
3 necessarily includes the right to include additional housing units in that additional space. (See
4 AR002310–AR002311.)

5 As a threshold matter, the City's interpretation of the Density Bonus Law is incorrect.
6 The City asserts that any and all concessions, incentives, and waivers must result—
7 collectively—in no more than a 35 percent increase in density. Courts have routinely rejected
8 such an interpretation of the law. The 35 percent bonus authorized under the Density Bonus Law
9 and the City's own ordinance is the mandatory minimum a city must provide; it is not a cap.
10 (*Lagoon Valley, supra*, 154 Cal.App.4th at pp. 823–826.) And so, the City was required, at
11 minimum, to provide a 35 percent bonus and any other incentive or concession required by law.
12 Otherwise, to the extent the City believed any additional incentive or concession was
13 discretionary, it was required to inform Developer of this conclusion in a code-compliant manner
14 by making the statutorily-required findings. (See § 65915, subd. (d)(1); see also Los Altos Mun.
15 Code, § 14.28.040, subd. (F)(3).) The City failed to do so here. Instead, the City made a vague
16 statement that “the requested concessions and waivers appear to raise substantial issues
17 concerning public health and safety, including questions regarding” compliance with the
18 Americans With Disabilities Act (42 U.S.C. § 12101 et seq.). (AR002311.) On its face, this
19 statement is so equivocal as to fall short of an affirmative finding. Furthermore, this statement
20 does not identify a specific, adverse, unmitigable impact on public health and safety.
21 Accordingly, this finding is deficient.

22 To be sure, although the City bears the burden of justifying its density-bonus decision, it
23 does not attempt to justify that decision under an appropriate standard of review and based on the
24 statutory requirements. Its opposition instead focuses on its interpretation of the 35 percent bonus
25
26

27 _____
28 or the general plan), both parties appear, at times, to treat the bonus as applying to the number of
base units. (See, e.g., AR002310–AR002311.)

1 as a cap, which interpretation is contrary to established precedent. Accordingly, petitioners'
2 density-bonus claim is meritorious; the City did not comply with the law.

3 In reaching this conclusion, the Court notes that it remains unsettled whether the City
4 could attempt to deny the density-bonus request for the first time during the administrative
5 proceeding. This is because section 65913.4 contemplates that a proposal subject to streamlined
6 review may contain bonus units. (§ 63913.4, subd. (a)(2)(C).) Arguably, to determine whether a
7 project with bonus units comports with the objective standards in section 65913.4, a city must
8 determine whether the bonus units are allowable in the course of a streamlined review. In
9 truncating the review process through section 65913.4, the Legislature has not clearly addressed
10 how such changes operate with other housing laws, such as the Density Bonus Law. Ultimately,
11 because even the City's final resolution is deficient, the Court does not and need not resolve this
12 question.

13 In concluding that the City violated the Density Bonus Law, the Court rejects the City's
14 argument that Developer's application was incomplete or lacked sufficient information to allow
15 it to evaluate the density-bonus request.

16 "A local government shall not condition the submission, review, or approval of an
17 application pursuant to this chapter on the preparation of an additional report or study that is not
18 otherwise required by state law, including this section." (§ 65915, subd. (a)(2).) This prohibition
19 does not preclude a municipality from requiring "reasonable documentation to establish
20 eligibility for a requested density bonus" (*Ibid.*) But, a municipality "shall ... [p]rovide a list
21 of all documents and information required to be submitted with the density bonus application in
22 order for the density bonus application to be deemed complete." (§ 65915, subd. (a)(3)(B).)
23 "This list shall be consistent with this chapter." (*Ibid.*)

24 Collectively, these directives and prohibitions establish that a municipality cannot
25 condition consideration and approval of a density-bonus request on information or documents
26 unless it specifies these materials in advance and in conformity with the Density Bonus Law.

27 Here, Los Altos Municipal Code 14.28.040, subdivision (D) specifies the local forms and
28 other information an applicant must submit with a density-bonus request. That said, with the

1 exception of several forms, the ordinance broadly requires “reasonable documentation” of certain
2 facts and does not specify particular documents that must be submitted. (Los Altos Mun. Code,
3 § 14.28.040, subd. (D).) In the City’s opposition, it offers a conclusory assertion that Developer’s
4 application was incomplete. The City does not explain how its application requirements comport
5 with those permitted under the Density Bonus Law. And the City does not attempt to justify the
6 sufficiency of its findings or the evidence on the subject of completeness. This presentation is
7 insufficient to carry the City’s burden of establishing that it complied with the law.

8 Looking to the City’s final resolution and the notice of incomplete application referenced
9 therein, and assuming for argument sake that this notice could be considered as part of the City’s
10 denial of the streamlined application, the propriety of the City’s conduct is not apparent. The
11 “Density Bonus Report Submittal Requirements”—a form that accompanied the notice of
12 incomplete application—indicates that Developer had largely submitted all required information.
13 (AR000147–AR000149.) Based on circling and underlining on the second page of this form, the
14 City seemed to take the position that it needed additional documentation that incentives or
15 concessions would result in cost reductions and that waivers were needed for standards that
16 would physically preclude the concessions or incentives. (AR000148.) Because the Density
17 Bonus Law now puts the onus on a municipality to make a finding to support denial of a density-
18 bonus request, such as a finding that a concession or incentive would not result in cost reductions
19 (§ 65915, subd. (d)(1)(A)), the City’s insistence that Developer prove the contrary in the first
20 instance shifts the burden to the applicant in contravention of the statute.²² And, also, the
21 requested “reasonable documentation” appears to concern matters beyond the eligibility
22 information that can be requested. (§ 65915, subd. (a)(2).) Moreover, Developer asserts that the
23 City is incorrect because Developer did, in fact, submit sufficient information. This assertion is
24 correct. The claim that the City could not determine the allowable base density is not credible
25

26 ²² The record reflects that the City sought out a consultant but apparently never hired one
27 or completed the process required to evaluate and make findings sufficient to reject Developer’s
28 density-bonus request. (See AR002332–AR002336 [proposed scope of work from Keyser
Marston Associates].)

1 given that density is determined by municipal law. And, as for eligibility, Developer otherwise
2 presented detailed information in its application about its building plans to allow the City to
3 evaluate eligibility for a density-bonus. The City did not rebut this point in its papers or at the
4 hearing. To summarize, even setting aside the City's inadequate argument and analysis on the
5 Density Bonus Law, the record undercuts any claim of incompleteness based on what a city may
6 legally ask for and what Developer, in fact, presented here.

7 3. *Housing Accountability Act*

8 The Housing Accountability Act or "HAA (§ 65589.5), known as the 'anti-NIMBY law,'
9 was designed to limit the ability of local governments to reject or render infeasible housing
10 developments based on their density without a thorough analysis of the 'economic, social, and
11 environmental effects of the action' (§ 65589.5, subd. (b).)" (*Kalnel Gardens, LLC v. City of*
12 *Los Angeles* (2016) 3 Cal.App.5th 927, 938 (*Kalnel Gardens*)). "When a proposed development
13 complies with objective general plan and zoning standards, including design review standards, a
14 local agency that intends to disapprove the project, or approve it on the condition that it be
15 developed at a lower density, must make written findings based on [a preponderance of the
16 evidence on the record] that the project would have a specific, adverse impact on the public
17 health or safety and that there are no feasible methods to mitigate or avoid those impacts other
18 than disapproval of the project. (§ 65589.5, subd. (j)(1).)"²³ (*Kalnel Gardens, supra*,
19 3 Cal.App.4th at pp. 938–939.) And, much like the streamlining statute (§ 65913.4), the HAA
20 requires written notice of inconsistency within 30 or 60 days and provides that if an agency "fails
21 to provide the required documentation pursuant to subparagraph (A), the housing development
22 project shall be deemed consistent, compliant, and in conformity with the applicable plan,
23 program, policy, ordinance, standard, requirement, or other similar provision." (§ 65589.5,
24 subd. (j)(2).)

25
26 ²³ Until December 31, 2017, section 65889.5 required that an agency's findings be
27 supported only by substantial evidence. Effective January 1, 2018, the findings must be
28 supported by a preponderance of the evidence. (Sen. Bill No. 167 (2017–2018 Reg. Sess.) § 1
[Stats. 2017, ch. 368]; Assem. Bill No. 678 (2017–2018 Reg. Sess.) § 1 [Stats. 2017, ch. 373].)

1 If an agency fails to comply with the HAA, a developer, prospective resident, or housing
2 organization, such as Renters here, may seek judicial review by filing a petition for writ of
3 administrative mandate. (*Kalnel Gardens, supra*, 3 Cal.App.5th at p. 941, citing § 65589.5,
4 subd. (m).) Under that judicial review, section 65589.5, subdivision (i) explicitly places the
5 burden of proof on the agency to “show that its decision is consistent with the findings as
6 described in subdivision (d), and that the findings are supported by a preponderance of the
7 evidence in the record with the requirements of subdivision (o).”²⁴ If an agency “disapproved a
8 project or conditioned its approval in a manner rendering it infeasible” without making the
9 required findings, the court must issue an order or judgment compelling the jurisdiction to
10 comply within 60 days, including by taking action on the development. (§ 65589.5, subd. (k).)
11 “The court may issue an order or judgment directing the local agency to approve the housing
12 development project or emergency shelter if the court finds that the local agency acted in bad
13 faith²⁵ when it disapproved ... the housing development or emergency shelter in violation of this
14 section.” (§ 65589.5, subd. (k)(1)(A)(ii).) “The court shall retain jurisdiction to ensure that its
15 order or judgment is carried out and shall award reasonable attorney’s fees and costs of suit to
16 the plaintiff or petitioner, except under extraordinary circumstances in which the court finds that
17 awarding fees would not further the purposes of this section.” (§ 65589.5, subd. (k)(1)(A).)

18 The City here fails to carry its burden of establishing compliance with the HAA. For the
19 reasons articulated above, its claim of incompleteness of Developer’s SB 35 application is not
20 persuasive. The City does not provide reasoned legal analysis to support the conclusion that the
21 application was incomplete within the meaning of the HAA. And for the reasons previously
22 articulated with respect to section 65913.4, the City also did not provide a code-compliant notice
23 of inconsistency under section 65589.5. And even in the final resolution adopted by the City
24

25 ²⁴ This standard is similar to the abuse of discretion standard ordinarily applicable in all
26 manner of administrative mandamus proceedings. (See *Kalnel Gardens, supra*, 3 Cal.App.5th at
27 p. 937, citing Code Civ. Proc., § 1094.5, subd. (b).)

28 ²⁵ “For purposes of this section, ‘bad faith’ includes, but is not limited to, an action that is
frivolous or otherwise entirely without merit.” (§ 65589.5, subd. (l).)

1 Council, the City did not make statutorily required findings sufficient to reject or require
2 modification of the project under the HAA. Accordingly, the City also does not establish that it
3 complied with the HAA.

4 In reaching this conclusion, the Court further finds that the City acted in bad faith as
5 defined in the HAA because its denial was entirely without merit. The City's denial letter and the
6 record before the Court do not reflect that the City made a benign error in the course of
7 attempting, in good faith, to follow the law by timely explaining to Developer just how its
8 project conflicted with objective standards in existence at the time or by trying to make findings
9 that resemble what the law requires. Instead, in addition to tactics such as demanding an
10 administrative appeal on less than one day's notice and using strained constructions and textual
11 interpretations to assert that Developer had presented two applications that had to be withdrawn,
12 the City denied the streamlining application with a facially deficient letter and later adopted a
13 resolution enumerating insufficient reasons for the denial. So, in addition to the fact that section
14 65913.4 warrants a writ directing the City to issue the permit, its conduct justifies the same relief
15 under section 65589.5, subdivision (k)(1)(A) as well.

16 *C. Scope of Relief*

17 Because the Court concludes that the City violated section 65913.4, the Density Bonus
18 Law, and the HAA, petitioners are entitled to writ relief. Nevertheless, the parties dispute and
19 addressed in supplemental briefing the nature and scope of relief that should be awarded.
20 Petitioners ask the Court to provide relief under all three statutes, while the City argues the Court
21 should solely order relief under section 65913.4 because additional statutory relief is duplicative.
22 While the Court agrees that there is some overlap in the relief afforded by each separately
23 applicable statute and that all three statutes warrant the same substantive outcome—affording
24 relief in mandate—the Court rejects the City's claim that the relief afforded by each statute is
25 entirely duplicative. For example, as the City acknowledges, the Density Bonus Law and HAA
26 authorize an award of attorney fees and costs. Even accepting the City's suggestion that the
27 Court fix the amount of such fees and costs at a later date, this fact does not obviate the need for
28 the Court to rule on these statutory bases as a prerequisite for a later motion for attorney fees

1 under either statute. Also, the HAA gives the Court continuing jurisdiction over statutory
2 enforcement mechanisms, which may include fines for noncompliance. The additional remedies
3 for enforcing the HAA are not duplicative. And, arguably, the Court must award relief under the
4 HAA now as a prerequisite for any later enforcement measures that may be necessary even
5 accepting, as the City points out, that the time for such enforcement has yet to arrive. Ultimately,
6 the City does not identify any legal basis for refusing to grant relief under all three statutes. For
7 these reasons, the Court accepts petitioners' argument that relief under each statute is warranted.

8 The Court holds that Developer's project was deemed to comply with applicable
9 standards under SB 35 and that the City must rescind its decision to deny and instead approve
10 and permit the project at the requested density. The parties agree that this directive to rescind the
11 existing decision and permit the project within 60 days, as compared to remanding the matter for
12 further consideration, is the appropriate course of action. (City's Supp. Brief at p. 8.) To the
13 extent petitioners seek relief other than a writ and declaratory judgment, including attorney fees,
14 costs, and additional fines or penalties, the parties agree that such matters will be resolved by
15 post-judgment noticed motion (for attorney fees or to tax costs) and, as for the penalties, further
16 proceedings should they become necessary.

17 Finally, the Court declines to issue a declaratory judgment. It is true that because
18 declaratory relief is a cumulative remedy "a proper complaint for declaratory relief cannot be
19 dismissed by the trial court because the plaintiff could have filed another form of action."
20 (*Californians for Native Salmon Assn. v. Department of Forestry* (1990) 221 Cal.App.3d 1419,
21 1429.) And there is no categorical prohibition on joining a complaint for declaratory relief with a
22 petition for writ of mandate; in appropriate circumstances, this is permissible. (*Gong v. City of*
23 *Fremont* (1967) 250 Cal.App.2d 568, 574.) That said, when challenging an action under Code of
24 Civil Procedure section 1094.5—a decision in a particular instance as compared to a policy or
25 ordinance standing alone—mandamus relief is typically the exclusive remedy and declaratory
26 relief is not additionally available or necessary. (*State of Cal. v. Super. Ct.* (1934) 12 Cal.3d 237,
27 251–252; see also *Selby Realty Co. v. City of San Buenaventura* (1973) 10 Cal.3d 110, 126–127
28 [declaratory relief not proper vehicle for challenging denial of building permit].) In actuality, in a

1 hybrid proceeding, declaratory relief may be sought to test the constitutionality or legality of an
2 ordinance or policy on its face with an accompanying request for a writ of mandate directed to
3 the agency's application of that ordinance or policy to the petitioner in particular. (*Gong, supra*,
4 250 Cal.App.2d at p. 574.) Here, petitioners do not seek a declaration of the validity of the City's
5 policies, interpretation of the law, or zoning ordinance; rather, they seek a declaratory judgment
6 stating the City must issue the streamlined permit Developer applied for.²⁶ In other words, they
7 simply seek a duplicative declaration requiring the City to perform its duty and issue the permit.
8 The problem is not simply that the declaratory relief requested is duplicative, but rather, that the
9 relief sought is a proper subject of mandamus and it does not encompass a question of validity or
10 constitutionality that typically warrants additional declaratory relief in a mandamus proceeding.
11 Accordingly, the Court exercises its discretion under Code of Civil Procedure section 1061 and
12 declines to provide declaratory relief that would be duplicative of that already being provided in
13 mandate.

14 IV. Conclusion

15 The petitions for writ of mandate are granted, and judgment will be entered consistently
16 with this Order. Petitioners are prevailing parties for purposes of costs of suit under Code of
17 Civil Procedure section 1032, which costs would be claimed post-judgment by timely filed
18 memoranda and which are subject to striking and taxing according to law. The judgment to be
19 entered will direct the issuance of a peremptory writ of mandate commanding the relief
20 contemplated in this Order and consistently with its analysis and conclusions. Counsel for
21 petitioners have already collectively proposed a form of judgment and a form of writ to be
22 issued, which they submitted with their post-hearing briefing. Counsel for petitioners are directed
23 to provide those separate documents to the Court in Word format by email to
24 Department10@scscourt.org within 10 days of service of this Order, with copy to counsel for the
25 City. Counsel for the City is to submit any objections as to the form of the proposed judgment
26

27 ²⁶ The Court notes that in Petitioners' supplemental brief on the scope of relief and in
28 their proposed judgment, they elaborate on the declaratory relief sought in their pleadings.

1 and proposed writ within 20 days from service of this Order, with courtesy copy to the Court at
2 the same email address and copy to counsel for petitioners.

3
4 IT IS SO ORDERED.

5
6 Date: April 24 2020

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8 HELEN E. WILLIAMS
9 Judge of the Superior Court
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From: [Peggy Griffin](#)
To: [City of Cupertino Planning Commission](#); [Gian Martire](#); [City Attorney's Office](#)
Cc: [City Clerk](#); [City Council](#)
Subject: 2020-05-12 PC Meeting - Agenda Item 2: Oaks/Westport - Requires another density bonus waiver!
Date: Tuesday, May 12, 2020 6:33:36 AM
Attachments: [image007.png](#)
[image002.jpg](#)
[image006.jpg](#)

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 written communications for the Planning Commission meeting scheduled for Tuesday, May 12, 2020. The letter addresses Agenda Item 2, "Development proposal to demolish a 71,250 square foot retail center (The Oaks)...".

Dear Planning Commissioners, Gian and City Attorney,

According to the Staff Report and all the documents, the applicant is requesting 3 waivers:

1. Height waiver
2. Slope setback waiver
3. Affordable units dispersed throughout the project waiver (Section 19.56.050.G.1)

I have 2 issues regarding the Density Bonus Waivers as described below.

ISSUE #1: BMR units should be distributed throughout the project site

Waiver #3 above for Section 19.56.050.G.1 should be denied because BMR units CAN be dispersed throughout the project. The senior BMR units can remain within Buildings 1 and 2. This provides a variety of affordable housing opportunities for those in need and still keeps all the senior housing units together.

All the applicant letters that lobby in favor of Waiver #3 describe this project as if it is a senior housing BMR project. This project IS NOT entirely a senior housing project because it also has the townhouses and rowhouses which are regular non-age restricted market rate units. If this project were entirely a senior citizen housing development then under Section 19.56.B it would only be allowed a max density of 20%. Also, under Section 19.56.040.A.1, no incentives or concessions would be available for a senior housing project unless it was affordable.

So, there is no reason why the BMR units should be restricted to Buildings 1 and 2! This request should be denied.

ISSUE #2: BMR units should be identical in design as market rate units

There is an additional requirement in our Municipal Code that these affordable units "shall be identical with the design of any market rate rental units" (Section 19.56.050.G.2).

Looking at the size of the units in this project (see chart below), it is obvious that this project DOES NOT MEET General Requirement 19.56.050.G.2 Not addressing this requirement sets a precedent for ALL FUTURE PROJECTS to essentially nullify the requirement. It is part of our Municipal Code which requires that projects follow it!

In addition, it appears Buildings 1 and 2 will be built by different developers. The BMR studio and 1-bedroom units in Building 2 will not be “identical with the design” of market rate studio and 1-bedroom units in Building 1. Also, in Building 1, it’s unclear which exact units are BMR and which are market rate. There should be a similar proportion of the various sized units that are BMR and market rate. The distribution of BMR units in Building 1 should not all be studio units dispersed throughout the building! It should be a variety of unit sizes dispersed throughout the project!

REQUEST: The applicant needs to provide proof that this requirement has been met or submit a request for a 4th waiver!

Sincerely,
Peggy Griffin

SUPPORTING INFORMATION...

MUNICIPAL CODE - DENSITY BONUS LAW

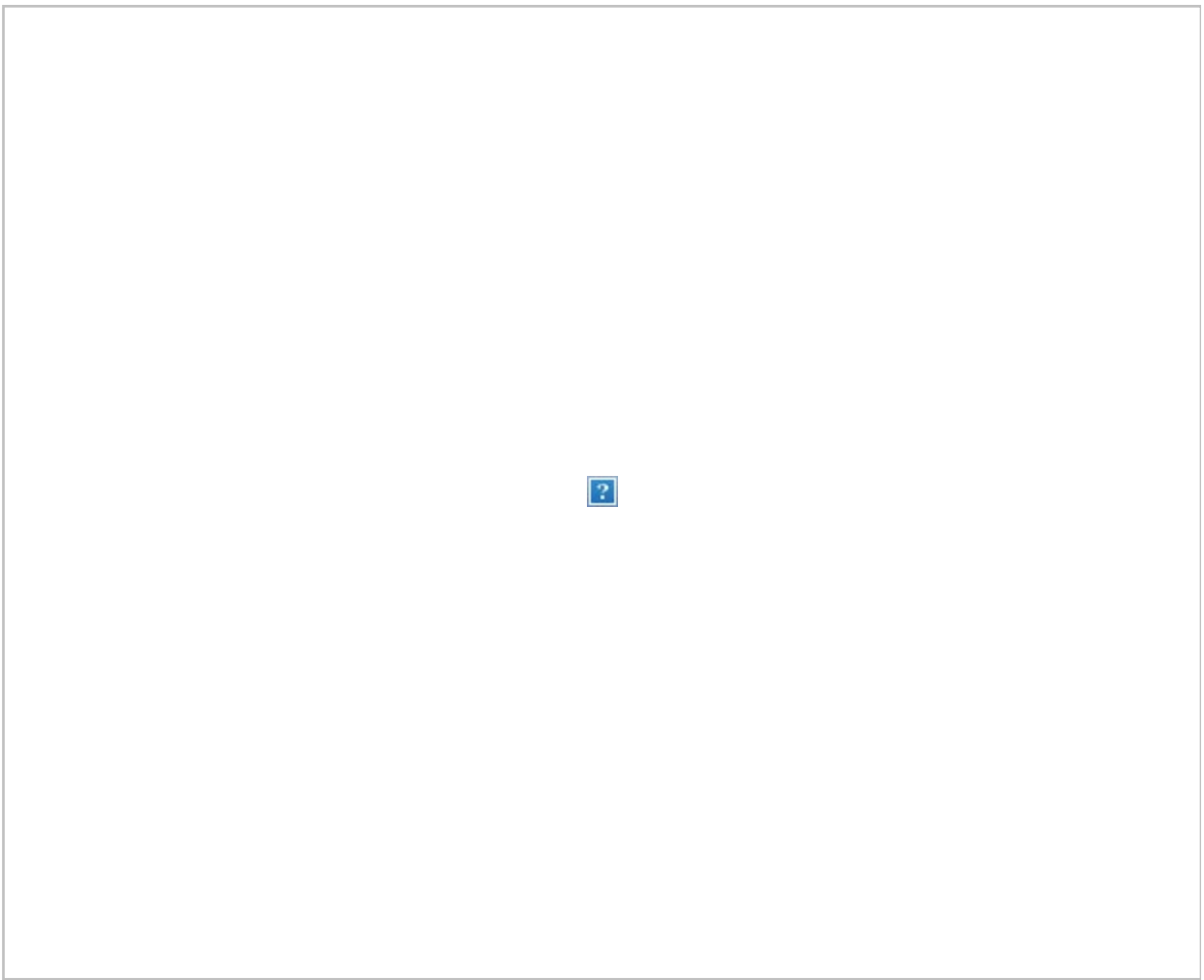
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Section 19.56.050 General Requirements

G. Affordable units shall be provided as follows:

1. Affordable units shall be dispersed throughout the project;
2. Affordable units shall be identical with the design of any market rate rental units in the project with the exception that a reduction of interior amenities for affordable units will be permitted upon prior approval by the City Council as necessary to retain project affordability.

FROM PC AGENDA ITEM #2, ATTACHMENT 8 – Project Description



FROM ATTACHMENT 9 – Below Market Rate Project Description, Page 1 of 7



FROM STAFF REPORT, Page 19



Beth Ebben

From: Peggy Griffin <griffin@compuserve.com>
Sent: Tuesday, May 12, 2020 6:54 PM
To: City of Cupertino Planning Dept.
Cc: City of Cupertino Planning Commission
Subject: 2020-05-12 PC Meeting -AGENDA #2 - slide for Peggy Griffin
Attachments: AGENDA ITEM 2-COMMENT SLIDE - Peggy Griffin.pdf

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Please display this slide when I speak on this agenda item.

Thank you,
Peggy Griffin

Beth Ebben

From: Joseph Hauser <cuptjoe2@comcast.net>
Sent: Monday, May 11, 2020 2:57 PM
To: City of Cupertino Planning Commission; Cupertino City Manager's Office; City Attorney's Office; City Clerk; Gian Martire; City Council
Subject: 2020-05-12 Planning Commission Meeting- Agenda Item 2 The Oaks/Westport

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 written communications for the Planning Commission meeting scheduled for Tuesday May 12, 2020. The letter addresses Agenda Item 2. "Development proposal to demolish a 71,250 square foot retail center (The Oaks)".

1. The project, being on Stevens Creek between Mary Ave and the entrance to 85/280 will negatively impact access to the main corridor toward the city center, and access to and from Highway 85/280.
2. The area surrounding the proposed project is already a highly-impacted area for the following activities.
 - a The main entrance to De Anza College
 - b Cupertino Senior Citizens Center
 - c The main entrance to Memorial Park where there are numerous city events each year
 - d Entrance to two major highways (85 and 280)
 - e Access to the city yard facility
 - f Access to the city dog park
 - g Access to over 300 residential homes
 - h Access to a condo complex
 - i Access to the Glenbrook Apartments
 - j Bicycle path to the Mary Avenue Bridge
3. This project requires several General Plan amendments. (Setbacks, Height restrictions etc.) Why have a general plan, if every developer asks for amendments?
4. There is only one other exit area from the area being impacted. Those exits are on to Stelling Ave., and only has one traffic light on Greenleaf and Stelling. Greenleaf has a dangerously sharp S-curve right by Garden Gate Elementary School. The other exits onto Stelling require drivers to try to get onto Stelling when there is a break in the traffic. This is

virtually impossible during rush hour. With the additional traffic to be generated by this project, many drivers will find an alternative route through the neighborhood and past Garden Gate School. During rush hour, many parents use Greenleaf to let their children disembark from their cars, or cross streets to the school. This is already dangerous and will only get worse.

5. The proposed height limitation of this project is not in keeping with height limitations along other nearby highway 85 freeway entrances.
6. At times the number of cars in the turn lane from Stevens Creek on to Mary Ave. already exceeds the amount of space allocated, thereby causing backups onto regular traffic lanes. This will only get worse.
7. There are no buildings in this area with heights larger than 2 stories.

I hope the city will take these points into consideration. As a longtime resident of Cupertino, I have witnessed the area becoming a traffic nightmare, and with city promises to better resident's life being largely ignored so that developers can get their way. I am not against reasonable growth, but this project is massive, and does not fit into the area being allocated. It will not only impact the immediate area, but will impact the entire city. Recent events have indicated that residents are mostly fed up with the type of projects the city has approved. I hope this project will be an example of a new attitude by the city.

Thank you.

Joseph Hauser

Beth Ebben

From: Joseph Hauser <cuptjoe2@comcast.net>
Sent: Monday, May 11, 2020 2:57 PM
To: City of Cupertino Planning Commission; Cupertino City Manager's Office; City Attorney's Office; City Clerk; Gian Martire; City Council
Subject: 2020-05-12 Planning Commission Meeting- Agenda Item 2 The Oaks/Westport

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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I hope the city will take these points into consideration. As a longtime resident of Cupertino, I have witnessed the area becoming a traffic nightmare, and with city promises to better resident's life being largely ignored so that developers can get their way. I am not against reasonable growth, but this project is massive, and does not fit into the area being allocated. It will not only impact the immediate area, but will impact the entire city. Recent events have indicated that residents are mostly fed up with the type of projects the city has approved. I hope this project will be an example of a new attitude by the city.

Thank you.

Joseph Hauser

Right Sizing and Right Timing Needs for senior living alternatives

Henry Woo Sang, Jr.*

Age Friendly Cupertino Task Force**

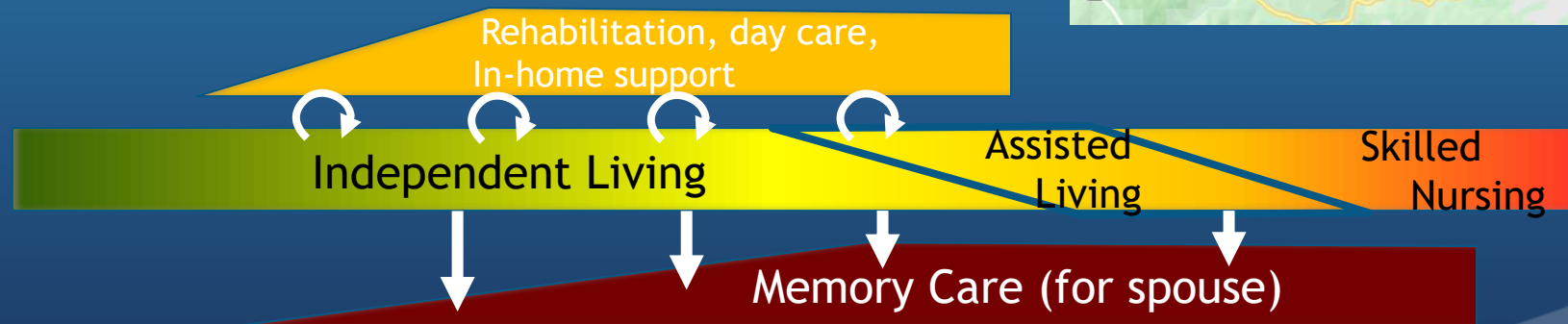
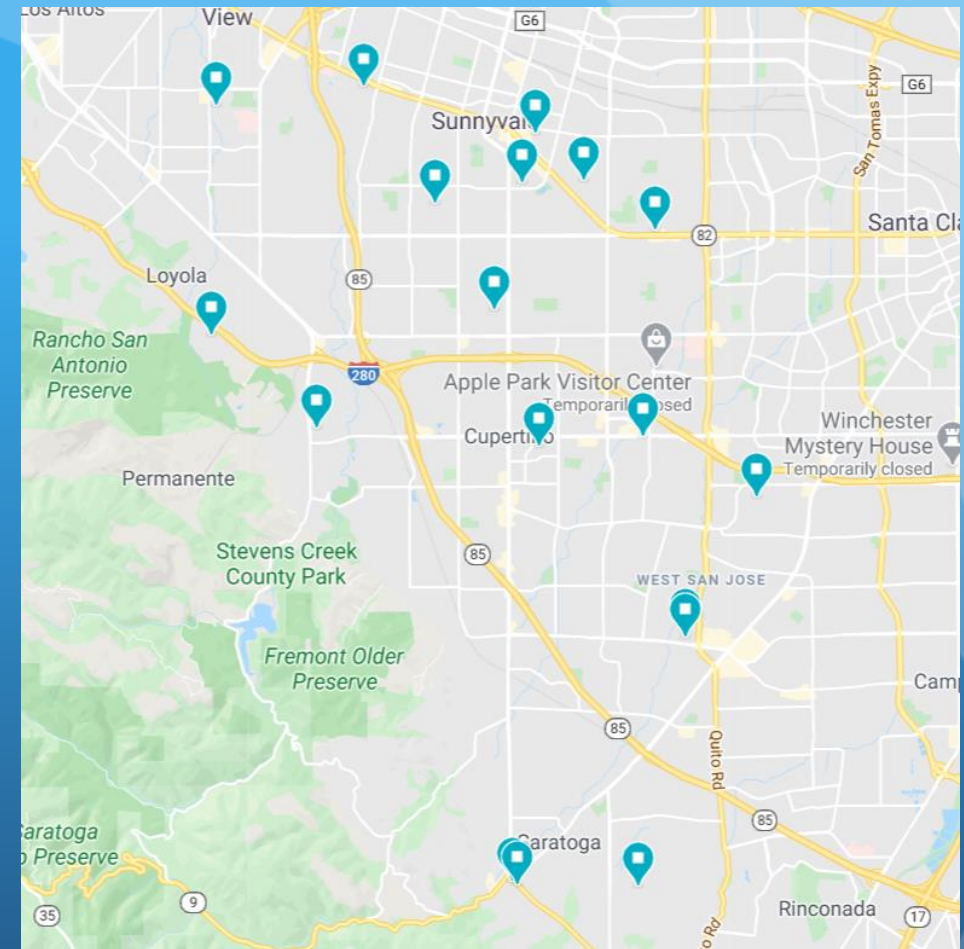


*My comments today are solely in my role as a citizen member of the Age Friendly Cupertino Task Force. They do not necessarily reflect the position of other organizations of which I am a member.

**Age Friendly Cupertino is a member of Age-Friendly Silicon Valley. Views expressed in this presentation do not necessarily reflect the position of Age-Friendly Silicon Valley.

Retirement Communities Near Cupertino

Cupertino	Within 2.5mi
Chateau Cupertino	The Forum at Rancho San Antonio
Sunny View Cupertino	The Veranda
At Home Senior Living	Our Lady of Fatima Villa
Atria Sunnyvale	Rose Meadows Elder Care
Belmont Village	Saratoga Retirement Community
International Order of Odd Fellows	Sunny Orchard Place
Homestead Park	Sunrise of Sunnyvale
Life's Garden	Villa Siena
	Westgate Villa



**AGE FRIENDLY
CUPERTINO**

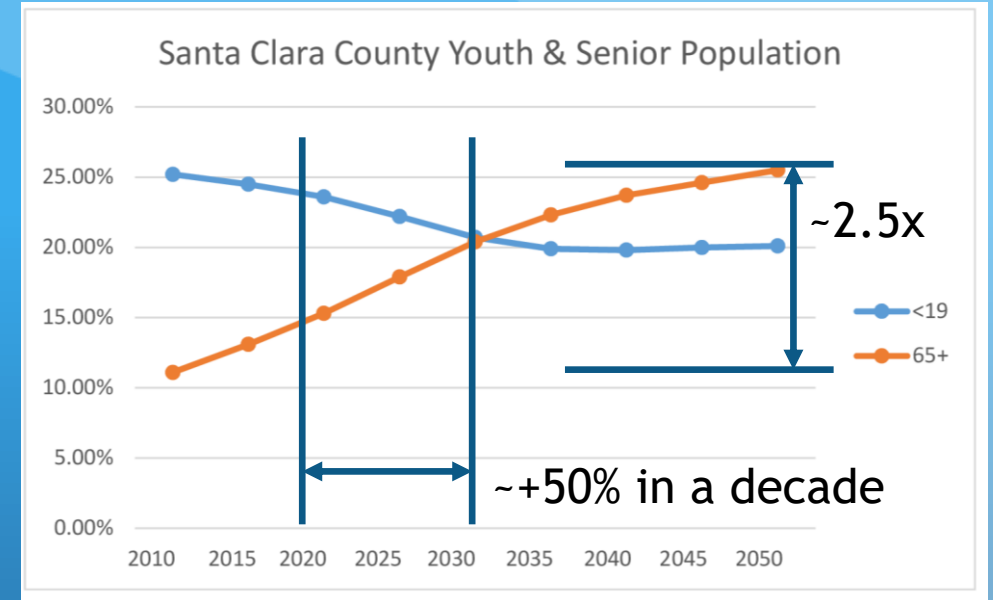
Option Ranges

- Independent living
 - Family house, intergenerational complexes
 - Plus in-home care, adult day care, hospice
 - Independent Seniors Communities:
 - Highly communal to completely independent
 - Senior co-housing, active senior communities, senior only communities (apartments, trailer parks, townhomes, single family houses)
- Dependent living
 - Rehabilitation, adult day care, in-home assistance
 - Memory Care often only for one spouse
 - Assisted living & Skilled Nursing
- Continuing Care Retirement Community (CCRC)

Cupertino Today
Houses, townhouses, apartments

The Veranda (affordable housing)
Chateau Cupertino (starting at \$3-4.5k/mo)

Forum at Rancho San Antonio (buy condo)
Sunny View Cupertino Retirement Community
(starting studio \$3.5k, 2bdr \$7.3k)



Cupertino needs a Larger Range of Options and Greater Quantities



AGE FRIENDLY
CUPERTINO

Think Right-Size, Right-Choice **vs** Down-Size

Think transitions : *now* -> in 10yrs -> in 20 yrs

- **Floor and yard space - halving space will feel cramped**
 - 3000sf 4bdr + big yard -> 1500sf 2bdr + patio -> 800sf 2bdr apartment + balcony
- **Urban (dense) vs Suburban vs Open Space (often walk vs drive)**
 - Reflects activity choices: Work, Hiking, Sports Center, Senior Center, Quinlan, Library, Community Hall, Adult School, Coffee/Dining, YMCA, India Comm. Center, volunteering
- **Independence vs need for 3rd party care giving**
 - Vary significantly: family care, adult day care, assisted living, skilled nursing, memory care
 - Dependencies: age, health, spouse situation, extended family & friends,
- **Cost**
 - Affected by services needed
 - Need a range of price point options

Will what you want be available?



**AGE FRIENDLY
CUPERTINO**

Thank you



**AGE FRIENDLY
CUPERTINO**

Cupertino Planning Commission May 12, 2020

Slide 1

Thank you Madame Chairperson, Commissioners and Staff

My name is Jean Bedord, and I've lived in Cupertino for 30 years. I am President of the Cupertino Senior Center Advisory Council, but tonight I am speaking as a citizen member of the Age Friendly Cupertino Task Force.

Slide 2

Our community is in transition. Parents with children under the age of 18 are now a minority in our city. Instead nearly 1 in 3 households have at least one person over the age of 60. Their needs are different, and our community has not recognized the changes that need to be made for today's population.

Increasingly, older adults face the reality that the family home where they raised their children no longer suits their physical needs. Walkers and wheelchairs don't go up stairs. Caregiving is a reality for many of us – whether a spouse or an aging parent or a disabled child. Life happens when least expected.

Many older adults are actively looking for housing that better suits their needs, but where do they move to? They want to stay in their community with the friends they've known for the past 20, 30, 40 or even 50+ years. They also want to keep their same trusted medical providers.

Slide 3

There aren't many choices to make a housing change in Cupertino. My mother-in-law lived at Chateau Cupertino. Independent living was a good choice for her, though we did have to hire a caregiver to come in every morning for 15 minutes to make sure she took her pills and was dressed for breakfast. But then she fell and broke her wrist. Suddenly, I had 48 hours to find an assisted living facility for her since she could no longer be accommodated at Chateau Cupertino. Nothing in Cupertino! Eventually, she had to move to skilled nursing. Again, nothing in Cupertino.

My husband has mobility issues so we are actively looking for housing that doesn't require a car to go for coffee or meet friends for lunch. But isn't any available housing that meets those needs. Most senior housing in Cupertino is in CCRCs – Continuing Care Retirement Communities, which are relatively isolated and require buy in.

Isn't it time to build housing to meet the needs of our older adult community?

Thank you for the opportunity to comment. Any questions?

Senior Dilemma: Where to live?

Jean Bedord *

Age Friendly Task Force



- My comments today are solely in my role as a citizen member of the Age Friendly Cupertino Task Force. They do not necessarily reflect the position of other organizations of which I am a member.

Our Older Adult Community

- Total households in Cupertino: 20,181
- Households with one or more persons 60+: 6,585
- Typical older family unit: 1-2 adults
 - Decline in school enrollments
 - Family home no longer meets physical needs
 - Caregiving for spouse, parent or child
- Requirements to change housing
 - Remain in community with friends and family
 - Close to current medical providers



**AGE FRIENDLY
CUPERTINO**

Current Situation

- Senior Housing Available in Cupertino
 - **Chateau Cupertino** - 80 units rental - independent living with meals
 - **Sunnyview Manor** - 167 units, CCRC full range from independent living to skilled nursing
 - **The Forum at Rancho San Antonio** - 319 units, CCRC full range
 - **Veranda** - 19 units, BMR independent living for very low income seniors
- Extremely limited options
 - 237 Total single family homes sold in Cupertino in 2019 (1-2% turnover)
 - ZERO Multifamily developments approved in 2019

Major shortage of Senior Living housing



AGE FRIENDLY
CUPERTINO

Thank you

- Questions?



**AGE FRIENDLY
CUPERTINO**

Beth Ebben

From: Anastasia Novozhilova <anastasianovozh@gmail.com>
Sent: Tuesday, May 12, 2020 6:49 PM
To: City of Cupertino Planning Dept.
Cc: Larry Dean
Subject: Comments for Apple Meeting: Westport Cut-through for Bikes

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, my name is Anastasia. I wanted to express my support for the bike lanes for this project.

Although I am not a Cupertino resident, I spend a lot of my time in Cupertino because I've been an Apple employee for the last 9 years. I work on Bubb Road, but frequently bike to Infinite Loop for meetings and around town to run errands or get lunch.

I am a pretty experienced biker as I often ride in the city — so I have no issue navigating less direct routes. However, for other colleagues of mine that are less experienced, they might have a more difficult time biking through the heavy traffic and connecting routes that are less obvious. The bike cut-through would certainly make this easier to navigate and would encourage more to cycle, which would ultimately leave road space for those who need it.

Sincerely,
Anastasia

Beth Ebben

Subject: FW: 2020-05-12 PC Meeting - Agenda Item 2: Oaks/Westport - Requires another density bonus waiver!

From: Peggy Griffin <griffin@compuserve.com>

Sent: Tuesday, May 12, 2020 6:33 AM

To: City of Cupertino Planning Commission <PlanningCommission@cupertino.org>; Gian Martire <GianM@cupertino.org>; City Attorney's Office <CityAttorney@cupertino.org>

Cc: City Clerk <CityClerk@cupertino.org>; City Council <CityCouncil@cupertino.org>

Subject: 2020-05-12 PC Meeting - Agenda Item 2: Oaks/Westport - Requires another density bonus waiver!

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 written communications for the Planning Commission meeting scheduled for Tuesday, May 12, 2020. The letter addresses Agenda Item 2, "Development proposal to demolish a 71,250 square foot retail center (The Oaks)...".

Dear Planning Commissioners, Gian and City Attorney,

According to the Staff Report and all the documents, the applicant is requesting 3 waivers:

1. Height waiver
2. Slope setback waiver
3. Affordable units dispersed throughout the project waiver (Section 19.56.050.G.1)

I have 2 issues regarding the Density Bonus Waivers as described below.

ISSUE #1: BMR units should be distributed throughout the project site

Waiver #3 above for Section 19.56.050.G.1 should be denied because BMR units CAN be dispersed throughout the project. The senior BMR units can remain within Buildings 1 and 2. This provides a variety of affordable housing opportunities for those in need and still keeps all the senior housing units together.

All the applicant letters that lobby in favor of Waiver #3 describe this project as if it is a senior housing BMR project. This project IS NOT entirely a senior housing project because it also has the townhouses and rowhouses which are regular non-age restricted market rate units. If this project were entirely a senior citizen housing development then under Section 19.56.B it would only be allowed a max density of 20%. Also, under Section 19.56.040.A.1, no incentives or concessions would be available for a senior housing project unless it was affordable.

So, there is no reason why the BMR units should be restricted to Buildings 1 and 2! **This request should be denied.**

ISSUE #2: BMR units should be identical in design as market rate units

There is an additional requirement in our Municipal Code that these affordable units "shall be identical with the design of any market rate rental units" (Section 19.56.050.G.2).

Looking at the size of the units in this project (see chart below), it is obvious that this project DOES NOT MEET General Requirement 19.56.050.G.2 Not addressing this requirement sets a precedent for ALL FUTURE PROJECTS to essentially nullify the requirement. It is part of our Municipal Code which requires that projects follow it!

In addition, it appears Buildings 1 and 2 will be built by different developers. The BMR studio and 1-bedroom units in Building 2 will not be “identical with the design” of market rate studio and 1-bedroom units in Building 1. Also, in Building 1, it’s unclear which exact units are BMR and which are market rate. There should be a similar proportion of the various sized units that are BMR and market rate. The distribution of BMR units in Building 1 should not all be studio units dispersed throughout the building! It should be a variety of unit sizes dispersed throughout the project!

REQUEST: The applicant needs to provide proof that this requirement has been met or submit a request for a 4th waiver!

Sincerely,
Peggy Griffin

SUPPORTING INFORMATION...

MUNICIPAL CODE - DENSITY BONUS LAW

Section 19.56.050 General Requirements

G. Affordable units shall be provided as follows:

1. Affordable units shall be dispersed throughout the project;
2. Affordable units shall be identical with the design of any market rate rental units in the project with the exception that a reduction of interior amenities for affordable units will be permitted upon prior approval by the City Council as necessary to retain project affordability.

FROM PC AGENDA ITEM #2, ATTACHMENT 8 – Project Description

ATTACHMENT A
Westport Cupertino
Enhanced Senior and Family Living Project

Table 1: Residential Product Mix/Size

	# of Units	# of Bedrooms	# of Bathrooms	Gross Square Feet (GSF)	SF Garage	Total GSF (GSF+SF Garage)
Townhouse	26	3	2.5	2468	530	2998
	44	3	3	1760	597	2357
Rowhouse	6	3	2.5	2028	660	2688
	12	3	3	1698	529	2227
Building 1 - Senior Housing	27	Memory Care Units (LG)	1	282-306		
	25	Studio	1	340-590		
	82	1	1	518-1000		
	33	2	2	1000-1200		
Building 2 - Senior Housing	18	Studio	1	500-595		
	21	1	1	624-948		

FROM ATTACHMENT 9 – Below Market Rate Project Description, Page 1 of 7

Building 1 is a 167-unit, senior living facility. Nine of the affordable units will be offered as a part of the project and be distributed throughout the building. The size of the project allows for larger, top tier, senior living management firms to be interested in operating the project.

Building 2 is a 39-unit senior living facility. It would be constructed and managed by BRIDGE Housing or an affordable housing developer with comparable senior living experience and the expertise necessary to obtain the requisite tax credit allocation and secure construction and permanent financing.

FROM STAFF REPORT, Page 19

Figure 5 Project Comparison

Project Comparison		
	Originally Proposed Project	Senior Enhanced Alternative Proposed Project
Total Unit Count	242	294
Town Houses/ Row Houses	88	88 (No Change)
Units in Building 1	115 Market Rate Condominiums	167 Senior Apartments, including 27 memory care units and 9 Below Market Rate Units
Units in Building 2	39 Below Market Rate Units	39 Below Market Rate Units (No Change)
Total Below Market Rate Units - Project Wide	39	48 (9 dispersed throughout Building 1)
Waivers Requested	Height waivers for Buildings 1 & 2	No Change
	Slope Setback waivers for Buildings 1 & 2	
	Affordable Unit Dispersion	

Beth Ebben

From: Peggy Griffin <griffin@compuserve.com>
Sent: Tuesday, May 12, 2020 1:21 PM
To: City of Cupertino Planning Commission; City Council
Cc: City Clerk
Subject: Fwd: Oaks/Westport Building 1 and 2 Parking questions

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 information as written communication for tonight's May 12, 2020 Planning Commission meeting, Agenda Item #2 - The Oaks/Westport project

Thank you,
Peggy Griffin

Begin forwarded message:

From: Gian Martire <GianM@cupertino.org>
Date: May 12, 2020 at 8:17:33 AM PDT
To: Peggy Griffin <Griffin@Compuserve.com>
Subject: RE: Oaks/Westport Building 1 and 2 Parking questions

Hi Peggy,

The correct number is 101, and is identified as such on the plan sheets. Chapter 19.56 does not have a parking standard for visitor or staff parking. Truthfully, none of the City's parking standards include these provisions in any of the residential parking requirements. The Senior Enhanced option is providing less parking in comparison (455) to the prior development (524).



Gian Martire

Senior Planner
Planning Division
GianM@cupertino.org
(408) 777-3319



From: Peggy Griffin <griffin@compuserve.com>
Sent: Tuesday, May 12, 2020 4:14 AM
To: Gian Martire <GianM@cupertino.org>
Cc: City Clerk <CityClerk@cupertino.org>; City of Cupertino Planning Commission <PlanningCommission@cupertino.org>; City Council <CityCouncil@cupertino.org>
Subject: Oaks/Westport Building 1 and 2 Parking questions

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 Gian,

I've been going through the Oaks/Westport documents and found a discrepancy on the number of parking stalls for Building 1.

Attachment 9 – Below Market Rate Project Description
Page 6 of 7, paragraph 2, second sentence
Building 1 will have 100 parking stalls

Attachment 8 – Project Description
Page 10 of 11, Table 2: Vehicle Parking
Building 1 will have 101 parking spaces

BUT

Staff Report
Page 17 of 23, Figure 4 Parking
Building 1 will have 101 parking stalls

Q1: Which is it, 101 or 100 for Building 1 parking stalls?

Q2: Do the plans show the correct number is 101 for Building 1?

Q3: Are there any requirements for visitor and employee parking? There's no visitor or employee parking for Buildings 1 and 2 (206 units). The memory care unit must have employees. Seniors will have visitors! Where will these people park?

Q4: When the developer increased the number of units from 252 to 294 (52 additional units), did he increase the number of total parking spaces or did they just get reallocated away from other uses?

Thank you,
Peggy Griffin

Beth Ebben

From: Jennifer Griffin <grenna5000@yahoo.com>
Sent: Tuesday, May 12, 2020 7:57 AM
To: City Council
Cc: City of Cupertino Planning Commission; City Clerk; grenna5000@yahoo.com
Subject: Heart of the City Exceptions

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:

Why is any developer trying to get a Heart of the City exception along Stevens Creek Blv? Heart of the City is not part of any Housing Bill and is unique to Cupertino. It is a city designated public right of way setback of 35 feet along Stevens Creek Blvd. It runs from the eastern end of Cupertino to the western end of Cupertino along both sides of Stevens Creek Blvd.

To think that it is anything else or varies from the thirty five feet public right of way setback is against the city rule of Heart of the City that dates back to the 1990s.

Heart of the City is as much a part of Cupertino as De Anza College or our City Charter.

There are people or things that want to take our City Charter from us, but Heart of the City is Cupertino's "by right", just as our City Charter is ours "by right".

Sincerely,

Jennifer Griffin

Beth Ebben

From: Jennifer Griffin <grenna5000@yahoo.com>
Sent: Tuesday, May 12, 2020 1:45 PM
To: City of Cupertino Planning Commission; City Clerk
Cc: City Council; grenna5000@yahoo.com
Subject: Heart of the City Setback and Number of Trees Being Removed in West Port

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 Planning Commission,

Could you please have the proposed setback along Stevens Creek Blvd. of the West Port project be discussed at the Planning Commission meeting. How many feet are they asking for the deviation from the Heart of the City? There should be a full 35 foot setback in the frontage along Stevens Creek Blvd. This is the western entrance and there should be no reduction in the 35 foot setback.

How many trees are being removed? There are mature oaks on this site and it looks like from the plans that all the trees are being removed. This site is named The Oaks and has many oak trees as well as replanted oak trees. Why are we removing the oak trees and are the buildings being placed so close to the existing trees that the trees will not continue to be able to grow with conflicting with the buildings?

The height of the project is very tall. Are there any second story or upper story setbacks building setbacks along Stevens Creek Blvd? That is why we have Heart of the City so that everything along the frontage of Stevens Creek Blvd. does not appear as a giant vertical wall.

Is this project taking away the parking on Mary Avenue adjacent to The Oaks/West Port. This on-street parking is used by the Senior Center and the people going to Memorial Park. Every project in the past 15 years (and there have been at least ten) on this shopping center site has tried to take the on-street parking away. The on-street parking should not be given away with this project. All the traffic on this site should be parked on the site.

This site has very little retail. Why are we getting rid of retail on this site? If you have more housing, you need more retail. There is only 2,000 square feet of retail proposed. How much retail are we getting rid of? Remember we have shoppers from Los Altos and De Anza College and people who come down 85 and 280 to shop from other cities.

This is one of the reasons that Capitola Shopping Center in Capitola is retaining retail in their mall. The city of Capitola realizes that their mall is one of the only shopping centers for 15 miles north and south. Their mall is a destination area for people who need to shop.

The Oaks/West Port is a shopping area for Western Cupertino, Los Altos, Sunnyvale and parts of Santa Clara and West San Jose. There is also a large population of apartment dwellers as well as homeowners who live adjacent to the shopping center.

It is hoped that these questions can be addressed at the Planning Commission teleconference.

Thank you.

Sincerely,

Beth Ebben

From: Luke Lang <lukelang@yahoo.com>
Sent: Tuesday, May 12, 2020 3:41 PM
To: City of Cupertino Planning Dept.; Gian Martire; City Attorney's Office; City Clerk; City Council; Cupertino City Manager's Office
Subject: 5/12/20 Planning Commission - item 2 oral communication
Attachments: Westport density bonus 2.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 add this email and the attached slides to the written communications for tonight's meeting. I will be speaking to the slides during oral communication. Please show the slides during my oral communication.

1) Based on SF Planning Commission's study, the non-BMR portion of the Westport development does not fit in the General Plan envelope. Therefore, it does not qualify for density bonus waiver. I presented this to the Planning Commission on 2/11/20 and again to the City Council on 5/5/20. As of 5/5/20, the City Manager and Staff did not have any information to deny this. The density bonus waiver cannot be approved unless the SF Planning Commission study can be proven false.

2) The Westport proposal has also stacked the density bonus entirely on Parcel B. This results in excessive height and lack of setback. This is inappropriate. The Planning Commission cannot allow this.

3) There are less damaging waivers possible to allow this development to be constructed. And this is confirmed in the architectural review of attachment 13. The Planning Commission must explore the alternatives.

Thanks,
Luke Lang
Cupertino resident

Density Bonus Waiver does not
mean **UNLIMITED HEIGHT 2**

Westport does not qualify for waiver

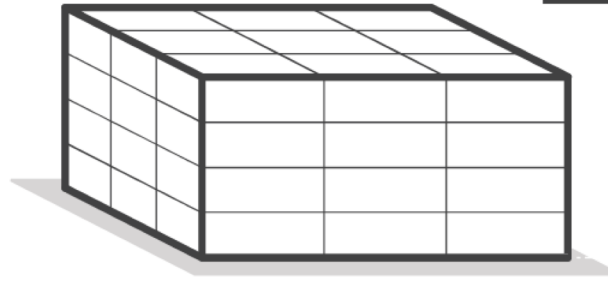
- First presented to the Cupertino Planning Commission on Feb 11th, 2020.
- Requested an update at May 5th, 2020 City Council meeting (Oral Communications)
 - City Manager and Staff did not have any information to deny this.
- SF Planning Commission - State Density Bonus Law Overview
 - [https://sfcontroller.org/sites/default/files/Inclusionary%20Housing%20Committee/State Density Bonus Law Overview of Onsite Program circulate optimized.pdf](https://sfcontroller.org/sites/default/files/Inclusionary%20Housing%20Committee/State%20Density%20Bonus%20Law%20Overview%20of%20Onsite%20Program%20circulate%20optimized.pdf)
 - Page 12

WAIVERS, MAY REQUIRE ADDITIONAL VOLUME



Building Envelope

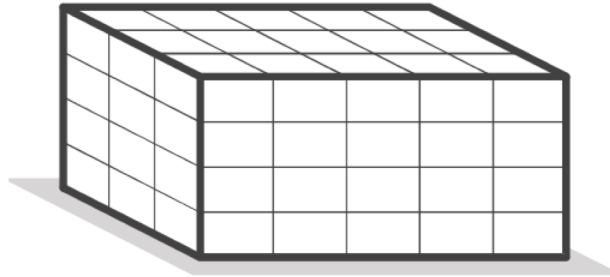
MAX DEVELOPMENT POTENTIAL



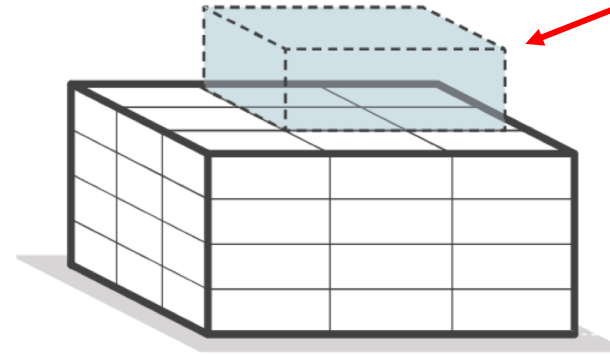
Zoning Parcel

Non-BMR development must fit within the General Plan envelope.

BMR development can request waiver to exceed the General Plan envelope.



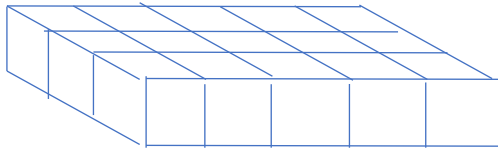
DENSITY BONUS - WITHIN ENVELOPE



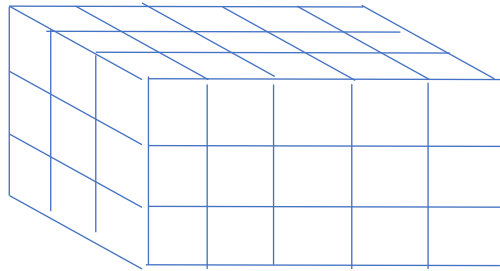
DENSITY BONUS - HEIGHT

Westport's 2 Parcels

Density
bonus



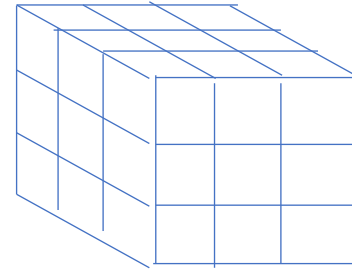
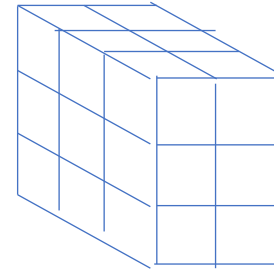
General
Plan
envelope



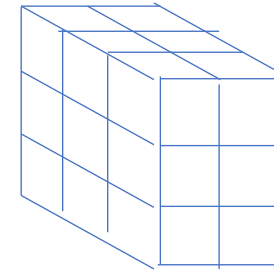
Single development



Excessive
height



Parcel A



Parcel B

Alternative waiver is very possible

- CMC 19.56.040.B.1 – An applicant may submit to the City a proposal for the waiver or reduction of development standards that will have the effect of physically precluding the construction of a housing development meeting the criteria outlined in Section 19.56.020 at the densities or with the concessions or incentives permitted under this chapter.
- Attachment 13 architectural review
 - “requiring the project to comply with the development standards would physically preclude the project **as proposed** ...”
 - “... although the development could meet the height and setback requirements, the applicant would require a waiver for the common space requirement as well as a reduction in the size of the units.”

Beth Ebben

From: Munisekar <msekar@gmail.com>
Sent: Tuesday, May 12, 2020 9:39 PM
To: City of Cupertino Planning Dept.; Gian Martire; City Attorney's Office; City Clerk; City Council; Cupertino City Manager's Office
Subject: My Comments on OAKS proposal 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.

My name is Muni Madhhipatla, resident of Cupertino. I am speaking for myself only. Not representing any organization.

I have one comment, one recommendation and one question.

Comment: I appreciate and applaud the developer coming up with housing and retail only development compared to their previous attempts of trying to get office space; that would have exacerbated the housing situation further. I also like the mix of the housing units as for sale units, BMR and Senior & Memory Care units.

Question: Looks like the developer is creating 2 parcels, using both parcels to get density bonus, applying all of the density on one parcel. What prevents the developer from building the high density parcel and selling the low density parcel for some else to comeback with new development proposal with new density bonus for that parcel?

Recommendation: I don't believe 91 feet tall buildings belong in Cupertino; if the General Plan allows for 45 feet tall buildings, I can see allowing for 60 feet as concession. Going to 91 feet is 100% increase; not 35% increase. I recommend to reject this proposal and work with the developer to come up with proposals with 60 feet max.

Regards
Muni Madhhipatla
Cupertino Resident

Beth Ebben

From: Gerhard Eschelbeck <gerhard@eschelbeck.com>
Sent: Sunday, May 10, 2020 2:10 PM
To: City of Cupertino Planning Commission
Cc: City Council; Deborah L. Feng
Subject: Oaks redevelopment and bicycle / pedestrian infrastructure

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.

Written Communication/Public Comment Agenda Item 2 Oaks Redevelopment

Dear Members of the Cupertino Planning Commission,

I am a resident of Cupertino and also the chair of the Cupertino Bicycle-Pedestrian Commission. I am writing this comment solely as a resident of Cupertino.

The redevelopment of a large parcel such as the Oaks project is a unique opportunity to consider bicycle and pedestrian facilities. In particular, a safe connection between Mary and Stevens Creek Blvd for bicycle and pedestrians is a critically important need.

An earlier version of the redevelopment plans submitted proposed a dedicated bicycle / pedestrian trail connection between Mary and Stevens Creek Blvd on the far west side of the parcel, which would be a safe and dedicated connection for bicycle and pedestrian traffic. The latest version of plans seem to no longer consider such bicycle and pedestrian facility, but possibly a shared use facility more to the center of the parcel.

I strongly recommend to reconsider the originally proposed dedicated and safe bicycle and pedestrian path. This is especially important at a time where Cupertino is making significant investment in bicycle and pedestrian infrastructure throughout the city. The lack of a dedicated bicycle / pedestrian connectivity on the property is a big miss that will impact Cupertino for many years to come. I appreciate the work the property owner has done on planning the redevelopment, and encourage the Planning Commission to review the proposed project keeping such dedicated bicycle pedestrian facility in mind .

Thanks,
Gerhard Eschelbeck.

Beth Ebben

From: Peggy Griffin <griffin@compuserve.com>
Sent: Tuesday, May 12, 2020 4:14 AM
To: Gian Martire
Cc: City Clerk; City of Cupertino Planning Commission; City Council
Subject: Oaks/Westport Building 1 and 2 Parking questions

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 Gian,

I've been going through the Oaks/Westport documents and found a discrepancy on the number of parking stalls for Building 1.

Attachment 9 – Below Market Rate Project Description
Page 6 of 7, paragraph 2, second sentence
Building 1 will have 100 parking stalls

Attachment 8 – Project Description
Page 10 of 11, Table 2: Vehicle Parking
Building 1 will have 101 parking spaces

BUT

Staff Report
Page 17 of 23, Figure 4 Parking
Building 1 will have 101 parking stalls

Q1: Which is it, 101 or 100 for Building 1 parking stalls?

Q2: Do the plans show the correct number is 101 for Building 1?

Q3: Are there any requirements for visitor and employee parking? There's no visitor or employee parking for Buildings 1 and 2 (206 units). The memory care unit must have employees. Seniors will have visitors! Where will these people park?

Q4: When the developer increased the number of units from 252 to 294 (52 additional units), did he increase the number of total parking spaces or did they just get reallocated away from other uses?

Thank you,
Peggy Griffin

Beth Ebben

From: Munisekar <msekar@gmail.com>
Sent: Tuesday, May 12, 2020 4:00 PM
To: City of Cupertino Planning Dept.; Gian Martire; City Attorney's Office; City Clerk; City Council; Cupertino City Manager's Office
Subject: OAKS/Westport 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 Planning Commission,

As a resident vested in this community, I am really concerned about how this development is trying to circumvent the general plan. If every developer is going to find ways to circumvent the general plan, why have one?

Please reign-in this development to stay within the envelope of our general plan. As it is, we have traffic nightmare and over crowded schools. We don't need to aggravate this further.

I am supportive of a residential development that stays within the general plan envelope; any deviations will face severe objections from residents like me.

Please record this as part of Oral Communications; I will try to join the meeting.

Regards
Muni Madhhipatla
Cupertino Resident.

Beth Ebben

From: Peggy Griffin <griffin@compuserve.com>
Sent: Tuesday, May 12, 2020 6:55 AM
To: Gian Martire
Cc: City Clerk; City of Cupertino Planning Commission
Subject: Oaks/Westport parcel changes?
Attachments: Parcel Map for Oaks from SCCAssessor.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.

Hi Gian,

I'm trying to figure out if the Oaks project parcels will be changed and if so, how. I don't see any discussion regarding any change except it was mentioned, I think, in one of the documents.

Currently, on the SCC Tax Assessor's Map of the Oaks consists of 2 parcels (see attached PDF):

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1 parcel = 4.7 acres

1 parcel = 3.1 acres

Q: Can you point me to a place that shows these new parcels and the discussion as to why this is being done?

Thanks,
Peggy

Beth Ebben

From: Peggy Griffin <griffin@compuserve.com>
Sent: Monday, May 11, 2020 5:38 PM
To: Gian Martire
Cc: City Clerk; City of Cupertino Planning Commission
Subject: Oaks/Westport Tentative Map - TM-2018-03

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 Gian,

This is a stupid question but I can't find the Tentative Map for the Oaks/Westport. I find reference to TM-2018-03 but no document.

I've searched the city website and only find references, although I have not spent hours looking.

REQUEST: Would you please post or send me this Tentative Map please that matches what's being reviewed tomorrow 5/12/2020?

Thank you,
Peggy Griffin



AGE FRIENDLY CUPERTINO

Richard Adler

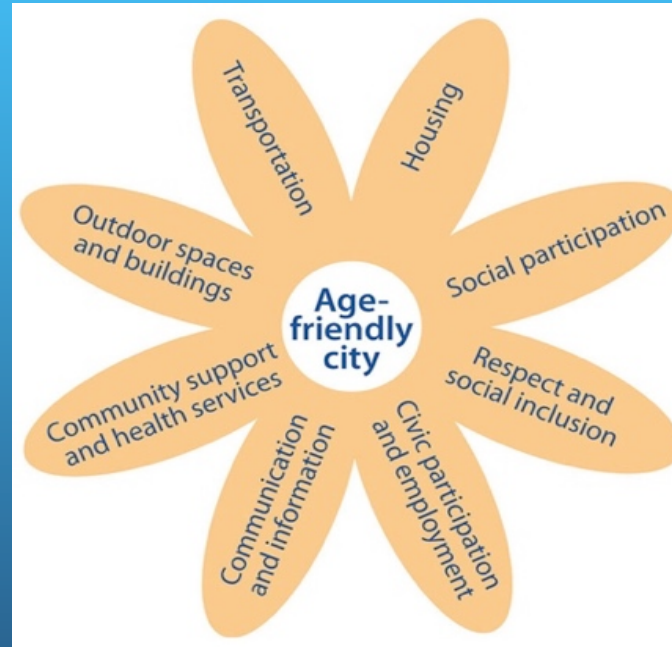
Cupertino Planning Commission

May 12, 2020

January 2018

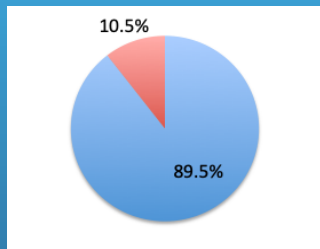


**AGE FRIENDLY
CUPERTINO**

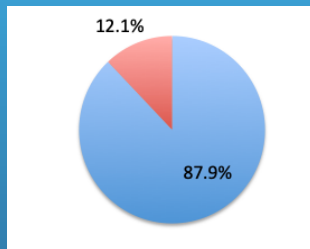


**AGE FRIENDLY
CUPERTINO**

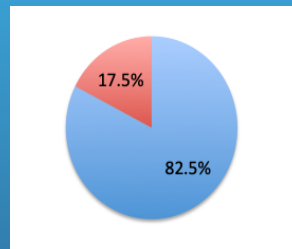
Cupertino Population by Age, 2005-2025



2005



2015



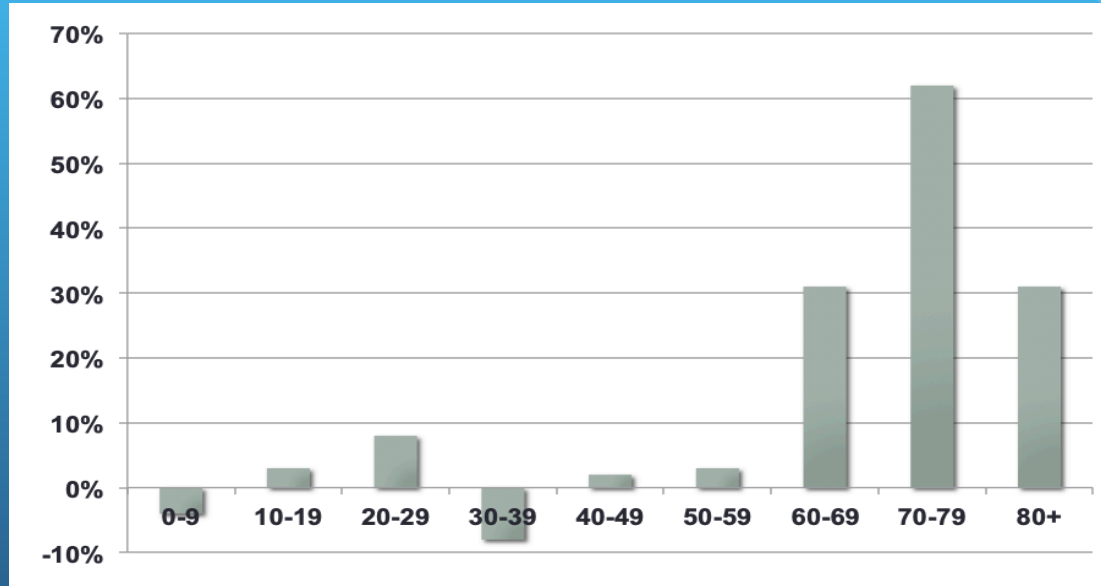
2025

■ Ages 0-64
■ Age 65+



**AGE FRIENDLY
CUPERTINO**

Population Growth By Age, 2015-2025



AGE FRIENDLY
CUPERTINO

Top Concerns for Older Cupertinoians

(Survey done by Age Friendly Silicon Valley)

#1: Housing

- Availability of housing appropriate for older adults
- Economics and affordability

Beth Ebben

From: Dave Stearns <stearnsdave@yahoo.com>
Sent: Tuesday, May 12, 2020 11:33 AM
To: City of Cupertino Planning Dept.; City Clerk
Cc: Richard Adler; Minh Le; Jean Bedord; Henry Sang
Subject: Re: Comments for 5/12/2020 planning commission 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.

Hi Beth -- I too would like to do a 3 min comment re WestPort. No PPT but here is a list of my main points.

- ** Resident and property owner in Cupertino since 1977. Age 73.
- ** In favor of more senior housing in the city.
- ** the appropriateness of the site at The Oaks.
- ** Downsized and move to The Forum at Rancho San Antonio, a life care community.
- ** WestPort as proposed would be similar -- it would have independent living and memory care, but not skilled nursing.
- ** Aging in place is a great idea right up until it isn't.
- ** Demographic of Cupertino is changing, slanting to more seniors and fewer school age children.

Dave Stearns stearnsdave@yahoo.com
Resident since 1977
Age Friendly Task Force
The Forum at Rancho San Antonio, resident and past RHC director
Forum Health Fund, director
Rotary Club of Cupertino, Past Pres.
408-667-6334 cell/text

On Tuesday, May 12, 2020, 10:01:35 AM PDT, Henry Sang <henry_sang@sbcglobal.net> wrote:

Beth,

Please find attached materials that I would like to be shown during the comment section for the Westport project. I am requesting a 3min comment and would like these shown during my comment. I will be speaking in the context of the Age Friendly Cupertino Task Force.

Ideally, it would be given some time after Richard Adler's comment. He will update the Commission on the Age Friendly Cupertino Task Force and our mission to advocate for the seniors of Cupertino.

Please let me know if you have difficulties with the materials. I provided PDF to make it easier but can supply PPT if needed. You can reach me on my cell by voice or text.

Sincerely,
Henry Woo Sang, Jr.
Resident since 1987
Age Friendly Cupertino Task Force
(cell for texting) +1.408.821.5152

HSang@alum.mit.edu

Beth Ebben

From: Peggy Griffin <griffin@compuserve.com>
Sent: Tuesday, May 12, 2020 3:33 PM
To: Gian Martire
Cc: City Clerk; City of Cupertino Planning Commission; City Council; City Attorney's Office
Subject: RE: Oaks/Westport parcel changes? IMPORTANT questions (to me)

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.

Editing correction on Q4...
Peggy

From: Peggy Griffin <griffin@compuserve.com>
Sent: Tuesday, May 12, 2020 3:25 PM
To: 'Gian Martire' <GianM@cupertino.org>
Cc: 'City Clerk' <CityClerk@cupertino.org>; PlanningCommission@cupertino.org; 'City Council' <CityCouncil@cupertino.org>; City Attorney's Office <CityAttorney@cupertino.org>
Subject: RE: Oaks/Westport parcel changes? IMPORTANT questions (to me)

CITY CLERK: Please include this email in the written communications for tonight's May 12, 2020 Planning Commission meeting, Agenda Item #2, The Oaks/Westport project.

Gian,

I've added others on this email because I'm afraid you may not have time to answer these questions and I want them to think about this.

I'm hoping you have time to answer these questions because this is my fear...regarding this project.

Q1: Is there anything in our municipal code or somewhere else to prevent them from doing the following:

- Get the bonus density across both parcels
- Build the parcel with the senior housing and all the bonus density and BMR.
- Sell the second parcel undeveloped
- Second developer comes in, decides they want to build something else.
- Second developer requests a bonus density on just the second parcel

Q2: (IMPORTANT) Because they only want to restrict the BMR to the one parcel, can the City require them to only get a bonus density on that one parcel?

Q3: Can the City prevent them from double dipping on the bonus density via selling the second parcel?

Q4: If the height and setback waivers are granted for the project, does it apply to BOTH parcels? Can the second parcel be sold and the new owner claim these waivers to request a different **project [not parcel]**?

Thank you for your time and effort on this project.

Peggy

From: Gian Martire <GianM@cupertino.org>
Sent: Tuesday, May 12, 2020 8:33 AM
To: Peggy Griffin <griffin@compuserve.com>
Subject: RE: Oaks/Westport parcel changes?

Hi Peggy,

Sheet VTM-1 shows the new property lines. This separates the project between the senior housing component and the Rowhouse/Townhome component. Further, the VTM shows the required dedications to the City, street improvement locations, as well as Bike/Ped easements through the site.



Gian Martire

Senior Planner
Planning Division
GianM@cupertino.org
(408) 777-3319



From: Peggy Griffin <griffin@compuserve.com>
Sent: Tuesday, May 12, 2020 6:55 AM
To: Gian Martire <GianM@cupertino.org>
Cc: City Clerk <CityClerk@cupertino.org>; City of Cupertino Planning Commission <PlanningCommission@cupertino.org>
Subject: Oaks/Westport parcel changes?

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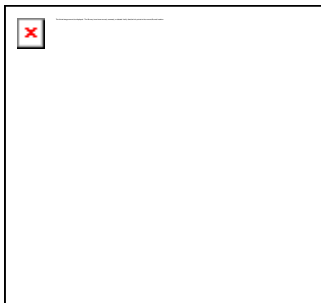
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To: Gian Martire
Cc: City of Cupertino Planning Commission; City Council; City Clerk
Subject: Re: Oaks/Westport parcel changes?

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Hi Gian,

Thank you again. I've added the PC and CC just so they have this info.

CityClerk: Please add this to the written information for the May 12, 2020 Planning Commission meeting, Agenda Item #2, The Oaks/Westport project.

Peggy

On May 12, 2020, at 8:32 AM, Gian Martire <GianM@cupertino.org> wrote:

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Gian Martire

Senior Planner
Planning Division
GianM@cupertino.org
(408) 777-3319

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Thanks,
Peggy

The Status of Cupertino Seniors



Age Friendly Cupertino Task Force

Richard Adler

Minh Le

Henry Sang

August 2019

The Status of Cupertino Seniors

Table of Contents

INTRODUCTION	1
EXECUTIVE SUMMARY	2
I. CUPERTINO’S SENIOR DEMOGRAPHICS	4
II. SENIOR HOUSING	13
IV. TRANSPORTATION	20
III. SOCIAL SERVICES	28
V. EDUCATION FOR SENIORS	38
VI. CAREGIVING	46
VII. SENIORS AND TECHNOLOGY	50
APPENDIX: Age Friendly Survey 2016 – Cupertino Results	54

INTRODUCTION

This is the first report of the Cupertino Age Friendly Task Force. It provides an overview of Cupertino's current and projected senior population and describes some of the key resources and services that support them. The report begins with a summary of the demographics of the city's older population, and provides data showing that this population will increase substantially by 2025. The following sections provide information about housing, transportation, social services, education, caregiving, and technology.

Age Friendly Cupertino

In 2017-18, a task force of Cupertino residents joined similar groups in other communities in Santa Clara County to seek to be officially designated as an "Age Friendly city" by the World Health Organization (WHO). What this designation means is not that the city has fully realized the goal of becoming Age Friendly, but that has committed itself to working toward becoming a better place for its residents to age.

WHO identifies eight different "domains" that determine a community's age-friendliness. These include aspects of the physical environment, services provided by the community, and social support for older residents.



As of 2019, all 15 cities in Santa Clara County, under the leadership of the county's Department of Aging and Adult Services, have been officially recognized by WHO as Age Friendly and are working together to create an Age Friendly Silicon Valley.

This report is intended to provide a baseline on the status of older adults in Cupertino and to provide data that will be useful in planning new initiatives. Where possible, we have provided data that is directly relevant to this community. Where city-level data is not available, we have used regional or national data that we believe can be translated to our local environment.

For more information on the county-wide effort, see www.agefriendlysiliconvalley.org. For more about the city's initiative, please contact the chair of the Cupertino Age Friendly Task Force, Richard Adler, radler@digiplaces.com, 650-968-9975.

The Status of Cupertino Seniors

EXECUTIVE SUMMARY

DEMOGRAPHICS

- There are currently about 7,000 residents age 65 and older living in Cupertino, who represent 12% of the city's population. But older adults are the fastest growing age group in the community, and are projected to reach 17.5% of the population by 2025.
- Americans – and Cupertino residents – are living longer. Life expectancy is currently 77 for men and 81 for women and is increasing steadily. Also increasing is life expectancy at age 65, now 17.1 years for men and 19.7 years for women.
- Cupertino's older residents are ethnically diverse: 41% are Asian while 57% are Caucasian. Of the 65+ population, 27% "speak English less than very well," higher than the 18% of the total population who do not speak English very well.
- Average household income for those over 65 is \$66,274, higher than for Santa Clara County (\$60,416), but substantially lower than the average for all Cupertino households (\$153,449). Approximately 7% of Cupertino seniors have incomes below the federal poverty level.
- Many Americans are working later in life: The labor force participation rate for adults age 55 and older increased from 30% in 1994 to 40% in 2014. Over the next decade, the growth rate in labor force participation for those age 65 and older will increase more rapidly than any other age group.
- Although Americans are staying healthy later in life, the prevalence of chronic disease and the rate of disability increase steadily with age. As a result, older adults account for the largest proportion of total health care spending.

SENIOR HOUSING

- Approximately one-fifth of Cupertino's households were occupied by seniors. Just over 80% of these homes are owned by the occupants, higher than the 58% ownership rate for younger residents.
- Some 43% of Cupertino's seniors live alone, more than twice the rate of the total population (18.4%).
- Most adults express a desire to continue living in their homes as they age. However, several types of housing designed for older adults – including independent and assisted living and skilled nursing facilities – are available in and near Cupertino.

SOCIAL SERVICES

- A number of organizations and programs offer a variety of social services for Cupertino seniors.
- Key resources include the Cupertino Senior Center, Sourcewise (the Santa Clara County Area Agency on Aging), West Valley Community Services and In-Home Supportive Services.

TRANSPORTATION

- A majority of Cupertino's seniors, like the rest of the community, rely on driving their own vehicles to get around. In a national survey, only 15% of people over 50 report using public transit.
- But as they get older, many seniors will lose the ability to drive and will become dependent on alternative modes of transportation. Among those over 85, just 55% of men and 22% of women are still driving.
- A number of organizations offer programs to help older adults to drive safely.
- VTA, which provides bus service in Cupertino and in the county, has programs to support older riders and operates a Paratransit service for disabled residents.
- The R.Y.D.E. program in Cupertino (and four nearby cities), started in 2017, is a subsidized, on-demand curb-to-curb ride service for adults 55+ sponsored by Santa Clara County.
- Ride services used by seniors are also offered by commercial companies that include Uber and Lyft, as well as a specialized service called SilverRide. A number of companies provide transportation for medical purposes.

EDUCATIONAL RESOURCES

- Studies have shown that participating in educational activities offers multiple benefits for older adults.
- Educational resources available to Cupertino's older adults include classes at the Senior Center as well as courses and other programs at the YMCA, the Fremont Union High School District Adult School, the Cupertino Library, the Osher Lifelong Learning Institute (OLLI) at Santa Clara University, and Stanford University.

CAREGIVING

- As people get older, they develop chronic diseases or become frail and require help to continue to live independently. The great majority of this help is unpaid, "informal" caregiving provided by a family member or a friend. A 2015 survey found that 43.5 million Americans provided unpaid care to friends or family members.
- The most common type of caregiving is for a parent (42%), while 7% care for a parent-in-law and 12% care for a spouse or partner. Nearly half (47%) of care recipients are age 75 or older. More than one-third (37%) of care recipients live alone.
- Nationally, 75% of caregivers live within 20 minutes of care recipients, but 15% are "long distance caregivers" who live several hundred miles away. The high cost of housing can make it difficult for both unpaid and paid caregivers to live near Cupertino residents needing care.

SENIORS AND TECHNOLOGY

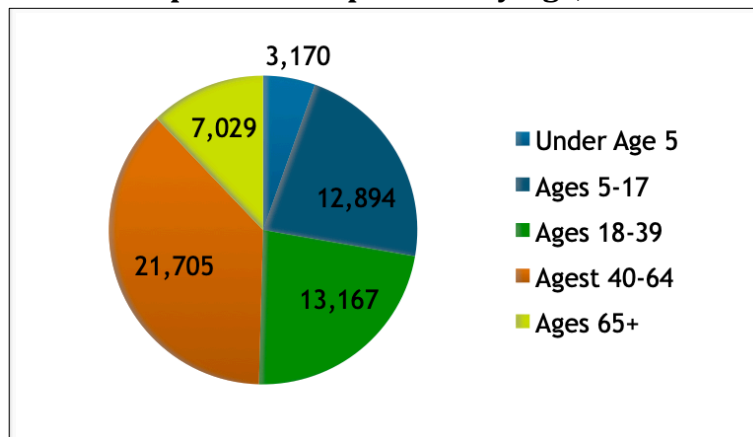
- Although many older adults have learned to use digital technologies such as computers and smartphones, seniors' tech adoption rate continues to lag behind that of younger people, creating a persistent digital divide.
- As more and more of the important functions of society move online, seniors who are not tech literate run the risk of being left behind.

I. CUPERTINO'S SENIOR DEMOGRAPHICS

Population

As of 2019, approximately 7,000 Cupertino's residents –12% of the city's total population of 58,000 – are age 65 and above (see Figure 1.2).¹ This is a substantial part of the population, and it is growing rapidly.

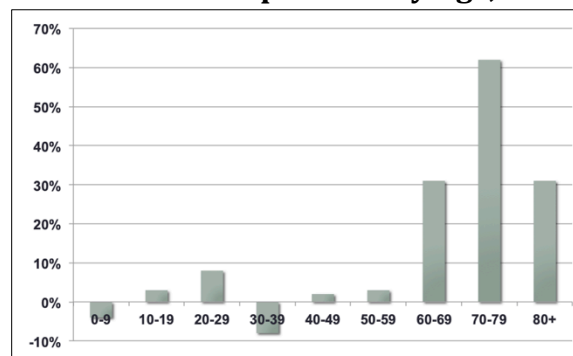
FIGURE 1.1
Cupertino's Population by Age, 2019



<https://suburbanstats.org/population/california/how-many-people-live-in-cupertino>

Going forward, mature adults is the age group that is increasing most rapidly in Santa Clara County. Data show that while younger age groups will grow slightly if at all, the 65+ age group will increase substantially (see Figure 1.2).

FIGURE 1.2
Change in Santa Clara Population by Age, 2015-2025

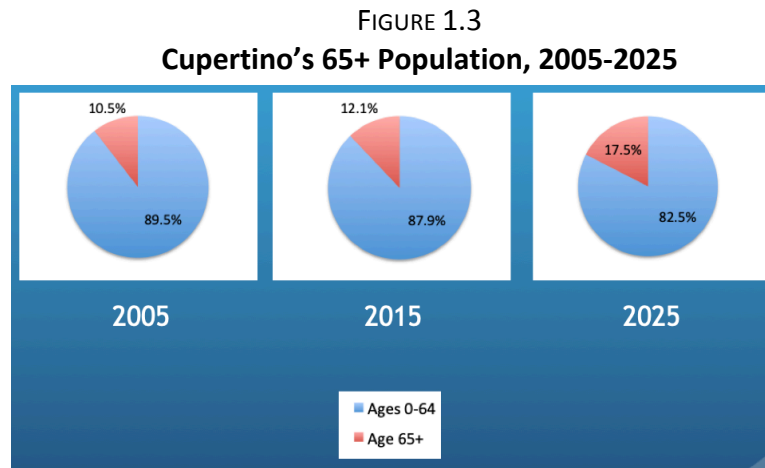


The same pattern holds true for Cupertino. According to a 2016 analysis of the city's demographics:

2020 projections show that children, as a category, will decrease by 5.7% to 21.7%, with children age 5 to 14 declining the most sharply, to 11.4%. Adults age 35 to 44 will decrease from 18.2% to 11.3%, suggesting an aging population. Meanwhile,

Mature Adults and Retirement Age adults will increase, to 32.1% and 14.9% of the population, respectively.²

In the decade from 2005 and 2015, the portion of Cupertino's population aged 65 and older increased from 10.5% to 12.1%, and by 2025, the 65+ population is forecast to grow to 17.5% of the total population (see Figure 1.3).



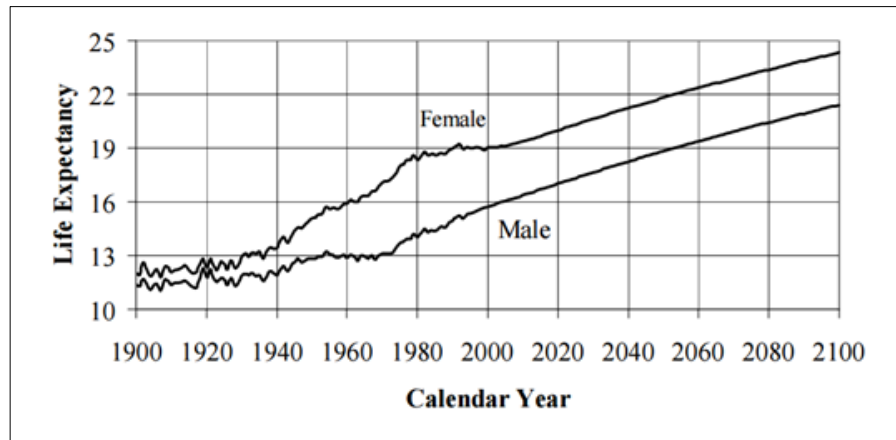
The New Longevity

There are two reasons for the increase in the number of older adults. First is the aging of the Baby Boomers, that large cohort of 73 million Americans who were born following World War II, from 1946 to 1964, and who are now ages 55 to 73.

The second reason is the overall increase in longevity, which means that many more people are reaching later life and living longer when they reach it. In the 20th century, average life expectancy at birth for Americans increased from 47 to 74 years, and today is 77 for men and 81 for women. If these increases continue, the average life expectancy at birth for Americans could reach 100 by 2080. The reality of longer lives has important implications for everything from public policy and economics to health care to retirement planning.³

Life expectancy at age 65 has also increased, rising from 11.3 years for men and 12.0 years for women in 1900 to 17.1 years for men and 19.7 years for women today. And this increase is expected to continue throughout the 21st Century (see Figure 1.4).⁴

FIGURE 1.4
Life Expectancy at Age 65, 1900-2100

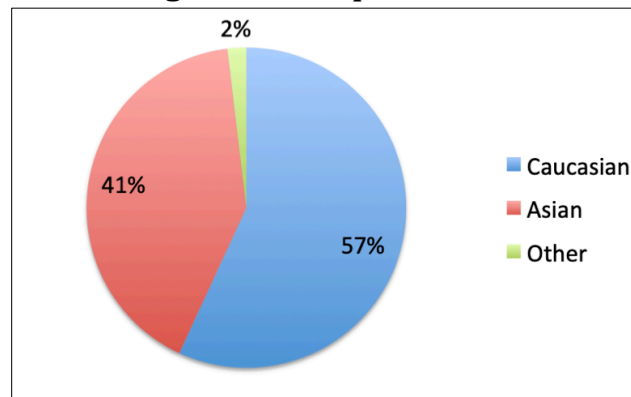


<http://longevityreporter.org/blog/2016/6/6/the-longevity-dividend-the-economic-advantages-of-geroprotective-treatments>

Ethnic Background of Cupertino's Older Adults

Like the community as a whole, Cupertino's older population is quite ethnically diverse. Approximately two-fifths of the city's 65+ population is Asian, while almost three-fifths is Caucasian (see Figure 1.5).⁵ The percentage of seniors who are Asian is currently lower than for the city's total population (66%), but over time the portion of seniors that is Asian will increase to more closely match the ethnic composition of the city's whole population.

FIGURE 1.5
Ethnic Background of Cupertino's Seniors, 2019

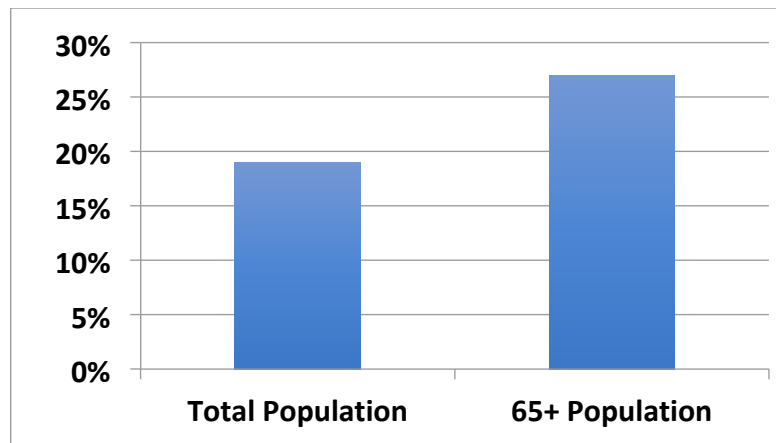


<https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=CF>

Among Cupertino's older residents, about half (51%) are native born and half (49%) are foreign born. Of the foreign-born seniors, 80% are naturalized citizens, while 20% are not citizens.

Even though the percentage of Cupertino seniors who are non-natives is smaller than the portion of the general population, more of them report that “they do not have the ability to speak English very well” (see Figure 1.4). Because many of Cupertino’s non-Caucasian seniors were not born in the U.S. and may have immigrated relatively late in life, many of them are not fluent in English, which can represent a challenge to integrating them in the community as a whole.

FIGURE 1.6
Speak English Less Than Very Well



<https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=CF>

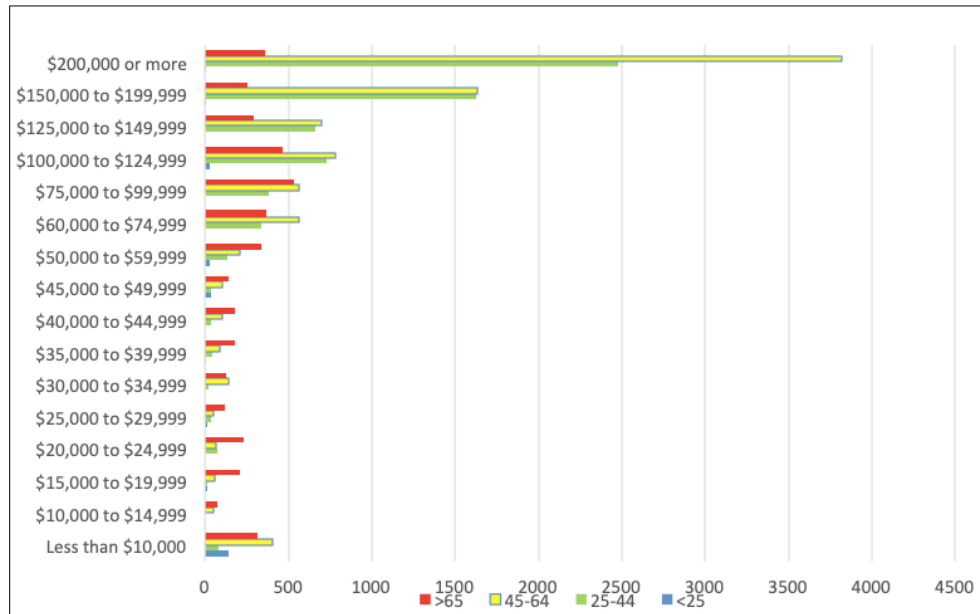
Economic Condition

Cupertino is an affluent community with a mean household income of \$150,529 (compared to \$67,169 for the State of California and \$102,191 for Santa Clara County).

Among those age 65 and older, mean household income is \$66,274, a relatively large amount compared to 65+ households for the whole state (\$49,416) or for Santa Clara County (\$60,416), but substantially lower than the average Cupertino household (\$153,449).⁶

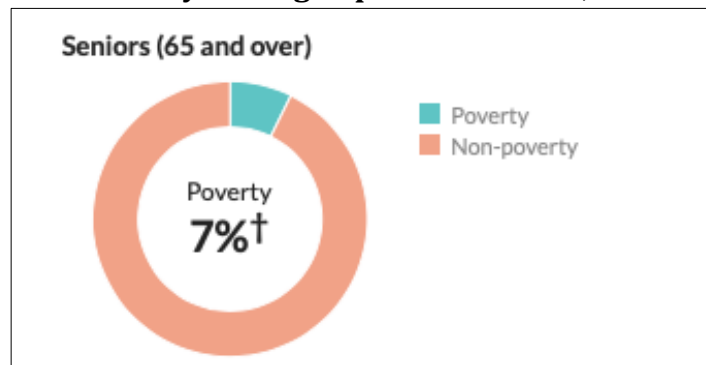
Fig 1.7 shows the distribution of income among Cupertino residents by age group in 2016. In 2016, just under half (49.7%) of all Cupertino households had an income of more than \$150,000 each year and 32.5% earned more than \$200,000. As a result of wage earners leaving the workforce, household income drops off sharply among the 65+ age group: just 3% make more than \$150,000 and only 1.8% make more than \$200,000.

FIGURE 1.7
Distribution of Household Income by Age, Cupertino, 2017



Among Cupertino seniors, 7.3% have income that falls below the federal poverty line (see Figure 1.8). (As of 2018, the federal poverty level was defined as \$12,140 for a single-person household and \$25,100 for a four-person household.). This percentage is higher than the overall poverty rate of 4.7% for Cupertino but is below the poverty rate of 9% for seniors in Santa Clara County⁷ and 10.2% of all seniors in California.⁸

FIGURE 1.8
Poverty Among Cupertino Seniors, 2018



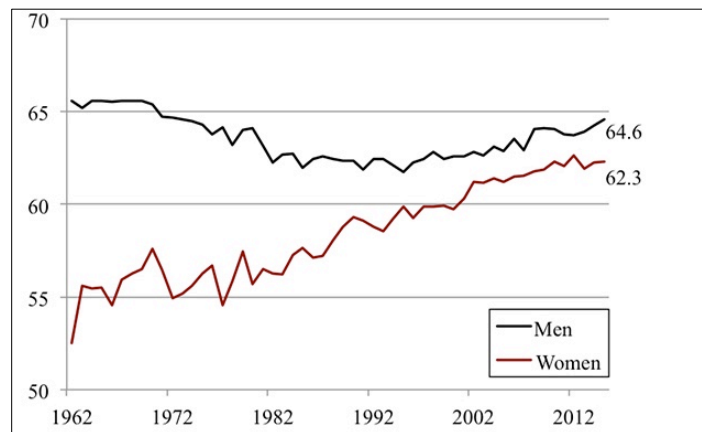
<https://censusreporter.org/profiles/16000US0617610-cupertino-ca>

Retirement and Employment among Older Workers

Traditionally, Americans spent the first two decades of their lives getting an education, the next four decades working and raising families, then retiring in their 60s and spending the rest of their lives “enjoying retirement.” However, several trends have combined to postpone the average age of retirement and increase the number of older adults remaining in the workforce.

Throughout much of the 20th Century, the retirement age for men fell steadily until it reached an average of 62 in the 1980s. More recently, as a result of greater longevity, the decline of pensions and low levels of saving, the average retirement age began to increase after 1990 and has risen to about 65.⁹ (Among women, average retirement age has been rising due primarily to their greater overall participation in the labor force.)

FIGURE 1.9
Average Retirement Age, 1962-2017

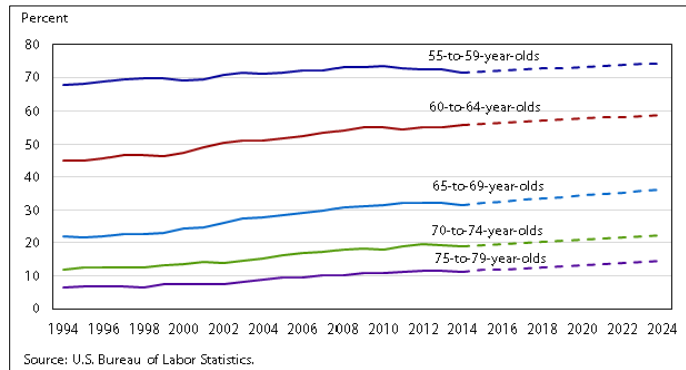


www.marketwatch.com/story/why-the-average-retirement-age-is-rising-2017-10-09

Another way to look at the relationship of employment and age is in terms of labor force participation rates. Although participation rates are still substantially lower for workers over age 60 than for younger workers, the labor force participation rates for those over 60 have been steadily increasing since the mid-1990s (see Figure 1.10). According to the U.S. Bureau of Labor Statistics:¹⁰

The 55-years-and-older age group is the only one among all the age groups that has experienced increases in its participation rate in the labor market since 1994. The participation rate of this group of workers was 30.1% in 1994 and increased to 40.0%, in 2014. The 65-to-74-year-olds had a participation rate of 21.9% in 2004 and saw their rate increase to 26.2%, in 2014.

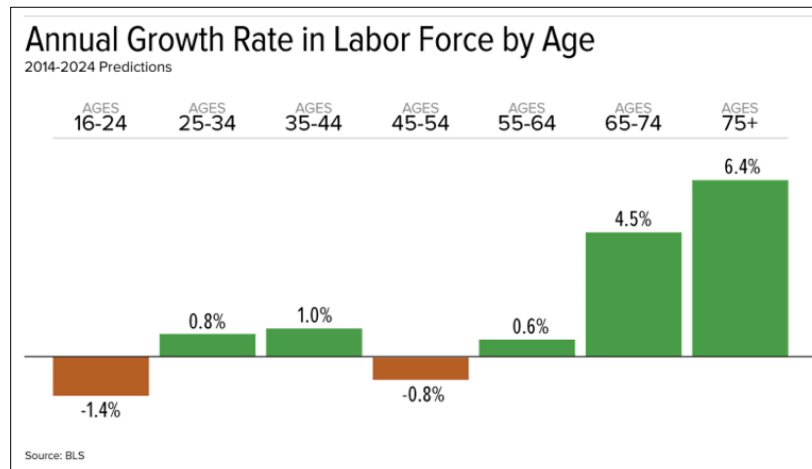
FIGURE 1.10
Labor Force Participation Rates, Workers 55 and Older, 1994-2024



www.bls.gov/opub/mlr/2015/article/pdf/labor-force-projections-to-2024.pdf

Looking ahead, the Bureau of Labor Statistics projects that the only age group that will continue to grow in terms of labor force participation will be those over 65. Between 2014 and 2024, the BLS projects that the participation rate for 65- to 74-year-olds will increase at an average of 4.5% annually, while the rate for those 75 and older will increase at a rate of 6.4% per year (see Figure 1.11).

FIGURE 1.11
Annual Growth Rate in the Labor Force by Age, 2014-2024 Projections

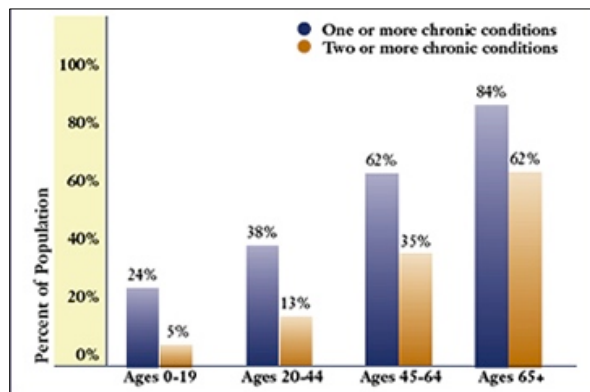


www.shrm.org/resourcesandtools/tools-and-samples/toolkits/pages/employingolderworkers.aspx

Health/Disability Status

Americans are staying healthier later in life, but older adults are still more likely than younger people to suffer from chronic diseases such as diabetes, arthritis, high blood pressure, dementia or pulmonary disease. In fact, conditions such as these are directly correlated with age. Among Americans over age 65, more than 80% have at least one chronic condition while 62% have two or more (see Figure 1.12).¹¹

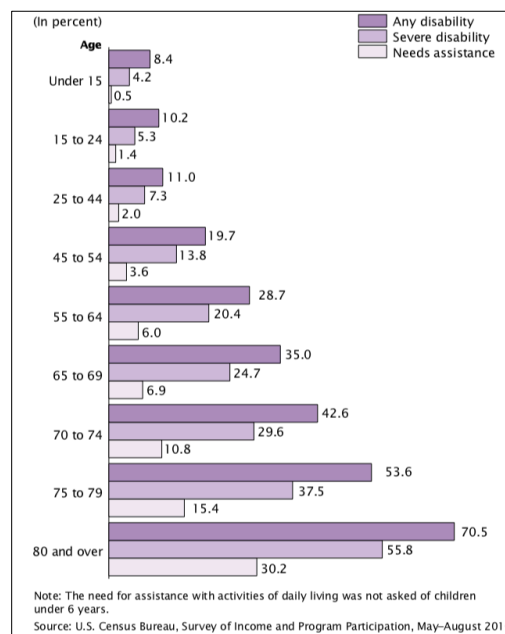
FIGURE 1.12
Prevalence of Chronic Disease by Age



www.patientnavigatortraining.org/course2/8_demographics.htm

Rates of disability also rise steadily with age.¹² The overall rate of Americans with any disability rises from low levels among younger people to 35% among those 65-69 and to more than 70% for those age 80 and above. The prevalence of severe disability is just under 25% for those age 65-69, rising to 55.8% for those age 80 and older (see Figure 1.13).

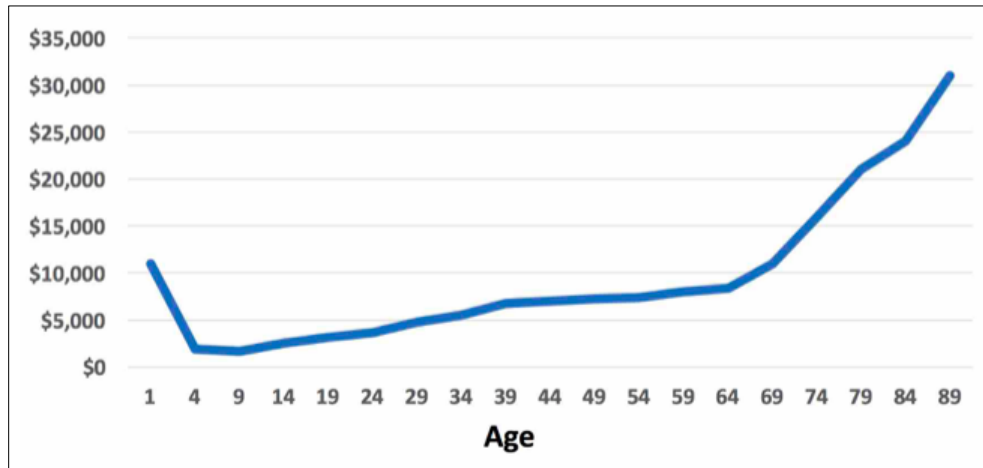
FIGURE 1.13
Prevalence of Disability with Age



www2.census.gov/library/publications/2012/demo/p70-131.pdf

Not surprisingly, older adults account for a large portion of healthcare expenditures in the U.S. and elsewhere. Annual per capita spending for healthcare begins to rise sharply after age 65 and continues to increase throughout later life (see Figure 1.14)¹³

FIGURE 1.14
Annual Health Care Expenditures by Age



<https://hospitalmedicaldirector.com/health-care-legislation-why-we-are-all-arguing-about-the-wrong-thing>

Almost all older Americans are covered by Medicare, which pays for most health costs, but there are concerns about the long-term viability of the Medicare system as people live longer and health care costs keep rising.¹⁴

II. SENIOR HOUSING

The majority of seniors in Cupertino and elsewhere continue to live in private homes or apartments. Most Americans say that they want to continue to live in their homes as they age. A 2018 survey conducted for AARP found that 76% of Americans age 50 and older say that they want to remain in their current residence as long as possible and 77% say they would like to live in their community as they age.¹⁵

However, as people get older, their needs change and some choose to seek other forms of housing designed to provide higher levels of support. Seniors are often faced with significant events that change their needs for housing and support services. This can occur as the result of illness, accident, or death of a spouse or care giver. In the case of spouses providing each other support, a significant decline or illness for one of the partners may have serious negative effects on the other spouse which can also introduce a sudden need for other services or even different style housing.

This section will review the current living status for Cupertino's older residents, most of whom continue to live independently, then will focus on housing options in the community that are specifically designed for seniors.

Living Status of Cupertino's Seniors

Among Cupertino's 20,181 households (as of 2010), 3,983, or just under one-fifth (19.7%) were occupied by seniors. Within the city's 3,983 senior households, 80.3% were owned by the occupants—a higher percentage than the 58.2% of owned homes among those under 65—while 19.7% of senior households were living in rented homes (see Figure 2.1).¹⁶

FIGURE 2.1
Cupertino Households by Age, 2010

	Cupertino		Santa Clara County	
	Number	Percent	Number	Percent
Under 64 Years Old				
Owner	9,429	58.2%	265,727	54.0%
Renter	6,769	41.8%	226,517	46.0%
Total	16,198	100.0%	492,244	100.0%
65 Plus Years Old				
Owner	3,198	80.3%	82,571	73.8%
Renter	785	19.7%	29,389	26.2%
Total	3,983	100.0%	111,960	100.0%
Total Households	20,181		604,204	
Percent Householders 65 Plus Years	19.7%		18.5%	

Source: Association of Bay Area Governments (ABAG), Housing Element Data Profiles, December 2013.

www.cupertino.org/home/showdocument?id=12717

Figure 2.2 shows the living arrangements for the city's total households and for those with someone 65+ in 2017. Among those age 65 and older, just over half (53.5%) were married and living with a spouse, compared to 78.2% of all households, while 27.4% were widowed, 12.7% divorced or separated and 3.6% never married. And, perhaps most significantly, 43% of seniors were living alone, more than twice the rate (18.4%) for the total population.¹⁷

FIGURE 2.2

Living Arrangements for Cupertino, Total Households vs. 65+ Households, 2017

Subject	Cupertino city, California			
	Total		65 years and over	
	Estimate	Margin of Error	Estimate	Margin of Error
HOUSEHOLDS BY TYPE				
Households	20,715	+/-315	4,404	+/-300
Family households	78.2%	+/-1.6	53.5%	+/-4.0
Married-couple family	69.9%	+/-1.7	46.2%	+/-4.3
Female householder, no husband present, family	6.1%	+/-1.1	5.9%	+/-2.4
Nonfamily households	21.8%	+/-1.6	46.5%	+/-4.0
Householder living alone	18.4%	+/-1.5	43.0%	+/-4.0
MARITAL STATUS				
Population 15 years and over	47,631	+/-558	8,229	+/-490
Now married, except separated	65.6%	+/-1.5	56.3%	+/-4.2
Widowed	5.5%	+/-0.6	27.4%	+/-3.1
Divorced	4.9%	+/-0.7	11.6%	+/-2.7
Separated	0.7%	+/-0.3	1.1%	+/-1.1
Never married	23.3%	+/-1.3	3.6%	+/-1.0

<https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml>

Types of Senior Housing

While most seniors live in a conventional home, some will chose to move to senior-specific housing either out of preference or need. There is a large spectrum of senior housing alternatives that reflect the diverse state of seniors and their interests and needs.

Categories include:

- ***Independent Living Communities***

Retirement communities designed specifically for active, independent seniors (often 55+) in apartments or townhouses, typically have social activities as well as 24 hour on-site supervision. Some of these communities (such as the Peninsula Regent in San Mateo) provide units that are either rented or purchased in high-rise buildings; other (such as Rossmoor in Walnut Creek) have large campuses that include extensive recreational and social facilities.

- ***Assisted Living***

Specialized living facilities that provide assistance with daily activities (e.g., bathing, dressing, grooming) but do not require skilled medical care. They range from small home like facilities to large apartment type facilities. Residents of assisted living typically live in private units and participate in shared meals and other group activities.

- ***Skilled Nursing***

These licensed facilities provide high levels of care, typically for those who are quite

frail or incapacitated and require the services of a registered nurse on a daily basis. Residents often are unable to “transfer” from bed or sitting position without assistance.

- ***Memory Care***

Increasingly common are facilities that provide specialized care for residents with dementia to deal with their specific disease characteristics to reduce frustration. Specially trained staffing required.

- ***Continuing Care Retirement Communities (CCRCs)***

These communities typically offer independent living, assisted living and nursing care and/or memory care under a single contract. Residents are able to transition from one level of care to another within a single facility. These facilities offer congregate meals and other amenities. Some CCRCs require an upfront membership or property purchase and monthly fees, whereas others are strictly fee for specific service plus membership fees. In Cupertino, The Forum at Rancho San Antonio and Sunny View are both CCRCs, as are the nearby Saratoga Retirement Community and The Terraces of Los Gatos.

- ***Rehabilitation Centers***

These facilities are often temporary housing for transition from hospital care to home care such as after an operation that requires daily physical therapy and administration of drugs. They are often found together with skilled nursing facilities.

- ***Senior Co-Housing***

A relatively new alternative in which a group of people get together and jointly plan and then build a facility that includes private residences and shared spaces and is jointly owned and managed by the residents. The nearest co-housing community, with 19 units and 6,000 feet of shared space, is located in Mountain View.

There are also several types of services that support older adults who wish to remain in their homes even as their care and medical needs increase.

- ***Home Care***

In-home medical and non-medical services can range from monthly visits to 24-hour care. Non-medical services can include shopping, laundry, and companionship. Groups, such as a church, may also provide both formal and informal support services for seniors such as adult day services, ride assistance, and non-medical home care. (More information about caregiving is contained in Section VI.)

- ***Adult Day Services***

The senior analog to child day care, these centers provide supervised care typically on a part time weekday basis often in a group setting. They provide oversight and stimulation for the patients. The goal is to provide a break for the family care-givers. (For more on these services, see Section III. Social Services.)

- ***Hospice***

Hospice provides end-of-life support with the goal of providing comfortable, pain-free life for the patient. Hospice can be in home or in a facility.

As of 2016, about 1.2 million, or about 3%, of Americans 65 and older, and about 9% of those over age 85, lived in nursing homes. There were also 640,000 people living in approximately 2,000 CCRCs.¹⁸

Senior Housing Alternatives in Cupertino

In this report, we concentrate on the senior living facilities and will not address home care, adult day services, or hospice.

Within Cupertino, there are three senior living facilities with a fourth facility under construction. We found fourteen other facilities within approximately 2.5 miles of the Cupertino borders in surrounding cities and believe that construction of another senior facility is under consideration by the City of San Jose for De Anza Boulevard bordering Cupertino.

FIGURE 2.3
Cupertino Senior Housing Facilities

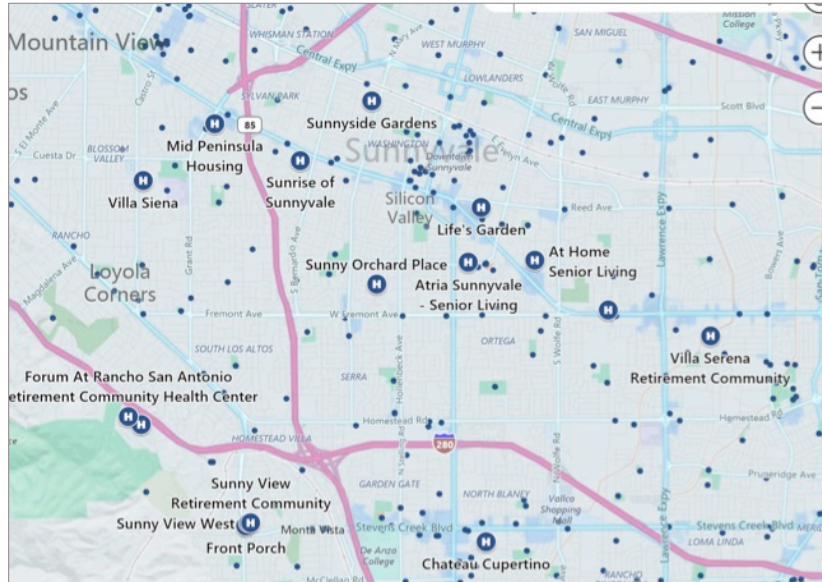
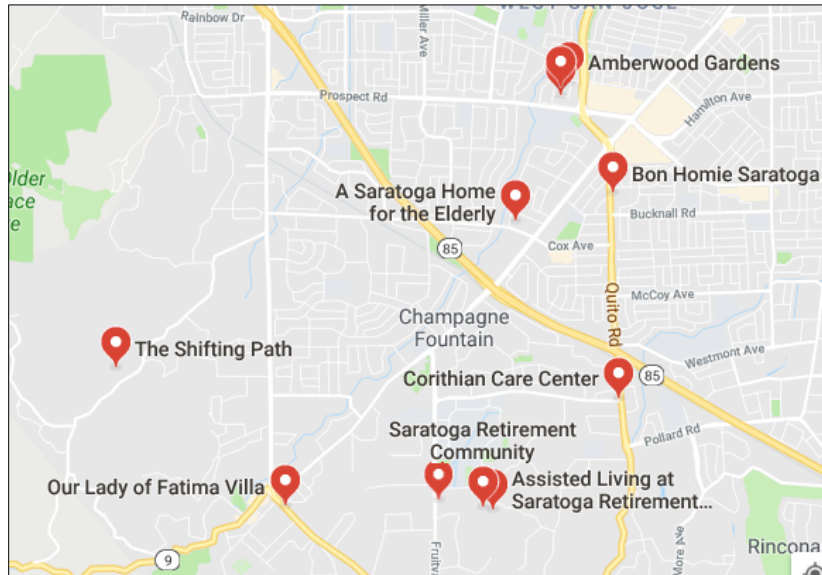
Facility	Notes
Chateau Cupertino 10150 Torre Ave (408) 446-4300 http://chateau-cupertino.com	Independent living rental apartments \$3000/mo – Alcove bedroom; \$3495/mo - One bedroom; \$3995/mo – Suite; \$4395/mo – Two bedroom; \$750/mo for second person
The Forum at Rancho San Antonio 23500 Cristo Rey Drive (650) 265-2637 https://theforum-seniorliving.com	CCRC: independent living, assisted living, Alzheimer’s care, skilled nursing. 51.5-acre campus near the foothills. Equity ownership; can sell unit after leaving. Two styles of two bedroom/two bath townhouses, 1280-1404 sq ft. Eight apartment plans (720-1260 sq ft), one or two bedroom plus living room and kitchens some with dens. 23 additional villas approved for building starting in 2019. (Where to Live, 2011 est equity ownership \$450,000-\$1.7 million)
Sunny View Cupertino Retirement Community 22445 Cupertino Road (408) 454-5600 https://sunny-view.org	CCRC: Independent living, assisted living memory care, skilled nursing 12-acre near Cupertino Foothills. Garden homes, villas, apartments. Monthly fees include restaurant or buffet style dining. 300-350 sq ft studio apartment (\$3970). 600-750 sq ft 1 bedroom (starting \$5410/mo). 900 sq ft 2 bedroom/1 bath with kitchen (starting \$6500/mo). (Where to Live, 2011 est equity ownership \$33k-\$303k, addl person \$15k.)
The Veranda 19160 Stevens Creek Blvd www.cupertino.org/our-city/departments/community-development/housing/affordable-housing-program	Independent living. Under construction in 2019 by Charities Housing. Three story building with 18 units of affordable senior housing (62+ years). 350 sq. ft. studio units with kitchens and handicapped accessible bathrooms. One additional unit is reserved for on-site staff. 12 units to be rented to the public and six units are reserved for homeless seniors with disabilities. Partnership with Charities Housing.

There are also a variety of senior living options in the area around Cupertino. Figure 2-4 lists a number of nearby facilities.

FIGURE 2-4
Senior Housing Facilities within 2.5 miles of Cupertino

Facility	Notes
At Home Senior Living 819 Gail Ave, Sunnyvale (408) 738-1400	Assisted living. Capacity 6.
Atria Sunnyvale (408) 512-3188 175 East Remington Drive, Sunnyvale www.atriaseniorliving.com/retirement-communities/atria-sunnyvale-sunnyvale-ca	Near downtown Sunnyvale. Independent living, assisted living, and memory care. Short time stays for rehabilitation. Offer vegetarian meals. 187-220 sq ft Studio/studio deluxe apartment, 492-556 sq ft. 1 Bedroom.
Belmont Village (408) 720-8498 1039 East El Camino Real, Sunnyvale www.belmontvillage.com/locations/sunnyvale-california	Independent living, assisted living, memory care. Short stay option. Studio and 1 Bedroom apartments. (Seniorly.com est. \$5500/mo.) (2011 Where to Live, studio \$3800/mo, companion suite \$2700/mo, 1 bedroom \$5450/mo)
IOOF International Order of Odd Fellows 14414 Oak St., Saratoga http://www.ioof.org	Retirement apartments, assisted living, and residential care. Located near West Valley Community College
Homestead Park - Mid Peninsula Housing 1601 Tenaka Place, Sunnyvale 408-732-2151 / (650) 965-1060 https://www.midpen-housing.org	274 low income housing tax credit apartments. Wait list closed
Life's Garden (408) 245-5433 450 Old San Francisco Road, Sunnyvale https://www.humangood.org/lifes-garden	Low-income seniors 55+. 208 studio and 1 bedroom apartments with kitchen. Community dining and lounge.
Our Lady of Fatima Villa (408) 647-2760 20400 Saratoga-Los Gatos Road, Saratoga http://www.fatimavilla.org	37 studios and one bedroom for 84 residents in independent and assisted living. 85 patients in skilled nursing. Offers hospice care. Recent ownership change to Kalesta Health Care Group. (Where to Live, 2011 est studio \$4070/mo, 1 bedroom \$5090/mo, deluxe suite \$7070/mo)

Rose Meadows Elder Care (408) 865-1267 726 Brentwood Drive, San Jose 804 Hamann Drive, San Jose	Assisted living. Two single family homes, each with capacity 6.
Saratoga Retirement Community (408) 741-7100 14500 Fruitvale Ave., Saratoga https://www.retirement.org/saratoga	Independent living, assisted living, skilled nursing. Rehabilitation Center. Memory care. Personalized services for additional fees. 39 free standing 1425 sq ft 2 Bedroom/2 Bath homes. 1145 sq ft 2 Bedroom/2 Bath apartments incl garage. 722 sq ft 1 Bedroom/1 Bath apartments. Full kitchens and laundry. 37-acre campus. Run by the Odd Fellow Home of California
Sunny Orchard Place (408) 737-2474 1155 Pome Avenue, Sunnyvale http://tccarehomes.com	Assisted living, memory care. Average costs \$3710/mo ranging from \$933-\$8445/mo. Capacity 6.
Sunrise of Sunnyvale (408) 749-8600 633 South Knickerbocker Drive Sunnyvale www.sunriseseniorliving.com/communities/sunrise-of-sunnyvale/overview.aspx	Assisted Living, Alzheimers, Respite/short term. Studio apartment, Two room (1 bedroom) suite. No kitchens. (Where to Live 2011 est studio \$4350/mo, 1 bedroom \$4950/mo, 2 bedroom \$5850/mo)
Villa Fontana (408) 255-5555 5555 Prospect Road, San Jose http://www.villafontanaretirement.com	Assisted Living-private apartments Prices start at \$5890/mo Recipient of the Best of Assisted Living in San Jose Award – 2017 from The Senior Advisor
Villa Siena (650) 961-6484 1855 Miramonte Ave., Mountain View www.villa-siena.org	Independent living, assisted living, skilled nursing. 60+ seniors. 68 independent and assisted living units with kitchenette. 405 sq ft Studio (\$5237/mo). 480 sq ft 1 Bedroom (\$6004/mo). Assisted living is extra \$1300/mo. Extra person is \$2500/mo. 215 sq ft single (\$375/day) and 305 sq ft double (shared \$335/day) for nursing care units. \$1400 processing fee on admission. Run by Daughters of Charity
Westgate Villa (408) 366-6512 5425 Mayme Avenue, San Jose www.westgate-villa.com	Assisted living and memory care. 60 units typically 1-bedroom apartments. Restaurant style dining. (Seniorly est \$4779/mo.) Amberwood Gardens is the associated acute and skilled nursing. 258 bed facility. Comprehensive rehabilitation.



Housing guides:

- *Living Well-2018*, Palo Alto Weekly, https://issuu.com/paloaltoweekly/docs/2017_11_10.livingwell.section1
- *Alternatives for Seniors San Francisco & Northern California, 2014/2015*. Residential Marketing Concepts, Inc. See also AlternativesForSeniors.com
- *Where to Live—A Guide for Senior Adults*, Avenidas, 2011
- Online directories: www.seniorliving.org, www.seniorly.com, www.senioradvisor.com

IV. TRANSPORTATION

The great majority of Cupertino seniors (like all residents of the community) currently rely on driving to move around, to get to work, access services such as shopping or medical appointments, to engage in community or civic activities, to visit friends/relatives and to enjoy recreation or entertainment.

However, seniors in this County will, on average, lose the ability to drive about nine years before they pass away, making them dependent on alternative forms of transportation.¹⁹ This is the period in which the risk of isolation due to transportation problems becomes very high for an individual in their 70s, 80s and 90s.

Public transportation in Cupertino is almost entirely dependent on bus services provided by the Santa Clara Valley Transportation Authority (VTA). The only targeted transportation option available for seniors in community is R.Y.D.E., a County-sponsored pilot program to provide affordable rides to seniors in Cupertino and four other West Valley cities (Campbell, Monte Sereno, Los Gatos and Saratoga).

This section provides an overview of older adults' current transportation patterns, education programs for older drivers, and transportation services for older non-drivers.

Transit Patterns for Older Adults

A 2010 study sponsored by AARP reported on "Transportation Use and Options of Midlife and Older Adults," based on a national telephone survey of a representative sample of adults aged 50 and older.²⁰ Highlights of the report include:

- Driving is far and away the most common form of transportation among older adults. Nearly nine in ten respondents said they drive a car or other motor vehicle. Among them, more than half reported driving *every day of the week*, with an additional one-fifth driving *five or six days a week*, and one in six driving *three or four days a week*. Only two% of respondents who drive said they drive *less than once a week*.
- Getting a ride with a friend or family member was the most frequent type of transportation noted as an alternative to their own vehicle, reported by two-thirds (67%) of respondents. Walking (48%) and bicycling (13%) were the only other types of transportation options cited by more than one in ten respondents as alternatives to driving.
- More than eight in ten (85%) respondents reported that they had not used public transportation (such as public buses, subways, streetcars, trolleys, or commuter trains) in the last two months. In contrast, 6% of respondents said they were frequent users of public transportation, using it *once a week* or more frequently.
- About three in ten respondents reported walking at least once a week, including the one in twelve respondents who walk *every day*, the one in nine who walk *several times a week*, and the one in ten who walk *once a week*. More than half said they *never* walk in order to go places they frequent in their community.

Driving Life Expectancy

The great majority of seniors drive and do so as long as possible. Among adults ages 70 to 74, 88% of men are still driving and 70% of women. However, those percentages drop to just over half (55%) for men age 85 and older and just 22% for women 85 and older (see Figure 4.1).

FIGURE 4.1
Prevalence of Driving Among Older Adults

Age	Men	Women
70-74	84%	70%
75-79	78%	60%
80-84	57%	45%
85+	55%	22%

www.ncbi.nlm.nih.gov/pmc/articles/PMC1447231

As a result of greater longevity, adults typically live for a number of years after they give up driving. Because of differences in life expectancy and driving patterns, men can expect to live for an average of 7 years after they stop driving while women can expect to live for 10 years without driving. According to the 2002 study in the American Public Health Journal that contains these data, although “older drivers generally decide for themselves when to quit...cessation is not an easy decision and may have consequences such as depressed mood and less social engagement due to loss of mobility.”²¹

Because of the importance of maintaining mobility, programs have been developed to help older adults continue to drive safely, and to offer viable alternative means of transportation when they are no longer able to drive.

Older Driver Education Programs

There are a number of programs available to help seniors maintain their driving skills and to realistically assess their ability to drive, in order to make a conscious and well-informed decision about when to give up their cars and take advantage of alternative modes of transportation. These programs include:

1. **AARP Smart Driver Safety Program** (www.aarp.org/home-garden/transportation/driver_safety) offers local classes for drivers aged 50 and above. The course covers many topics related to older driver, such as traffic rules, staying flexible, medications, etc. The course is designed to help you remain a safe driver. It covers normal age-related physical changes, and how to adjust your driving to allow for these changes. The program is offered at the Cupertino Senior Center and online.
2. **Age Well Drive Smart**– The California Highway Patrol (<https://www.chp.ca.gov/programs-services/programs/age-well-drive-smart>) offers several programs for seniors ages 55 and older.

3. **Senior Driving Resources** – AAA (<https://calstate.aaa.com/news/traffic-safety/seniordriver>) offers several interactive tools to help older drivers. SeniorDriving.AAA.com offers information on choosing an appropriate vehicle for an older driver and access to a professional driving assessment. Lifelong Driver is a computer-based program that provides driving simulations to improve driving skills.
4. **Driving Decisions Workbook** (developed by the University of Michigan, www.um-saferdriving.org/firstPage.php) is available to help drivers evaluate their ability to drive safely.
5. **National Highway Traffic Safety Administration (NHTSA)** (888-327-4236 or <https://mcs.nhtsa.gov/index.cfm>) publishes a series of pamphlets that address older adults' ability to drive safely, in light of challenges such as driving with health conditions such as arthritis, Parkinson's disease, sleep apnea, diabetes or seizures.
6. **CarFit, Helping Mature Drivers Find Their Perfect Fit** (www.car-fit.org) is a joint project of AARP and AAA. It provides guidance for the proper adjustments of seats, mirrors, headrests and steering wheel for safe driving. It also reviews a variety of simple devices that can be added to compensate for physical changes or to make the vehicle safer.
7. **"We Need to Talk...Family Conversations with Older Drivers"** (www.thehartford.com/advance50/publications-on-aging) is a free 24-page brochure provided by The Hartford insurance Company.

DMV Licensing

All drivers age 70 and older must renew their driver's license in person at the DMV office. License renewal depends on a driver's mental and/or physical condition and his or her ability to follow traffic laws and rules regardless of age. The most common restriction for senior drivers is vision-related (requiring glasses or corrective lenses). Others may include no freeway driving, no nighttime driving, no rush-hour driving or driving only with proper support to ensure a proper driving position.

Disabled Parking Placards

Placards that allow parking in spaces reserved for handicapped are available for those with impaired mobility. A licensed physician, surgeon, physician's assistant, nurse practitioner or certified nurse-midwife must certify the applicant's condition.

Public Transit: VTA

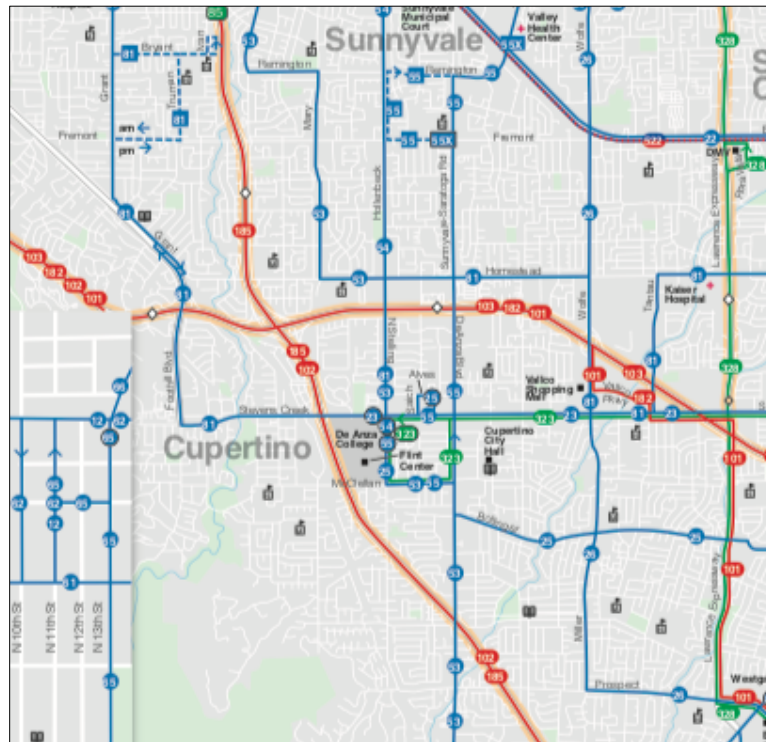
The Valley Transportation Authority (VTA) is an independent special district that operates bus, light rail, and paratransit services in Santa Clara County. (www.vta.org/index)

VTA bus routes with stops in Cupertino include:

- Route 23 San Jose - Mountain View/Palo Alto
- Route 25 San Jose - De Anza College
- Route 26 Eastridge – Lockheed
- Route 36 East San Jose – Vallco
- Route 51 Vallco - Moffett/Ames

- Route 53 Westgate – Sunnyvale
- Route 54 West Valley - Fair Oaks/Tasman
- Route 55 De Anza - Great America
- Route 81 East San Jose – Vallco;
- Express 101 Camden/Branham - Palo Alto
- Express 501 Palo Alto - I.B.M. Bailey
- ACE Blue Line - Cupertino Shuttle (832)
- Altamont Commuter Express Shuttle

FIGURE 4.2
VTA Route Map, Cupertino (June 2019)



www.vta.org/sfc/servlet.shepherd/document/download/069A0000001cwcWIAQ

VTA is making an effort to make its bus service a viable alternative for seniors who are no longer able to drive, including:

1. All VTA buses serving Cupertino can connect with neighboring transit operators for more extensive trips.
2. All VTA buses are equipped with lifts or ramps to assist those who need mobility aids or have difficulty with steps. Full-size buses have a kneeling feature that lowers the front of the bus, easing the first step when boarding.
3. VTA has a webpage for senior riders (www.vta.org/seniors) to teach older adults about programs and services that may help them and their friends and family members.

4. VTA's Daycation Program offers free training for groups of 5 to 10 people to help older adults learn to navigate the bus lines. The program has three components; a training session on how to use VTA service, an escorted trip in which we use the bus and or light rail to and from a local destination such as a museum, mall or restaurant. (www.vta.org/getting-around/daycation)

VTA also offers an ADA Paratransit shared ride program for disabled residents throughout the county. The service will come to the home and take the resident to his/her destination. Service is available 365 days a year during the hours that bus and light rail service is operating. Trips can be reserved by phone or online up to three days in advance but must be reserved at least one day in advance. Eligibility for the service is based on an individual's inability to independently use VTA bus or light rail. Being evaluated for eligibility may take up to 21 days. Information about the program is available at 408-321-2381 and online at http://vtaorgcontent.s3-us-west-1.amazonaws.com/Site_Content/paratransit_riders_guide.pdf.

Although data is not available on the use of VTA public transit by seniors in Cupertino, there is no reason to believe that VTA bus usage by seniors is a significant factor in our city.

Nonprofit senior ride services

Three non-profit services, one sponsored by the County and two by independent non-profit organizations, offer rides for older adults in Cupertino

R.Y.D.E. Program www.wvcommunityservices.org/ryde



R.Y.D.E. (Reach Your Destination Easily) is a curb-to-curb transportation service for adults 55 years and older in five West Valley communities including Cupertino as well as in Campbell, Monte Sereno, Los Gatos and Saratoga. The program was started as a pilot program in 2017 with funding from Santa Clara County. In Cupertino, the service is being run by West Valley Community Services, 669-220-0382.

R.Y.D.E. can be used for visits with friends, shopping and appointments. The program is limited to rides initiating within the city limits of the five cities listed above, up to 8 miles from your home beyond these city limits, within Santa Clara County. A connection to Caltrain is available at the Sunnyvale Caltrain Station.

Drivers are both paid staff and community volunteers. All drivers undergo a background check and participate in a specialized training program.

The full cost of a ride of up to 4 miles is \$9, but subsidies based on income are available that can lower the cost to as little as \$1 per ride. Riders must pay in advance of the ride by check or credit card.

Rides can be reserved as much as 5 weeks ahead but must be made at least 36 hours in advance. Calls are accepted from 8 am to noon, and again from 1 pm to 4:30 pm Monday through Friday. Ride hours are from 8 am to noon, and from 1 pm to 4 pm, Monday through Friday. There is no service on holidays.

Users must be ambulatory (use of cane or walker is OK) but no wheelchair or scooter users can be accommodated at this time. A companion or personal care assistant can accompany the rider at no additional charge.

Heart of the Valley (408-241-1571 or <https://servicesforseniors.org>).

This program is offered by Services for Seniors, Inc., is a nonprofit, all-volunteer organization whose mission is to help those 65 and older in West Santa Clara Valley, including Cupertino. Services include escorted transportation (with some restrictions), as well as handyman work, light yard work, help with house projects, paperwork, shopping, errands, friendly visits, and computer assistance. They also help with disaster preparedness and offer home safety inspections. Escorted transportation is their most requested service. All services are free, but donations for services are accepted.

In addition to these two programs, the American Cancer Society offers a specialized ride program that may be available to Cupertino seniors:

American Cancer Society – Road to Recovery (800-227-2345 or www.cancer.org)

This free program is staffed by volunteers to pick up cancer patients at their homes and take them to anything cancer-related, such as doctor's appointments, radiation treatments and chemotherapy.

Commercial alternatives

A number of for-profit services are available for Cupertino seniors for transportation for medical appointments and other purposes.¹ Of course, the two most prominent ride services are Uber and Lyft, and these services are almost certainly being used by Cupertino seniors as well as by younger people. One potential barrier to their use by older adults is the need to have access to a smart phone equipped with the services apps and know how to use them. As discussed in Section VII, older adults tend to lag behind younger people in their use of new technologies like smartphones and may not be comfortable using an app-based service.

It is notable that both Uber and Lyft have established partnerships with insurance companies, hospital systems, and clinics to provide non-emergency transport to appointments for patients. In February 2019, Lyft announced expanded partnerships with BlueCross BlueShield and Humana that will provide no-cost rides to appointments for 65+ patients enrolled in their Medicare Advantage plans. The rides are billed to the insurers.²²

¹ Companies listed here may change from time to time due to market forces. No effort has been made to vet these for-profit services and no recommendation is being made for any of them.

The Forum, the retirement community located near the Rancho San Antonio Open Space Park, has also formed a partnership with Lyft. Instead of running a shuttle service for Forum residents, they will arrange a Lyft ride for any resident who needs to travel outside of the Forum for any reason.

GoGo Grandparent (855-464- 872 or www.gogograndparent.com) is a service on top of Lyft and Uber that makes it easy for those not comfortable with a smart phone app to use a voice-only interaction to get a ride hailing service ride. There is a concierge charge of \$0.27/minute for the service on top of the ride cost. Notification to relatives and voice interaction are their strong points.

SilverRide (www.silverride.com, 408-874-3310 or 415-861-7433) offers a door to door assisted ride service specifically tailored for older adults. Drivers are fingerprinted and background checked and are trained in how to physically assist passengers, including those in wheelchairs. In addition to transporting clients, SilverRide drivers will accompany passengers to ballgames, museums, restaurant lunches, shopping, and walks in the park. In fact, about 70% of their time is spent outside of the car joining clients in activities. Service can be booked online or by phone through the company's "Senior Concierges." The company was founded in 2007 in San Francisco, and its service is available throughout the Bay Area.

Other commercial services that primarily provide medical-related transportation include:

Affordable Senior Care (408-559-2810 or www.affordablesc.com/transportation.html) covers non-emergency transportation services for medical appointments, dialysis, hospital discharge, physical therapy and recreational activities for a fee.

Boundless Care, Inc. (408-363-8900 or www.boundlesscare.org/transportation.html) provides non-emergency transportation shopping and at-home help for members.

Family Tree Medical Transport, LLC (408-694-3350 or www.familytreemedtrans.com) offers non-emergency transportation through the entire San Francisco Bay area.

Fun n Go Non-Medical Transportation (844-238-6646 or www.funngotransport.com) is a non-medical transportation provider offering 24/7 airport drop-offs, doctor's appointment, dialysis, and recreational activities.

Golden Sunshine Staffing & Transportation Services, LLC (408-438-5380 or www.goldensunshinestafftrans.com) provides non-emergency transportation and staffing services. Transportation is for doctor's appointment, dialysis and recreational activities.

JustGo! (408-657-8572 or www.justgosv.com) provides non-emergency wheelchair and ambulatory transportation throughout Silicon Valley, for doctor's appointments, medical trips and recreational activities.

Ken Transportation (408-267-4459 or www.kentransport.com) provides non-emergency wheelchair and ambulatory transportation for doctor's appointment, medical trips and recreational activities.

One-Stop MedEx (408-907-5629 or www.onestopmedex.com/index.html) provides non-emergency ambulatory, wheelchair and stretcher transportation for doctor's appointments,

medical trips, outpatient surgery, community service centers, rehabilitation facilities, physical therapy and long-distance trips.

S&P Transportation (408-829-8648) offers non-emergency wheelchair and ambulatory services.

UBF Transport Services (408-263-1234 or www.ubftransport.com) offers non-emergency transportation for doctor's appointments, dialysis and recreational activities and for those in need of wheelchair-accessible transportation.

V&B Transportation (408-937-6135 or www.vbtransport.com) provides non-emergency transportation for doctor's appointments, dialysis and recreational activities.

A New Option

The value of the R.Y.D.E. program is limited by the need for advance planning and the fact that the service is only available during limited hours (e.g., not on nights or weekends). But despite the R.Y.D.E. program's limits, the demand for trips is currently exceeding the capacity of the program. Work is needed to explore ways to scale up the capacity of this program to serve more seniors and to make the program easier to use and more flexible.

In June 2019, the Cupertino City Council agreed to provide funding for a new on-demand shuttle service for city residents. A pilot of the new program is scheduled to begin in the Fall of 2019 and run for 18 months. During the pilot, residents will be able to request a ride by either phone or using a special app. The service, which is being provided by a company called Via, will use vans that will pick up riders at locations no more than 300 feet from their location, although the shuttle will pick up disabled and older riders directly at their location. In addition to locations within the city, the service will also take riders to the CalTrain station in Sunnyvale and Kaiser Permanente in Sunnyvale.

Each ride will cost \$5.00, with a discount available to low income residents and DeAnza college students. The city is also considering a general discount for seniors. Initially, the service will be available from 6:00 am to 8:00 pm on weekdays and from 9:00 am to 5:00 pm on Saturdays.

For more information about the service, see www.cupertino.org/our-city/departments/public-works/transportation-mobility/community-shuttle.

III. SOCIAL SERVICES

Cupertino seniors are served by a number of governmental, NGO, and charitable organizations offering a variety of social services. These include:

1. Cupertino Senior Center
2. India Community Center-Senior Program
3. Sourcewise (Santa Clara County Area Agency on Aging)
4. West Valley Community Services
5. Live Oak Adult Day Services
6. In-Home Supportive Services
7. Silicon Valley Healthy Aging Partnership
8. 211
9. Santa Clara County Fire Department
10. Santa Clara County Sheriff
11. Nearby adult day programs

Each of these services are described below.

1. Cupertino Senior Center

21251 Stevens Creek Blvd.

408-777-3150

www.cupertino.org/our-city/departments/recreation-and-community-services/cupertino-senior-center

The Cupertino Senior Center (CSC) is part of the City of Cupertino's Department of Parks and Recreational Services. Most of the Center's activities require membership, although day passes are also available. There are a variety of membership fees and levels that are explained on the CSC web site.



The CSC offers a range of services along with classes, lectures, and social activities (described in Section V, Education). They also have a large volunteer organization called Seniors Helping Seniors. The services include:

- **Case Management Program** – Run by two case managers (speaking English, Mandarin Chinese, and Cantonese) who work with seniors and their families to find resources to help them remain independent and safe in their own homes. These services are by appointment and on Wednesdays they have a drop in clinic. Topics include social security, avoiding nursing homes, elder abuse, available benefits, and

hiring in-home assistants. They provide a caregiver support group on the second Thursday of the month.

- **Transportation Assistance.** The CSC personnel can help explain how to use BART, VTA and CalTrain as well as how to get senior discounts.
- **Senior Adults Legal Assistance (SALA).** Legal service to assist seniors to live safely, independently, non-institutionalized, and with dignity. They assist with Social Security, SSI, Medicare, Medi-Cal, etc. as well as the preparation of health care directives, durable power of attorney, and simple wills for seniors of modest incomes. (<http://s393914827.initial-website.com>)
- **Health Insurance Counseling & Advocacy Program (HICAP).** A counseling service for Medicare and other health insurance programs, sponsored by the California Department on Aging. HICAP's volunteer counselors provides free and objective information and counseling about Medicare options for seniors and their families.
- **Housing.** A consultant is available to provide information on senior housing options in the area.
- **Health.** Blood pressure checks are performed four times a month. Appointments can be made at the front desk. An annual Smart Living Health and Wellness Fair at the CSC includes health and wellness booths, educational sessions, community and health resources, and fitness demonstration.

In 2018, the Cupertino Senior Center had 2,468 paid members and an annual attendance of at least 27,854 (see Figure 3.1).

FIGURE 3.1
Cupertino Senior Center, 2018

Paid memberships	2,468
Annual attendances	27,854
Volunteer service hours	24,620*

* Number is likely low due to changes in front desk operations that may have led to an undercount.

2. India Community Center-Senior Program

20589 W Homestead Road

408-934-1130

www.indiacc.org/programs/seniors

The India Community Center (ICC) is a non-profit, non-religious, not political organization whose mission is to promote Indian culture and values through social, recreational and community programs.

The ICC offers a senior program in two locations, Milpitas and Cupertino. The program in Cupertino operates on Monday, Wednesday, Thursday, and Friday from 10:00 am to 3:00 pm. Activities include yoga and meditation, a lecture series, entertainment, music, a book club, current affairs discussions, festival celebrations and a create writing program.



3. Sourcewise (Santa Clara County Area Agency on Aging)

2115 The Alameda

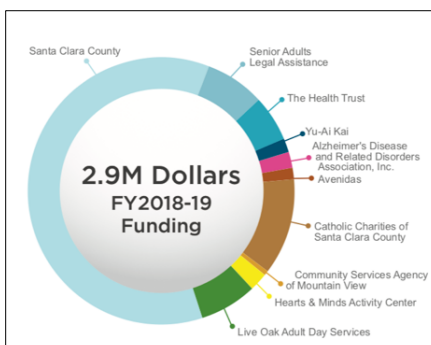
San Jose, CA 95126

408-350-3200

www.mysourcewise.com

Every county in the United States is served by an Area Agency on Aging, which administers funds and coordinates programs for older adults authorized by the federal Older Americans Act. Each local AAA is designated by its state to address the needs and concerns of all older persons in its service area.

Sourcewise is the Area Agency on Aging for Santa Clara County. It is an independent nonprofit organization (not part of the county government) whose mission is to help adults and caregivers in the county with tools and services to improve their lives. Its main goal is to allow clients to stay in their own home as opposed to being in an institution. SourceWise is not exclusively for seniors, but a large portion of their work is for seniors. In 2018-19, it had a budget of \$2.9 million for its own services and for grants to other agencies.



www.mysourcewise.com/sites/default/files/standalone-files/2019_MediaKit.pdf

Sourcewise offers both its own services and acts as a coordinator and funder for other services. Their own services include:

- **Information & Awareness** – connects clients with the services that they need. Areas include housing, home help, transportation, legal services and disability services. Community Resource Specialists are available Monday through Friday between 8 a.m. to 5 p.m. at 408-350-3200, option 1.
- **Health Insurance Counseling & Advocacy Program** –HICAP counseling on Medicare benefits and healthcare options in locations throughout the county.
- **Senior Employment Services** – for persons 55+ years old. The federally funded Senior Community Services Employment Program (SCSEP) provides job training and placement for low-income qualified unemployed seniors (<125% of the federal poverty level).
- **Family Caregiver Support Program** – provides a period of respite services to family caregivers. It also offers information and assistance including counseling, organization of support groups, and caregiver advisors.
- **Meals on Wheels** – delivers food to homebound individuals 60+ years old who are unable to purchase food or cook for themselves (or have someone to cook for them). Providing two daily meals that meet 2/3 of the daily nutritional requirements. Meals are low sodium and sugar content but not specifically designed for diabetes or high-blood pressure patients.
- **Care Management** – providing assessment and planning services to fit a clients social, physical and economic needs. Designed to assist with in-home living including the transition from hospitalization or the stay in a skilled nursing or intermediate care facility.
- **Public Authority Services** – provides a database of pre-screened In-Home Supportive Services workers. Relieves clients of the need to vet, negotiate wages and administer benefits for workers.

4. West Valley Community Services (WVCS)

10104 Vista Drive

408-255-8033

www.wvcommunityservices.org

WVCS is a private non-profit organization that has been providing free services to low income and homeless families in the western part of Santa Clara County since 1973. In addition to providing its own services, the agency also provides referrals to other agencies. Its paid staff of 20 is augmented by a large number of volunteers (>600). With the exception of the R.Y.D.E. senior transportation program, most of its services are not senior-specific.

WCVS provides services in four areas:

- **Food**
Clients can visit the Food Pantry weekly to receive a wide variety of food products.

Donated by various local partners. Last year the Food Pantry served over 2,300 individuals. There is a Mobile Food Pantry for those who have transportation issues.

The Community Access to Resources & Education (CARE) program provides education on benefits including food stamps, SSI, SSID, CalWorks, and the Earned Income Tax Credit (EITC). CARE also helps clients apply for food stamps, free/reduced lunches, Medicare and Medicaid.

- ***Housing***

- Their *Haven to Home Program* provides support services to access stable housing for homeless and chronically homeless individuals and families. Staff assists finding permanent affordable housing, employment and coaching for greater stability and independence
- *The Rapid Rehousing Program* help homeless to quickly move into permanent housing and provides rental assistance and support services.
- Vista Village and Greenwood Court Apartments complexes are owned by WVCS and are managed through the City of Cupertino as Below Market Rate (BMR) offering permanent housing to low-income households.

- ***R.Y.D.E. Senior Transportation***

This program funded by Santa Clara County is for adults 55+ years old who need low-cost around town transportation options. (See Section IV. Transportation for a detailed description.)

- ***Other Services***

- Emergency Financial Assistance offers one-time financial assistance to prevent evictions and utility cutoffs, provides clothing vouchers, and other services.
- Financial Workshops & Education teaches how to set a budget, establish financial priorities, and spot predatory lending practices. They also offer free tax assistance.
- Financial Empowerment Programs helps to build financial skills with 1:1 coaching.

5. Live Oak Adult Day Services

20920 McClellan Road
408-973-0905

Live Oak Adult Day Services (LOADS) is a community-based nonprofit agency that provides a specialized program of adult day care for frail elderly dependent adults in Santa Clara County. The organization is headquartered in San Jose, and one of its four facilities in Cupertino (the others are in Los Gatos, Gilroy and Willow Glen).

Live Oaks goal is keeping its clients



independent and active. They accept both clients who are unable to live independently as well as others who can benefit from social stimulation. Clients can include those in wheelchairs as well as those with illness such as Alzheimer's Disease, dementia and Parkinson's Disease.

Activities include:

- Adaptive physical exercise
- Music programs
- Arts and crafts
- Current event discussions
- Reminiscing discussions, and
- Interaction with volunteers of various ages

The day program allows caregivers to go to work, run errands, or perform other household tasks knowing that their senior is receiving attention in a professional, caring environment. LOADS also offers support groups, classes and other resources for caregivers. Services are provided by a paid staff supplemented by volunteers.

The Cupertino facility provides breakfast and hot lunch along with snacks and beverages throughout the day. Assistance is provided for non-ambulatory clients.

There is an application and eligibility requirements. The fees are a sliding scale based on monthly family income (\$400 income -> \$20/day; \$1000 -> \$35/day; \$2500+ -> \$70/day). These fees cover approximately 1/3 of the costs. Potential clients are invited for "trial run" at the facility for a portion of a day. During this trial, the staff will also evaluate needs and fit into the program.

A recent newsletter is online at <http://liveoakadultdaycare.org/wordpress/wp-content/uploads/2018/04/LoadsNewsletterSpring2018.pdf>.

For a list of other adult day programs near Cupertino, see the end of this section.

6. In-Home Supportive Services (IHSS)

1888 Senter Road

San Jose 95112

408-792-1600

www.sccgov.org/sites/ssa/daas/ihss/Pages/ihss.aspx

IHSS is a service funded by the California Department of Social Services and administered by each county in the state. The program pays for personal care and domestic services to Medi-Cal eligible (low income) seniors age 65+ who are blind or disabled and live in their own homes. The goal for IHSS is to avoid the need for out-of-home care (e.g., nursing homes or board and care facilities) for individuals who can safely remain in their homes with the proper support. (Most long-term facilities or community care facilities are NOT considered your "own home.")

After applying and being admitted into the IHSS program, beneficiaries receive financial support for an authorized number of hours of per month, based on a county-dependent hourly fee structure. The State issues payments, but the participating seniors are responsible for hiring, training, supervision and firing of the support givers, who are employees of the senior not the State.

For Cupertino, IHSS is administered by the Santa Clara County Department of Aging and Adult Services.

7. Silicon Valley Healthy Aging Partnership

550 E. Remington Drive
Sunnyvale, CA 94086
408-730-7356
www.svhap.org

SVHAP's mission is to make health promotion programs available to older adults in Santa Clara County. It partners with national and state organizations to implement evidence-based programs in this area. National partners include the Administration on Aging, the Centers for Disease Control and the National Council on Aging. Local partners include the Health Trust and El Camino Hospital. It currently is focused on providing programs designed to prevent falls among older adults.

Other Services for Seniors

8. 2-1-1 Santa Clara County

www.211bayarea.org/santaclara

The 2-1-1 service, available by phone and online, provides free information on non-emergency community, health, and disaster resources, including information for seniors. The service, provided by the United Way Bay Area, is available 24 hours a day, 7 days a week.



9. Santa Clara County Fire Department

<http://www.sccfd.org>

The fire department provides information and referrals to older adults. It offers free programs including Senior Fall and Fire Prevention, Be Ready: Seniors Prepared (disaster preparedness), and Preparing Caregivers for Medical Emergencies.



www.sccfd.org/images/documents/community_education/SeniorFSAdFlyer117.pdf

10. Santa Clara County Sheriff

www.sccgov.org/sites/sheriff/Pages/sheriff.aspx

The Sheriff's office and the District Attorney deal with elder abuse cases. They have a resource card with relevant contacts.

11. Nearby Adult Day Programs

In addition to the Live Oak Adult Day facility in Cupertino, there are a number of other adult day programs near Cupertino. These include:

Avenidas Rose Kleiner Senior Day Health Center

260 Escuela Avenue
Mountain View, CA 94040
650-289-5499

www.avenidas.org/programs/adult-day-program

Golden Castle ADHC Center

3803 East Bayshore Road,
Palo Alto, CA 94303
650-964-1964

www.goldencastlecenter.org

Grace ADHC Center

3010 Olcott Street,
Santa Clara, CA 95054
408-731-8686

www.facebook.com/Grace-Adult-Day-Health-Care-162942153727592

Hearts and Minds Activity Center

The first large capacity dementia-specific adult day program in the country founded in 1984.

2380 Enborg Lane
San Jose, CA 95128
408-279-7515

www.heartsandmindsactivitycenter.org

Hope Services

For adults 45+ with developmental disabilities

1555 Parkmoor Ave
San Jose, CA 95128
408-282-0478

www.hopeservices.org/our-services/senior-services

Prestige Adult Day Health Care

1765 S. Main Street, #101
Milpitas, CA 95035
408-586-9000

SarahCare

450 Marathon Drive
Campbell, CA 95008
408-374-2273

<https://sarahcare.com/campbell/>

Saratoga Adult Care Center

19655 Allendale Avenue
Saratoga, CA 95070
408-868-1262

www.sascc.org/contact

Self-Help for the Elderly-South Bay Center

860 Stewart Drive
Sunnyvale, CA 94085
408-733-1883

www.selfhelpelderly.org/our-services/activity-centers/about-our-activity-centers

Social Vocational Services, Inc.

471 Gianni Street
Santa Clara, CA 95054
800-385-2527

www.caring.com/senior-living/california/santa-clara/social-vocational-services-inc-santa-clara

Yu-Ai-Kai Senior Day Services

588 North Fourth Street
San Jose, CA 95112
408-294-2505
<https://yuaikai.org/senior-day-services>

V. EDUCATION FOR SENIORS

Cupertino is located in the middle of one of the most exciting places in terms of its access to educational resources, including programs specifically designed for older learners. In addition, there has been a rapid increase in online resources from libraries and universities that can be helpful for those who have a mobility problem. But online resources are not a substitute for stimulating discussions or exchange of ideas with peers and with diverse and provocative thinkers. The primary challenges are in making sure that these opportunities are accessible both in terms of transportation (especially to seniors who do not drive), and in terms of language (to seniors who don't speak English well). But, first, we consider the importance of lifelong learning in an aging society.

The Role of Education in Later Life

According to old, and now largely outdated views of aging, later life is a period marked by pervasive decline in physical and mental capacity, the time in life when people are expected to withdraw (retire) from the normal activities of midlife and focus on enjoying the less demanding requirement of leisure and interactions with family and friends.

This dated view of the life course has been largely replaced by a new perspective based on the assumption that, as long as physical and mental health hold out, people at every age are capable of continuing to contribute to society and continuing to grow and to learn. And there is a growing body of evidence that staying engaged and taking on new challenges, including learning, in later life is beneficial in many ways, including improved health.

A UK survey of older learners (aged 50-71) found evidence of multiple benefits of later life learning:²³

- 80% of learners reported a positive impact of learning on at least one of the following areas: their enjoyment of life; their self-confidence; how they felt about themselves; satisfaction with other areas of life; and their ability to cope.
- 42% reported an improvement in their ability to stand up and be heard and/or their willingness to take responsibility.
- 28% reported an increased involvement in social, community and/or voluntary activities as a result of learning.
- The most important reasons for learning were intellectual, for example, wanting to keep their brain active, enjoying the challenge of learning new things and wanting to learn about things interested in; followed by personal and instrumental reasons.

The study also found that “not every older adult was interested in continuing to learn: the most common reasons for not learning were a lack of time and a lack of interest in learning. A quarter said they had done enough learning in their life and 22 per cent felt too old to learn. Family responsibilities were also important, and non-learners were particularly likely to be spending time with their grandchildren.”

One potential – and potentially important – benefit of continuing to stay intellectually active is to provide resistance to dementia. As a diagnostic term in medicine, dementia refers to the progressive loss of cognitive function in an individual. There are various kinds of

dementing illnesses, but Alzheimer's is by far the most common. Alzheimer's disease afflicts individuals, wears down their families and taxes the social support and health care systems of our nation. It is difficult not only for the afflicted individual, but also for those who love them and provide care for them. At present, there is no treatment for the disease.

Alzheimer's is highly correlated with age. Of the estimated 5.7 million Americans who were living with Alzheimer's dementia in 2018, 5.5 million were age 65 and older. One in 10 people (10%) age 65 and older has Alzheimer's dementia. While 3% of people 65-74 had Alzheimer's, this increased to 17% of people 75-84, 32% of people 75-85, and 32% of people 85 and older. As the population ages, the number of those with Alzheimer's will continue to increase and is projected to reach 8.9 million by 2050.²⁴

(Assuming that these numbers apply to Cupertino, the city would currently have some 300 residents with Alzheimers—10% of the city's 3,170 65+ population—and the number can be expected to grow to more than 500 by 2025.)

But not everyone who becomes old develops Alzheimer's. Why? No one is quite sure, but there are a lot of researchers trying to find ways to prevent, cure and better help those with the disease. One of these is the epidemiologist David Snowden, the author *Aging with Grace: What the Nun Study Teaches Us About Leading Longer, Healthier, and More Meaningful Lives*,²⁵ a study of a group of nuns from the School Sisters of Notre Dame in Mankato, Minnesota. These women not only tended to live very long lives, but they also had a much lower incidence of Alzheimer's disease than the general population.

One of Snowden's most striking observations is how these sisters constantly engaged in intellectually stimulating activities, such as writing journals, doing crosswords, and reading books on a wide range of topics. Their commitment to education was very strong. For example, a retired nun who already has several master's degrees decides that her convent needs more expert knowledge about nutrition and goes back to school to get another master's degree in nutrition. Snowden suggests that this pattern of lifelong educational and intellectual activity could well be helping to protect them from dementia, a finding that Snowden suggests could be applicable to the broader population.

Educational Opportunities in Cupertino

Senior education resources in and around Cupertino, described below, include:

1. Cupertino Senior Center
2. YMCA programs for active and older adults
3. FUHSD Adult School programs
4. DeAnza College Adult Education
5. The Cupertino Library and the Library Foundation programs
6. Santa Clara University – Osher Lifelong Learning Institute
7. Stanford University Community Education

1. Cupertino Senior Center

21251 Stevens Creek Blvd.

408-777-3150

www.cupertino.org/our-city/departments/recreation-and-community-services/cupertino-senior-center

The Cupertino Senior Center is operated by the city's Department of Parks and Recreation. It is open from 8 am to 9 pm Monday-Thursday, 8 am to 5 pm on Friday and 8:30 am to 4:30 pm on Saturdays. Most programs are offered during the daytime, but there is also a program of evening classes, with an emphasis on fitness programs. Much of its programming is bilingual, in English and Mandarin.

Programs and classes offered at the center include:

- Education classes such as Brain Fitness, Bridge, Contemporary Issues, Cooking, Citizenship, Creative Writing, Humanities Lecture Series, Memoir Writing, Nutrition, Poetry, and U.S. History
- Arts activities such as Beading, Chinese Brush Painting, Chinese Calligraphy, Kumihimo (Bracelets), Oil and Acrylic Painting, Watercolor Painting
- Dance & Music instruction including Accordion, Hula, Line Dancing, Guitar, Harmonica, Ukulele, Yuan Chih Dance
- Fitness classes such as Chair Exercise, Feldenkrais Method, Aerobics, Yoga, Balance, Pilates, Strength Training/Conditioning, Tai Chi, Qigong, VivAsia Lotus, VivAsia Chair Lotus, Zumba
- Language programs including Conversational English, Mandarin, ESL
- Technology support programs such as Apple Assistance, iPad, Facebook and general tech time for members

The Senior Center also offers recreational and social activities including karaoke, bingo, mah jongg, open bridge and cribbage. More active programs include 50+ golf, tennis, softball and ballroom dancing.

The Senior Center has an extensive Travel Program, which offers day trips and extended trips to shows, sights, and activities of interest in the Bay Area and beyond. There are two social workers at the Senior Center to help residents with social service needs, and the Senior Center organizes twice-a-year senior health and wellness fairs that bring together a variety of senior resources. A bimonthly newsletter, *The 50+ Scene*, lists all programs.

Membership which is available to all residents 50 and older is \$28, which includes a parking permit and a subscription to the center's newsletter. A day pass for access to various programs is \$5.

2. The Northwest YMCA

20803 Alves Drive

408-257-7160

www.ymcasv.org/northwest

The Y has a program targeted toward active older adults, which includes:

- A monthly Lunch Lecture series where experts in the field of aging, emergency preparedness, nutrition, exercise and overall wellness share useful information.
- A quarterly Senior Fitness Assessment, offering seniors an opportunity to learn of their current fitness level compared to that of others in their age group (upper and lower body strength and flexibility, aerobic endurance, balance and agility), talk with a fitness professional, and plan their fitness program.
- Classes include Aqua Arthritis, Aqua Aerobics, Aqua Zumba, Ballroom Dance, Cycling, Yoga, Feldenkrais, Line Dance, Meditation, Nia, Pilates, Stretch & Balance, Qigong, Strength and Conditioning Class for Seniors, Tai Chi, Stretch and Flex, Ygilates and Zumba.

3. Fremont Union High School District Adult School

10123 North Wolfe Road, Suite 2085

408-522-2700

www.fuhسدadulthoodschool.com/

FUHSD has an Active Adult Program, targeted toward people 50 years and older. These classes take place at various places within the community (Sunnyvale Senior Center, Sunnyvale Community Center, Cupertino Senior Center and the Adult School location at Vallco). Classes include:

- Fine Arts such as Chinese Brush Painting, Clay Arts, Creative Drawing and Water-Media, Painting with Oil and Acrylic, Painting with One Stroke, Painting with Watercolor.
- Health and Fitness such as Aerobic Rhythms, Chair Volleyball, Yoga, Hike for Health, Low Impact Exercise, Meditation and Visualization, Strength Training and Conditioning, Tai Chi
- Home Arts such as Knitting
- Language such as Spanish
- Music and Dance such as Line Dancing
- Special Interests such as Book Reading/Discussion, Creative Writing

Some of these programs are offered in partnership with the Senior Center, at the Senior Center. A quarterly catalog is online at

www.fuhسدadulthoodschool.com/apps/pages/index.jsp?uREC_ID=625551&type=d&pREC_ID=1505523.

4. **DeAnza College**

Learning Center, Room LC-141
21250 Stevens Creek Boulevard
408-864-8817
www.deanza.edu/shortcourses/

DeAnza College offers a Community Education program consisting of a series of short courses in the following areas:

- Arts & Music
- Astronomy & Science
- Enrichment
- Finance & Real Estate
- Health & Wellness

A sample of short courses being offered in May-June 2019 include: Belly Dancing for Beginners, Birding and Nature Basics of Santa Clara County, Hiking the Parks and Trails of the Santa Cruz Mountain, Cooking: Springtime in Italy, Discover Your Personality Type, Business Chinese for Beginners, Astronomy for Everyone, Astrophysics for Everyone, All About Reverse Mortgage etc.

5. **Cupertino Library**

10800 Torre Avenue
408-446-1677
www.sccl.org/cupertino

The Cupertino Library, which is part of the Santa Clara County Library District, is an important resource for seniors. In fact, after children and teens, older adults are the group that uses the library the most.

A free library card, available to county residents at any of the system's branches, entitles holders to check out up to 100 books and up to 30 DVDs at a time, and to access the library's extensive online resources. Cardholders age 65 and older are exempt from fines for items that are overdue for up to six weeks.

Resources of interest to older adults provided by the library include:

- Accessibility: Bookmobile Service (bringing library items to the community in various locations), Home Library Service (free delivery of library items to homebound residents), Library Services for People with Print Disabilities (large type books, free Braille and audio books and playback equipment),
- Citizenship Resources: online materials including a guide to naturalization, practice materials for citizenship exam, and other resources that can be helpful with the naturalization process. There is a Passport Office in the library that provides assistance in applying for or renewing a passport.

- ESL Resources: ESL conversations clubs at most library locations to improve English skills, plus reading material collections designed to help ESL learners. Many online resources to help learners of English, plus a free Rosetta Stone immersion language learning for 30 languages including English.
- Computers, software and printers available to everyone, including seniors and disabled residents.

The Cupertino Library Foundation works with the Library to provide seminars on education, wellness and a film series followed by guest-speaker-led discussion. Recently the CLF has been offering the film series in partnership with the Senior Center, and these events have been very well attended, showing that there is interest in such activities in the community.

6. Osher Lifelong Learning Institute at Santa Clara University (SCU)

500 El Camino Real
 Santa Clara, CA 95053
 (408) 554-4000
www.scu.edu/osher

SCU is within a short drive from Cupertino and is a valuable source of academic and intellectual resources for seniors.

The Osher Lifelong Learning Institute at Santa Clara University is a community of learners 50 and older. (The OLLI at SCU is one of 119 OLLIs that have been established at colleges and universities around the U.S. with support from the Bernard Osher Foundation. Other OLLIs in the Bay Area are at San Francisco State University, Cal State-East Bay and UC-Berkeley.)

Course instruction is at university level, but no particular educational background is required. There are no tests, grades or papers, but the classes may require some reading or other preparation. Membership costs \$45 per academic year per person, and there is a fee for each class (typically \$95 for “long” courses and \$50 for “short courses.”)

The OLLI course catalog is online at <https://www.scu.edu/osher/catalog--e-bulletin/course-catalog>. Spring 2019 listings include the following courses:

- Islamic Art in the Age of Empire
- The Beauty of the Dismal Science: Fundamentals of Economics
- Making Medical Decisions: Thinking Critically about Your Health
- Genghis Khan: Universal Ruler or Scourge of the Earth?
- Introduction to Hinduism: History, Religion, Philosophy and Culture
- How Today’s Languages Illuminate the Human Past
- The Baha’i Faith
- Vines to Wines in the Santa Cruz Mountains
- Recent Trends in Silicon Valley and Bay Area Architecture
- Making Babies and New Bioscience
- Income Inequality in the United States
- Armchair Traveler: A Journey Through Modern Germany
- The Saint John Bible: A Marriage of Modern Art, Medieval Technique, and Technology
- Art and Entertainment in the Paris of the Late 19th Century

- Opening the Vault: Meet the de Saisset Museum
- Behind the Scenes: Romeo and Juliet: From Page to Stage

SCU also offers speeches and seminars with world-class speakers and instructors. For example, the SCU Law School (<https://law.scu.edu>) holds a series of conferences on Conflict Resolution and Mediation, and the Markkula Center for Applied Ethics offers many talks, workshops and panel discussions (www.scu.edu/ethics/events).

6. Stanford University

Stanford is 30 minutes away from Cupertino by car and offers an extensive and varied educational resources for seniors.

Stanford's Continuing Studies (<https://continuingstudies.stanford.edu>) offers non-credit, non-graded classes online and on-campus for pleasure, personal enrichment, or professional development. Some classes meet for 1-5 weeks, others run 6-10 weeks, and workshops run 1-4 days.

The Spring 2019 Continuing Study catalogue includes the following courses:

- Planning for 21st-Century Retirement
- Artificial Intelligence for Healthcare and Longevity
- First Ladies: A History
- Visual Storytelling: Creating a Photographic Narrative
- The Science of Being Memorable and Influencing Decisions
- How to Think Like a Futurist: Improve Your Powers of Imagination, Invention, and Capacity for Change
- How to Plot Your Novel
- Women Leaders: Mastering Organizational Strategy
- Memorable Storytelling: Mastering a Powerful Business Tool
- Buddhism: An Experiential and Practical Introduction
- The Creative Habit: Cultivating a Daily Writing Practice
- Mindfulness for Writers
- Overcoming Writing Blocks and Procrastination
- Social Media Marketing
- Icon and Enigma: The Art of Andy Warhol
- Exploring Creative Mindfulness
- Intimate Portraits
- Effective Nonprofit Board Governance
- An Introduction to Neurological Disorders: ALS, Epilepsy, Stroke, and More

In addition to Continuing Studies, Stanford offers a number of other education resources and programs:

- Stanford Online (<https://online.stanford.edu>) offers more than 100 free online courses or MOOCs (massively open online courses) for the public. Many are rigorous college-level academic courses, but some are of general interest. Offerings for the 2018-19 academic year include courses from the Medical School on Locating and Using Medical Information

in the Digital Age, E-Cigarettes: Harmful or Harm-Reducing, and Molecular Foundations of Medicine; Engineering School courses include Cybersecurity Fundamentals, Blockchain and Cryptocurrency: What You Need to Know, and Economics of Clean Energy Transition; humanities courses include Defining the String Quartet: Beethoven, and Adventures in Writing. Catalog of online courses is at <https://online.stanford.edu/courses>.

- Stanford on iTunes U (<https://itunes.stanford.edu>) makes available more than 3,000 Stanford audio and video programs including lectures, faculty presentations and campus event. Stanford on Youtube (<https://www.youtube.com/channel/UC-EnprmCZ3OXyAoG7vjVNCA>) is an archive of videos from schools, departments, and programs across the university highlighting faculty lectures and research.
- The museums at Stanford (<https://museum.stanford.edu>) are free and open to the public. The largest of these is the Iris & Gerald Cantor Center for Visual Arts that offers exhibits, regular docent-led tours, and educational programming.
- A large number of concerts, plays and other performing arts are offered on campus. Stanford Live (<https://live.stanford.edu>) provides a full program of live performances ranging from symphony orchestras to string quartets each year at the Bing Concert Hall and other venues. In the summer of 2019, Stanford's Frost Amphitheater will re-open to host live outdoor performances, including the San Francisco Symphony.

VI. CAREGIVING

As people reach later life, they are more prone to develop chronic diseases and to become frail (see Section I, Demographics). Over time, many of them may experience increasing difficulty in performing what are known as “activities of daily living” (ADLs) such as eating, bathing, dressing and performing personal hygiene without assistance from others. They may also need help with activities like home maintenance, bill paying, shopping or scheduling and keeping medical appointments (known as “instrumental activities of daily living or IADLs). Although paid caregivers provide some support for such activities, the great majority of care comes from informal caregivers—unpaid help from a relative or friend.

This kind of informal caregiving is very widespread even if it is not always recognized. According to a 2015 national survey, approximately 43.5 million Americans—more than 10% of the U.S. population—had served as a caregiver in the previous 12 months.²⁶ Among caregivers, 34.2 million provided care to recipients 50 and older, representing 79% of all caregivers.

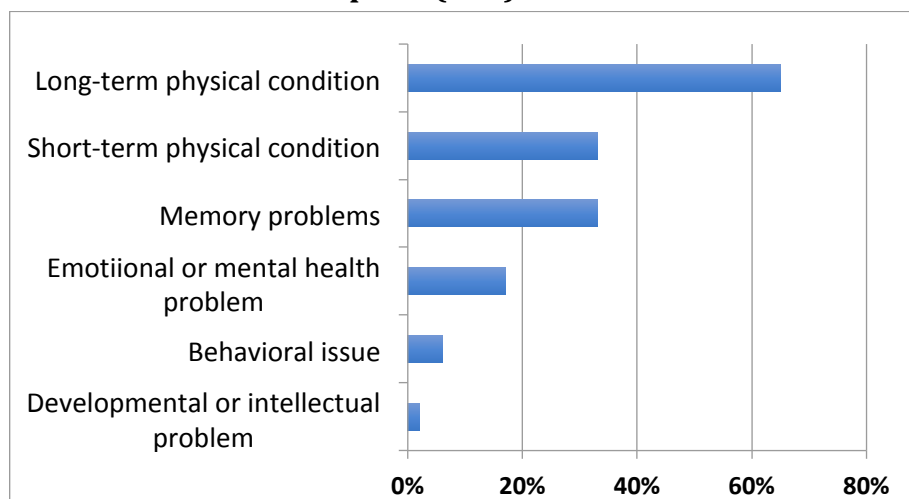
This section summarizes key facts about the nature and extent of caregiving for older adults, based on results of the 2015 survey.

Who are Care Recipients?

The average age of care recipients is 69.4 years old. Nearly half of all care recipients (47%) are age 75 or older. Two-thirds (66%) are female while one-third are male (35%). More than one-third (37%) of care recipients over age 65 live alone.

In terms of reasons for needing care, the most common reason is a long-term physical condition, followed by a short-term physical condition and memory problems (see Figure 6.1).

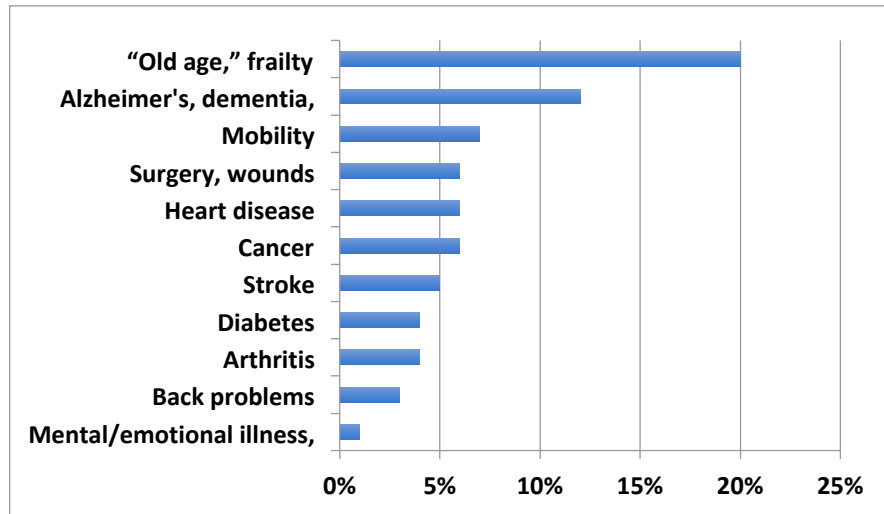
FIGURE 6.1
Care Recipient (65+) Conditions



www.caregiving.org/wp-content/uploads/2015/05/2015_CaregivingintheUS_Final-Report-June-4_WEB.pdf

When caregivers are asked to name the “main problem or illness” that is requiring them to provide care, the most frequent response is “old age or frailty” (20%), followed by “Alzheimer’s, dementia or forgetfulness” (12%), “mobility” (7%) and “surgery or wounds,” “heart disease,” and “cancer” (6%). (See Figure 6.2) The prevalence of memory problems is higher for care recipients over age 60 (24%) than for younger recipients (9%). The average age of a recipient of care for Alzheimer’s is approximately 70 years.

FIGURE 6.2
Main Problem or Illness Requiring Caregiving



www.caregiving.org/wp-content/uploads/2015/05/2015_CaregivingintheUS_Final-Report-June-4_WEB.pdf

Who are Caregivers?

The majority of caregivers (60%) are female, while 40% are male. More than four-fifths of caregivers (85%) take care of a relative, while 15% provide care for a friend or a neighbor.

The most common type of caregiving (42%) is for a parent, with an additional 7% caring for a parent-in-law and 12% caring for a spouse or partner. Among caregivers aged 65-74, 34% provide care for an older parent or parent-in law, and 24% care for a spouse. For caregivers age 75 and older, 46% care for a spouse, with just 8% caring for a parent.

Asian-Americans who serve as caregivers are, on average younger (46.6 years) than White caregivers (52.5 years). And while 62% of White caregivers are age 50 or above, Asian-American caregivers are more evenly distributed in age (see Figure 6.3).

FIGURE 6.3
Caregiver Age by Ethnicity

	White	Asian-American
Average Caregiver Age	52.5 years	46.6 years
Caregiver age 18–34	17%	30%
Caregiver age 35–49	21%	25%
Caregiver age 50+	62%	44%

www.caregiving.org/wp-content/uploads/2015/05/2015_CaregivingintheUS_Final-Report-June-4_WEB.pdf

What Do Caregivers Do?

Caregivers mainly help recipients to carry out activities of daily living (ADLs, e.g., getting in and out of bed, getting dressed, feeding, dealing with incontinence) or instrumental activities of daily living (IADLs, e.g., transportation, shopping, housework, managing finances). However, more than half of all caregivers perform medical or nursing tasks such as injections, tube feedings, or catheter or colostomy care. One-fifth of these caregivers indicate that they have difficulty performing these tasks.

Caregivers spend an average of 24.4 hours per week performing their caregiving tasks, while a quarter of caregivers devote more than 40 hours a week to their tasks. Three-quarters of caregivers live within 20 minutes of their care recipient, while approximately 15% of caregivers are “long distance caregivers” who reside an average of 450 miles from their care recipient.

The scarcity and cost of housing in Cupertino may make the number of remote caregivers higher in this community. Many caregivers, whether informal (unpaid family members) or formal (paid services) may not be able to afford to live in Cupertino, making access to needed caregiving support more difficult.

Six in 10 caregivers were employed while acting as caregivers, and of this group 60% reported having to make accommodations at work, such as cutting back on working hours or taking a leave of absence from work, as a result of their caregiving responsibilities.

Value of Caregiving

According to AARP, in 2013, the free services provided by informal caregivers had an estimated economic value of \$470 billion, almost the same as the sales of Wal-Mart, the world’s largest retailer (\$477 billion).²⁷

Resources for Caregivers



The Family Caregiver Alliance (FCA) is a San Francisco-based national nonprofit organization that advocates for and supports family caregivers. It operates the Bay Area Caregiver Resource Center that specifically targets caregivers in Santa Clara County and other Bay Area counties (415-434-3388 or www.caregiver.org/bay-area-caregiver-resource-center). The Resource Center provides an in-home assessment of caregiver needs, family consultations and care planning, in-person and online support groups, counseling, and legal and financial consultation. FCA’s Care Journey (<https://fcacarejourney.caregiver.org/login>) is a free online service that offers quality information, support, and resources for family caregivers of adults with chronic physical or cognitive conditions such as Alzheimer’s, stroke, Parkinson’s, and other illnesses.



The Alzheimer' Association is a valuable source of support for those who are caring for people with Alzheimer's disease or other forms of dementia. It operates a 24/7 helpline at 800-272-3900. The Northern California chapter (408-372-9900 or www.alz.org/norcal) provides support for caregivers in Cupertino and the rest of the Bay Area. Its activities include local support groups and an annual conference for caregivers.



Sourcewise, the Santa Clara Area Agency on Aging operates a Family Caregiver Support Program that assists caregivers for family members or friends over age 60. It provides individual counseling, information about available services, assistance in gaining access to support services, and respite care to eligible residents of the county. For information call 408-350-3200, Option 1 or visit www.mysourcewise.com/caregiver.



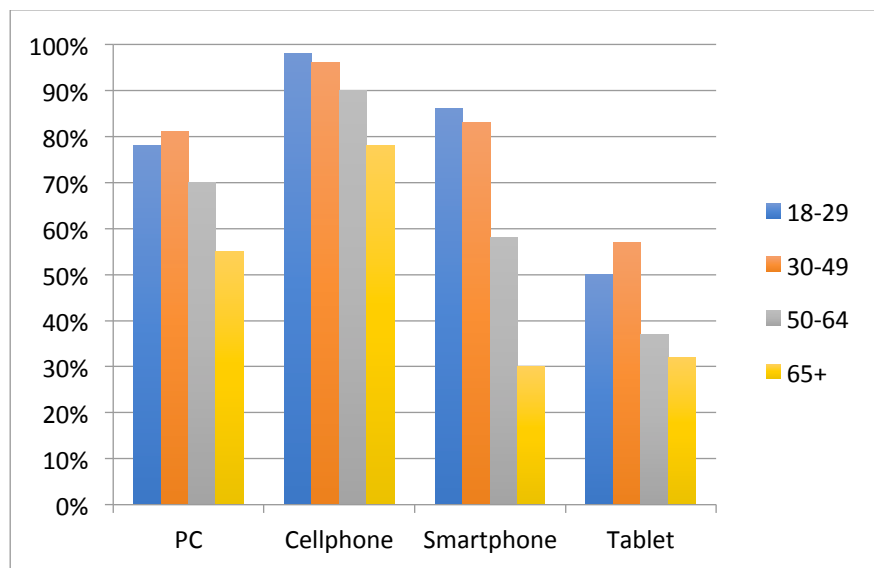
Care.com is a free online resource that provides listings of paid, professional caregivers for seniors in the community (www.care.com/senior-care).

VII. SENIORS AND TECHNOLOGY

In the past, older adults were largely seen as non-users of technology and were considered to be “technophobic.” This has changed over time, as seniors have adopted new technologies such as PCs, tablets and cellphones. However, the rates of adoption and use of technology by older adults generally lag behind those of younger people, resulting in a persistent “digital divide” based on age.

Figure 7.1 shows ownership of various technology devices—PCs, cellphones, smartphones and tablets—by Americans of different ages in 2015.²⁸ In every case, the level of ownership is highest among those aged 18 to 49 and lowest among those 65 and above. For PCs, seniors’ ownership level (55%) is just over half the rate for those under age 49 (80%). And in the case of a newer technology such as the smartphone, seniors ownership (30%) is just over one-third that of younger people (80+%).

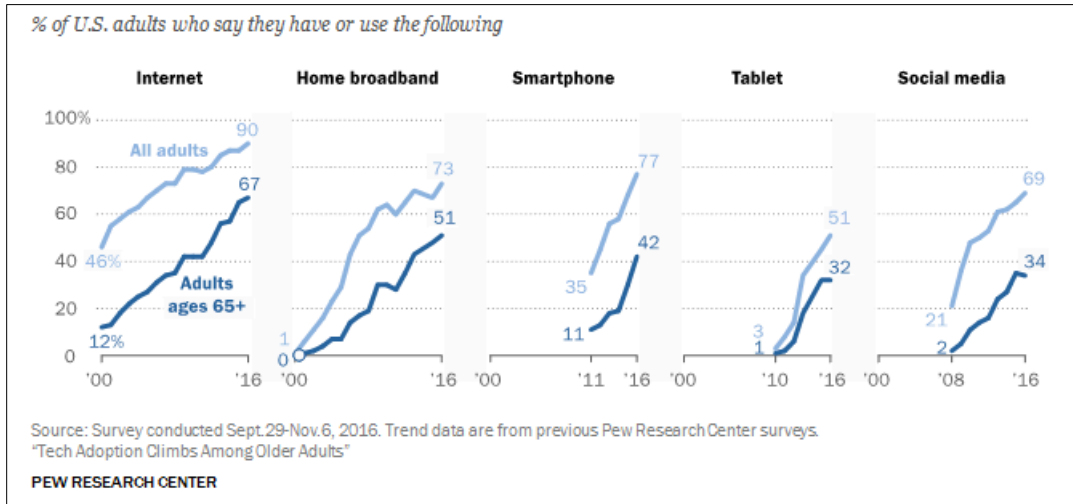
FIGURE 7.1
Technology Ownership by Age, 2015



www.pewinternet.org/2015/10/29/technology-device-ownership-2015

Data on adoption rates for a number of digital technologies over time show the persistence of a gap between age groups: even though the rate of use by older adults has steadily increased, this group has continued to lag behind younger people²⁹ (see Figure 7.2). In the case of internet use, the gap between older adults and all adults which was 34% in 2000 had only narrowed to 23% by 2006. In the case of broadband adoption, the gap had actually increased from just one% in 2000 (when broadband was first introduced) to 22% by 2016. For social media use, the gap increased from 19% in 2008 to 35% in 2016.

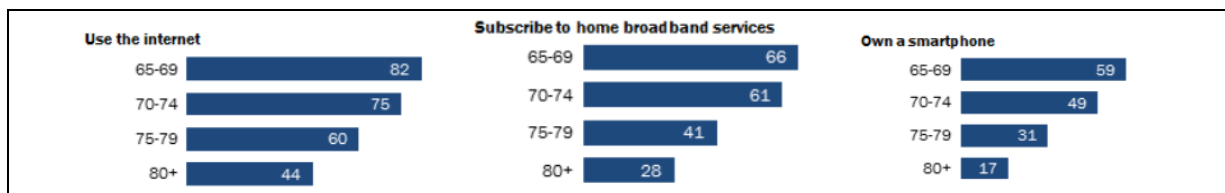
FIGURE 7.2
Adoption of Digital Technology—All Adults vs Older Adults, 2000-2016



www.pewinternet.org/2017/05/17/tech-adoption-climbs-among-older-adults

Most surveys on tech usage by age simply report on “older adults” by combining everyone age 65 and older. However, the 2016 survey done by the Pew Research Center broke out the results into separate cohorts within this age group (Figure 7.3). The data show that the same “digital divide” that exists between those over and under age 65 also exists within the 65+ population: Internet use is nearly twice as high among those age 65-69 (82%) as among those age 80 and above (44%). In terms of smartphones, ownership is three and a half times higher among 65-69 year-olds (59%) as among those age 80+ (17%).³⁰

FIGURE 7.3
Digital Technology Use Among Americans Age 65+, 2016



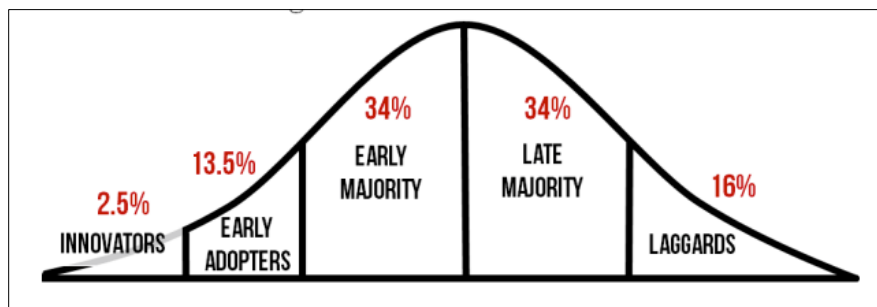
www.pewinternet.org/2017/05/17/tech-adoption-climbs-among-older-adults

Digital Ageism: Myth and Reality

The persistent gap between younger and older people in technology use has been explained in terms of “digital ageism” – the assumption that older people are less interested in and less comfortable in using new technologies than younger persons. The difference between the two age groups has also been characterized in terms of younger people being “digital natives” who have grown up with technology as a normal part of their lives, and “digital immigrants” for whom technology arrived later in their lives and therefore seen as strange and unfamiliar, something like the way immigrants may learn a new language but will speak it with an accent.³¹

The fact that millions of older adults have successfully learned to use new technologies indicates that, as a group, older adults are not “technophobic.” A more accurate explanation for the gap between age groups is that older adults are “late adopters” of digital technologies: According to the late Stanford professor Everett Rogers, how any innovation is taken up and used follows a consistent pattern: the first users are relatively small numbers of “innovators” and “early adopters,” who are followed by an “early majority” and then a “late majority” as the innovation becomes better established. The last group to adopt an innovation are the so-called “laggards.”³² For the most part, older adults tend to fall into the latter two categories of people who prefer to wait until a new technology is in widespread use, its cost has declined and its benefits are clear.

FIGURE 7.4
Technology Adoption Curve (Everett Rogers, 1962)



Research has shown that the longer a technology is around, the more usage levels by seniors are like those of the general population. For technologies such as microwave ovens, video recorders, phone answering machines, and even cellphones, there is little difference today between different age groups in terms of usage. But in the case of digital technology, new, ever more powerful devices are being regularly developed and innovative new uses are being introduced.² Thus, just as older adults began to adopt cellphones, younger people were moving to more sophisticated smartphones. And by the time that older adults got interested in social media such as Facebook, young people were switching to newer apps like Instagram and Snapchat.

Overcoming the Digital Divide

As more and more functions of society move into digital form, there is the danger that older adults who are not fully technology literate will be discriminated against in important social activities. For example, stores are being introduced that do not accept cash but require mobile payment. And concern has been raised about the prospects that older adults will be excluded from the 2020 Census, which for the first time, is designed to collect the responses of a majority of the population online.³³

² The underlying driver for this continuous innovation is Moore’s Law, which states that the basic power of computer chips that are at the heart of digital technology double in their power every 18 months, resulting in ever more sophisticated and inexpensive devices and applications.

www.intel.com/content/www/us/en/silicon-innovations/moores-law-technology.html

One important method for helping seniors keep up with changes in technology has been the introduction of digital training programs specifically designed for older adults. Starting in the early 1990s, a nonprofit organization called SeniorNet, which was based in San Francisco, developed computer training courses for older adults and helped to launch over 250 SeniorNet Learning Centers across the country.³⁴

Many senior centers established computer labs or computer classrooms and offered instruction on their use. Seniors are one of the most frequent users of computers in the Cupertino Library. More recently, as new devices like smartphones and tablets have gained popularity, senior training programs have shifted to focus on teaching these devices and the use of “apps” such as Twitter or Facebook. Figure 7.5 shows the technology programs available at the Cupertino Senior Center in the Spring of 2019.

FIGURE 7.5
Technology Classes at Cupertino Senior Center, April 2019



www.cupertino.org/our-city/departments/recreation-and-community-services/cupertino-senior-center/classes

APPENDIX:

Age Friendly Survey 2016 – Cupertino Results

In 2016, as part of the process of getting all cities in Santa Clara County apply to the World Health Organization (WHO) to be designated as Age Friendly communities, the County conducted a survey of residents age 50 and older to explore their current living situations and their attitudes about the importance of the various resources identified by WHO as components of Age Friendly cities such as housing, outdoor spaces, social participation and inclusion, volunteering and job opportunities.

The results of the survey for respondents from Cupertino appear on the following pages. Two caveats need to be made in relation to the results: first, the sample size for the survey is just 42 responses, which is a relatively small number and suggests caution in interpreting the results too broadly. Second, the question on the income of the respondents (Question D13) indicate that nearly half of the respondents had gross annual household incomes of at least \$75,000 and nearly one-third (32%) had household incomes of \$150,000 or more. These percentages are much higher than the distribution of income for all older residents (see Figure 1-7).

But even with these limitations, the survey does offer some suggestive results about the very high priority older residents put on having the City offer resources – such as affordable housing options, accessible and convenient public transportation, well-maintained and safe public parks, and pedestrian-friendly sidewalks.

Age-Friendly Survey 2016 Results			
City	Cupertino	Sample Size	42
YOUR COMMUNITY		(Rounded)	
1_r	This city is an excellent/very good place for people to live as they age	40.5%	41%
4	Have lived in this city:		
	Less than 5 years	2.4%	2%
	5-14 years	19.0%	19%
	15-24 years	19.0%	19%
	25+ years	59.5%	60%
5_r	Not very likely/not at all likely to move out of this city after retirement	63.2%	63%
6	Factors impacting decision to move		
	a Looking for a different home size that will need your needs	74.2%	74%
	b Maintaining your current home will be too expensive	37.5%	38%
	c Fearing for your personal safety or security concerns	29.4%	29%
	d Looking for a home that will help you live independently	75.7%	76%
	e Wanting to move to an area that has better health care facilities	22.6%	23%
	f Wanting to be closer to family	59.4%	59%
	g Needing more access to public transportation	54.1%	54%
	h Wanting to live in a different climate	6.1%	6%
	i Looking for an area that has a lower cost of living	56.7%	57%
7_r	Extremely/very important to remain in this city	59.5%	60%
HOUSING			
8	Own primary residence	83.3%	83%
9	Primary home is:		
	Other	2.4%	2%
	Single Family Home	81.0%	81%
	Mobile Home		0%
	Town home/duplex	11.9%	12%
	Apartment	2.4%	2%
	Condominium/Co-op	2.4%	2%
10_r	Extremely/very important to live independently in own home	88.1%	88%
11	Home modifications or improvements anticipated in order to stay in own home		
	a Easier access into or within home, such as ramp, chairlift or elevator, wider doorways	44.8%	45%
	b Bathroom modifications, such as grab bars, handrails, higher toilet, non-slip tiles	58.8%	59%
	c Putting bedroom, bathroom and kitchen on first floor	19.4%	19%
	d Improving lighting	38.2%	38%
	e Installing medical emergency response system that notifies others in case of	70.0%	70%
12_r	It is extremely/very important for this city to have:		

a Home repair contractors who are trustworthy, do quality work and are affordable	92.5%	93%
b Well-maintained homes and properties	89.7%	90%
c A home repair service for low-income and older adults	2.4%	2%
d Seasonal services such as lawn work or removal of leaves for low-income and older adults	12.2%	12%
e Affordable housing options for adults of varying income levels, such as older active adult communities, assisted living and communities with shared facilities and outdoor	90.5%	91%
f Homes that are equipped with features such as a no-step entry, wider doorways, first	73.2%	73%
g Well-maintained and safe low-income housing	70.0%	70%
h Home cleaning and cooking services	77.5%	78%

OUTDOOR SPACES AND BUILDINGS

13_r It is extremely/very important for this city to have:

a Well-maintained and safe parks that are within walking distance of home	85.7%	86%
b Public parks with enough benches	85.7%	86%
c Sidewalks that are in good condition, free from obstruction and are safe for pedestrian use and accessible for wheelchairs or other assistive mobility devices	97.6%	98%
d Well-maintained public buildings and facilities that are accessible to people of different	95.1%	95%
e Separate pathways for bicyclists and pedestrians	76.2%	76%
f Well-maintained public restrooms that are accessible for people of different physical	90.5%	91%
g Neighborhood watch programs	78.0%	78%

TRANSPORTATION AND STREETS

14 Methods of transportation used:

a Drive yourself	94.9%	95%
b Have others drive you	34.5%	35%
c Walk	58.8%	59%
d Ride a bike	17.2%	17%
e Use public transportation	21.9%	22%
f Take a taxi/rideshare	23.3%	23%
g Use special transportation service, such as one for seniors with disabilities	14.3%	14%

15_r It is extremely/very important for this city to have:

a Accessible and convenient public transportation	97.6%	98%
b Affordable public transportation	95.2%	95%
c Well-maintained public transportation vehicles	95.0%	95%
d Safe and reliable public transportation	97.6%	98%
e Safe public transportation stops or areas	95.1%	95%
f Special transportation services for people with disabilities and older adults	92.7%	93%
g Well-maintained streets	92.7%	93%
h Easy to read traffic signs	95.1%	95%
i Enforced speed limits	87.8%	88%
j Public parking lots, spaces and areas to park	87.5%	88%
k Affordable public parking	76.9%	77%
l Well-lit, safe streets and intersections for all users	92.5%	93%
m Audio/visual pedestrian crossings	70.7%	71%
n Driver education/refresher courses	73.7%	74%

HEALTH AND WELLNESS

16	Health is excellent/very good, when compared to people of similar age	65.0%	65%
17_r	Frequency of engaging in some form of physical exercise:		
	Several times a week to everyday	92.9%	93%
	About once every other week to once a week	2.4%	2%
	Less than once a month to about once a month	2.4%	2%
	Never	2.4%	2%
18_r	It is extremely/very important to remain physically active for as long as possible	97.6%	98%
19_r	It is extremely/very Important for this city to have:		
	a Health and wellness programs and classes in areas such as nutrition, smoking	70.0%	70%
	b Fitness activities specifically geared to older adults	90.5%	91%
	c Conveniently located health and social services	100.0%	100%
	d A service that helps seniors find and access health and supportive services	92.7%	93%
	e Conveniently located emergency care centers	83.3%	83%
	f Easy to find information on local health and supportive services	79.5%	80%
	g Home care services including health, personal care and housekeeping	95.1%	95%
	h Well-trained certified home health care providers	95.0%	95%
	i Affordable home health care providers	95.1%	95%
	j Well-maintained hospitals and health care facilities	97.6%	98%
	k A variety of health care professionals including specialists	95.1%	95%
	l Health care professionals who speak different languages	52.4%	52%
	m Easily understandable and helpful local hospital or clinic answering services	72.5%	73%
	n Respectful and helpful hospital and clinic staff	87.8%	88%

SOCIAL PARTICIPATION, INCLUSION AND EDUCATION OPPORTUNITIES

20_r	Frequency of interaction with friends, families, neighbors (in-person, phone, email, social media)		
	About once a day to more than once a day	70.7%	71%
	Once every 2 or 3 weeks to several times a week	26.8%	27%
	Less than monthly to once a month	2.4%	2%
	Never		0%
21	Continuing education or self-improvement classes/workshops accessed through:		
	a University/Community College	23.8%	24%
	b Department of Parks and Recreation	45.2%	45%
	c Faith Community	16.7%	17%
	d Local organizations or businesses	7.1%	7%
	e Community Center	19.0%	19%
	f Senior Center	54.8%	55%
	g Offerings through my work	7.1%	7%
	h Online programs	23.8%	24%
	i Hospitals/Clinics	14.3%	14%
	j Do not participate in continuing education/self-improvement classes	16.7%	17%
	k Other	9.5%	10%
22_r	It is extremely/very important for this city to have:		
	a Conveniently located venues for entertainment	77.5%	78%
	b Activities specifically geared to older adults	80.5%	81%

c Activities that offer senior discounts	71.1%	71%
d Activities that are affordable to all residents	76.9%	77%
e Activities involving young and older people	80.0%	80%
f Accurate and widely publicized information about social activities	82.1%	82%
g A variety of cultural activities for diverse populations	79.5%	80%
h Local schools that involve older adults in events and activities	65.0%	65%
i Continuing education classes	76.3%	76%
j Social clubs for books, gardening, crafts, hobbies, etc.	71.8%	72%

VOLUNTEERING AND CIVIC ENGAGEMENT

23_r It is extremely/very important for this city to have:		
a A range of volunteer activities to choose from	80.0%	80%
b Volunteer training opportunities to help people perform better in their volunteer roles	70.0%	70%
c Opportunities for older adults to participate in decision making bodies such as	67.5%	68%
d Easy to find information about local volunteer opportunities	82.1%	82%
e Transportation to and from volunteer activities for those who need it	74.4%	74%

JOB OPPORTUNITIES

24 Current employment status:		
Self-employed, part-time	7.5%	8%
Self-employed, full-time	5.0%	5%
Employed, part-time	5.0%	5%
Employed, full-time	10.0%	10%
Unemployed, but looking for work		0%
Retired, not working at all	70.0%	70%
Not in labor force for other reasons	2.5%	3%
25_r Extremely/very likely to continue to work for as long as possible (if working)	75.0%	75%
26_r It is extremely/very important for this city to have:		
a A range of flexible job opportunities for older adults	63.2%	63%
b Job training opportunities for older adults who want to learn new job skills within	57.9%	58%
c Jobs that are adapted to meet the needs of people with disabilities	57.9%	58%

COMMUNITY INFORMATION

27 Would access these resources for information for self, family or friend:		
a AARP	61.8%	62%
b Sourcewise (Previously Council on Aging)	64.5%	65%
c Local senior centers	97.5%	98%
d Local non-profit organizations	76.5%	77%
e Clinic/Hospitals	78.4%	78%
f Faith-based organizations	48.5%	49%
g Department of Aging and Adult Services	54.3%	54%
h 211	12.9%	13%
i Doctor or other health care professional	80.6%	81%
j Local government offices such as the Department of Health	44.4%	44%
k Internet	88.6%	89%
l Library	68.6%	69%

28_r It is extremely/very important for this city to have:		
a Access to community information in one central source	65.0%	65%
b Clearly displayed and printed community information with large lettering	60.0%	60%
c Automated community information source that is easy to understand like a toll-free telephone number	52.5%	53%
d Free access to computers and the internet in public places such as the library, senior centers or government buildings	73.2%	73%
e Community information that is delivered in person to people who may have difficulty or may not be able to leave their home	67.5%	68%
f Community information that is available in a number of different languages	61.0%	61%

PARTICIPANT DEMOGRAPHICS

D1 Gender		
Other	0.0%	0%
Male	31.0%	31%
Female	69.0%	69%
D2 Sexual Orientation		
Other	0.0%	0%
Heterosexual/Straight	97.5%	98%
Lesbian	2.5%	3%
Gay	0.0%	0%
Bisexual	0.0%	0%
Transgender	0.0%	0%
D3 Age Range		
50 to 64	26.2%	26%
65 to 74	33.3%	33%
75 to 84	38.1%	38%
85+	2.4%	2%
D4 Relationship Status		
Married	64.3%	64%
Not married, living with partner	7.1%	7%
Separated	0.0%	0%
Divorced	4.8%	5%
Widowed	14.3%	14%
Never married	2.4%	2%
Single	7.1%	7%
D5 Other Household Members		
a Child/children under 18	7.9%	8%
b Child/children 18 or older	17.1%	17%
c Child/children away at college	7.9%	8%
d Parents	37.5%	38%
e Other adult relative or friend 18 or older	0.5%	1%
D6 Health Care Coverage		
a Insurance through current or former employer of yours or your spouse	48.6%	49%
b Insurance purchased directly from an insurance company (not through and employer)	25.8%	26%
c Medicare	63.9%	64%

d Medi-Cal or any kind of government assistance plan for those with low incomes or a	9.7%	10%
e Veterans Administration or other military health care	100.0%	100%
f Any other insurance coverage	13.8%	14%
D7 Disability, handicap or chronic disease prevents full participation in work, school, housework or		
Myself	17.9%	18%
My spouse or partner	7.7%	8%
Both me and my spouse or partner	7.7%	8%
None	66.7%	67%
D11 Highest level of education		
K-12 (no diploma)	0.0%	0%
High school graduate, GED or equivalent	4.9%	5%
Post-high school education/training (no degree)	4.9%	5%
2-year college degree	4.9%	5%
4-year college degree	31.7%	32%
Post-graduate study (no degree)	9.8%	10%
Graduate or professional degree(s)	43.9%	44%
D12 Frequency accessing internet		
Several times a day	61.9%	62%
About once a day	26.2%	26%
3 to 6 days a week	2.4%	2%
1 to 2 days a week	2.4%	2%
Once every few weeks	0.0%	0%
Once a month or less	0.0%	0%
Never go online	7.1%	7%
D13_r Gross annual household income		
Less than \$30,000	13.2%	13%
\$30,000 to \$74,999	0.0%	0%
\$75,000 to \$149,000	18.4%	18%
\$150,00 or more	31.6%	32%
D14 Experienced increased confusion or memory loss in past 12 months	4.9%	5%
D15 Discussed increase in confusion or memory loss with health care professional	50.0%	50%
D16 Provided care or assistance to family member or friend with cognitive impairment or dementia	21.4%	21%
D17 Person cared for (in D16) experienced changes in thinking or remembering	88.9%	89%
Demographics Race/Ethnicity		
African American	0.0%	0%
Asian/Pacific Islander	26.2%	26%
Latino	2.4%	2%
White	57.1%	57%
Other	14.3%	14%

ENDNOTES

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Roma Ankolekar

- Resident of City of Cupertino for 6 years
- Junior, Monta Vista High School
- Passionate about Dementia Awareness and Research
- Volunteer at the Youth Movement Against Alzheimer's
- Started blogging site in memory of grandmother: www.dementiainsight.org
- Hosted Seminar Dementia Insight: Aging Well In The 21st Century on September 21st, 2019 (World Alzheimer's Day)



Shailaja Ankolekar

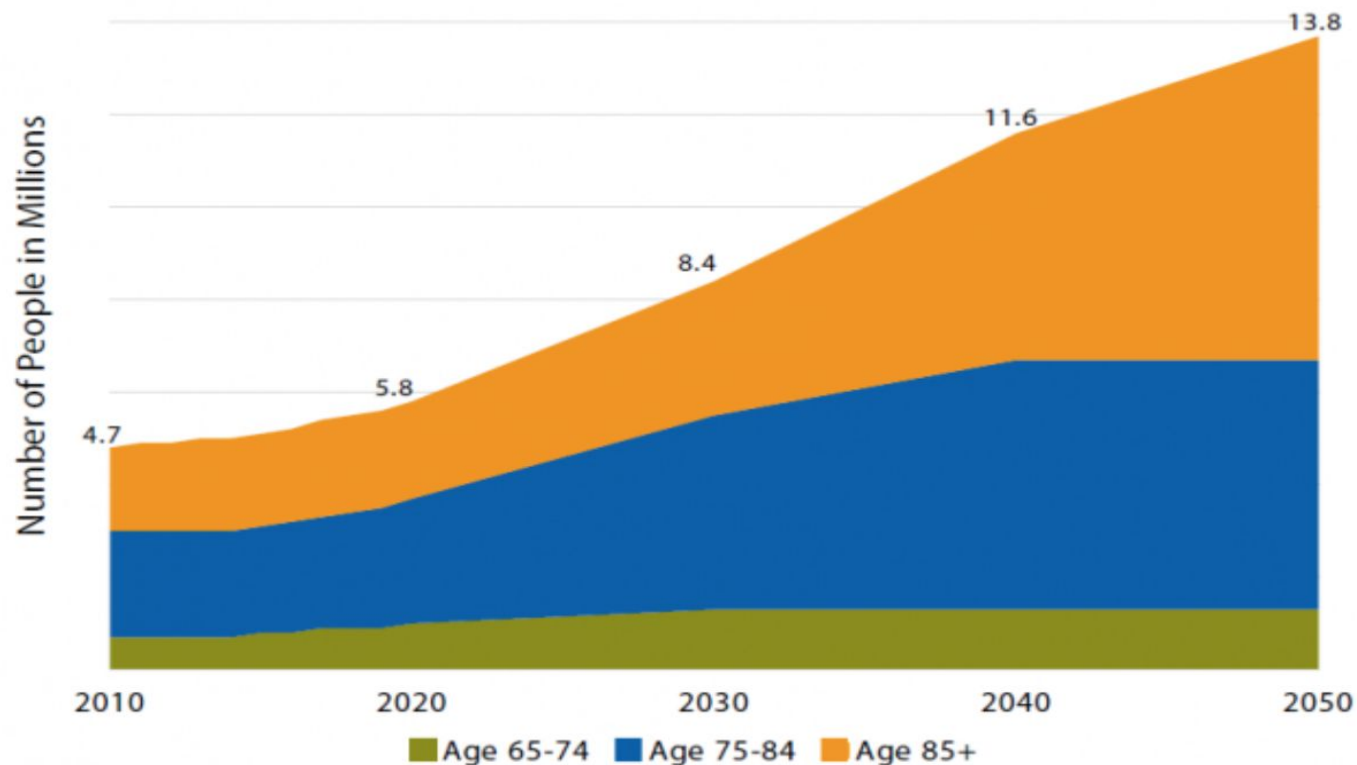
- Loving mother and grandmother
- Initially diagnosed with Depression
- Symptoms of Alzheimer's started in her early 60s
- Diagnosed with Alzheimer's in her mid-60s
- Major family Impact
- Disease accelerated after 5 years
- 24/7 monitoring by a trained nurse
- Severe Stage of Alzheimer's in the last year (2018)



Dementia Insight: Aging Well In The 21st Century Seminar 2019



Projected Number of People Aged 65 or Older With Alzheimer's Disease, by Age Group, United States, 2010–2050



Source: Created from data in Hebert LE, Weuve J, Scherr PA, Evans DA. Alzheimer disease in the United States (2010–2050) estimated using the 2010 Census. *Neurology*. 2013;80(19):1778–1783.



CALIFORNIA

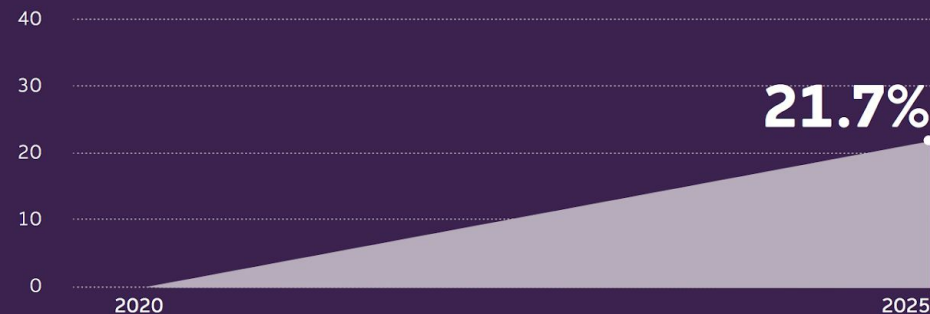
ALZHEIMER'S STATISTICS

65+ NUMBER OF PEOPLE AGED 65 AND OLDER WITH ALZHEIMER'S BY AGE*

Year	65-74	75-84	85+	TOTAL
2020	110,000	290,000	290,000	690,000
2025	120,000	380,000	330,000	840,000

* Totals may not add due to rounding

Estimated percentage change



**Table 1: Number and Percent Change in People 55+ with Alzheimer's Disease
in California Counties with a Population of 700,000 or More; 2008, 2015, 2030**

	2008	2015	2030	% increase 2008-2015	% increase 2015-2030	% increase 2008-2030
Los Angeles	155,575	177,000	289,280	14	63	86
San Diego	49,530	54,490	92,804	10	70	87
Orange	46,263	54,109	92,150	17	70	99
Riverside	31,992	37,025	60,116	16	62	88
Santa Clara	27,658	32,988	58,569	19	78	112
Alameda	23,748	26,847	47,438	13	77	100
San Bernardino	23,680	29,922	56,591	26	89	139
Sacramento	22,006	25,692	44,181	17	72	101
Contra Costa	17,511	20,435	36,895	17	81	111
San Francisco	17,438	19,206	26,868	10	40	54
San Mateo	13,684	14,610	23,298	7	59	70
Ventura	12,541	14,819	26,301	18	77	110
Fresno	12,249	14,216	24,808	16	75	103
San Joaquin	9,796	11,840	20,514	21	73	109
Kern	9,197	11,418	20,614	24	81	124

Source: Based on California Department of Finance data for 2008.

Beth Ebben

From: Byron <brovegno@sbcglobal.net>
Sent: Tuesday, May 12, 2020 11:59 AM
To: City of Cupertino Planning Commission
Subject: Westport Bike Pedestrian Right of Way

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 Commissioners:

The redevelopment plan for The Oaks submitted by KT Urban in 2017 included a ten foot easement [or donation to the city] along the sound wall for bike pedestrian access and the current plan does not. This is unfortunate because that easement would have provided for:

1. Continuation of the Junipero Sierra Trail to Stevens Creek Blvd
2. A possible landing for a bike pedestrian bridge across Rt 85
3. A possible extension across Stevens Creek Blvd to DeAnza College
4. Protection from vehicular traffic.

I would like to suggest consideration by the Commission of the following:

1. Insist on KT Urban deeding the ten feet along the sound wall to the city
2. In exchange, KT Urban could receive an equivalent offsetting increase to their parcel by doing away with some of the head in parking on Mary Avenue.

Possible benefits:

1. Biking or walking along the sound wall is safe from traffic.
2. The current situation on Mary Avenue with the bike lane behind cars that are parked head in is dangerous for cyclists.
3. Having to cycle through Westport means dealing with commercial, townhouse and apartment traffic which is likely to be substantial.

This is your time to make a decision with a lasting effect on biking and walking in Cupertino. Thank you for your consideration.

Byron Rovegno

Walk-Bike Cupertino Advisory Board Member

Sent from [Mail](#) for Windows 10

From: [Larry Dean](#)
To: [City of Cupertino Planning Commission](#)
Cc: ldean95014@comcast.net
Subject: FW: Comments on Westport Development from Walk-Bike Cupertino
Date: Tuesday, May 12, 2020 3:02:33 PM
Attachments: [image001.png](#)

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 Commissioners:

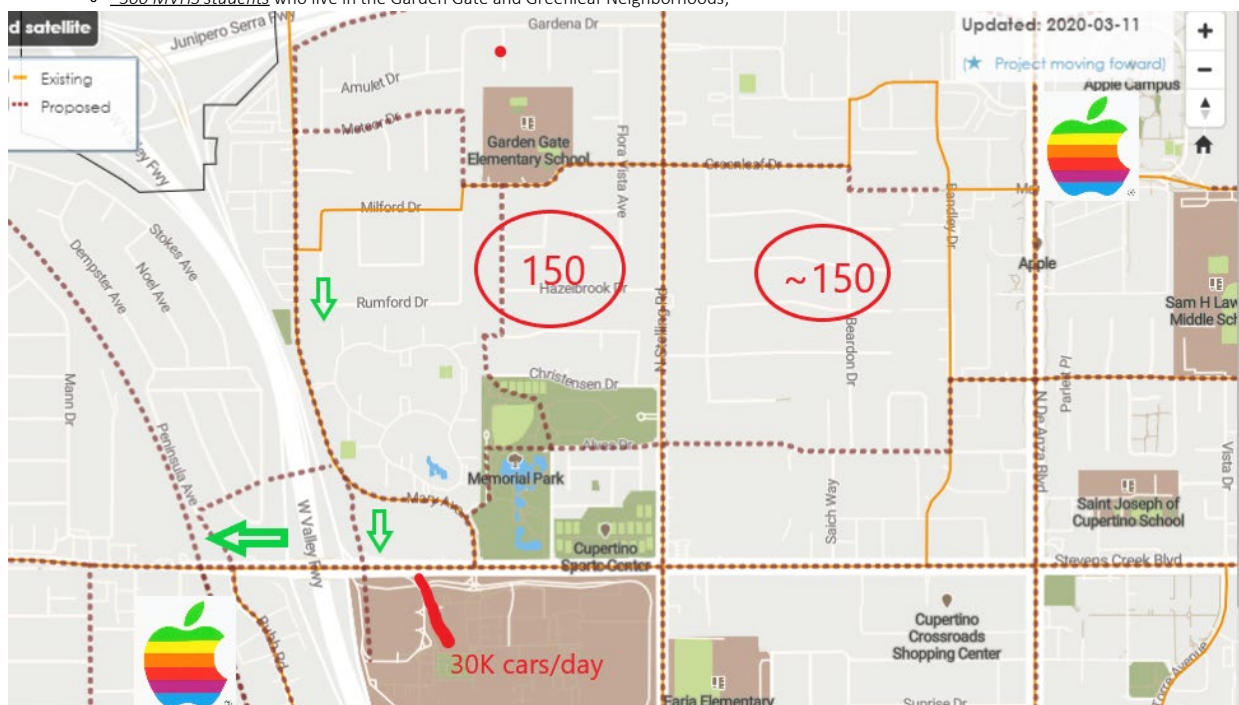
Walk-Bike Cupertino advocates for safe/easy walking and biking in Cupertino and strongly supports bike routes that are separated from auto traffic - the safest possible. We also or the integration of walking and cycling paths/routes within commercial and residential developments and to the surrounding neighborhoods. By allowing a bike route through the west side of the Westport development, this is a one-time opportunity to embed a significant community benefit into the project.

Walk-Bike Cupertino fully supports a North/South cut through on the west side of the development.

(see area map)

The potential users of the Westport access include:

- Many Apple employees commuting between the Bubb Road complexes and AC1 campus via Greenleaf, Mary Avenue, SCB to Bubb Road;
- South bound Mary Bike commuters transiting to Old Monta Vista and points south and west.
- ~300 MVHS students who live in the Garden Gate and Greenleaf Neighborhoods;



Safety is a huge issue on SCB, and current bike use along SCB is very low:

- High traffic volumes of 30K cars/day. Speed and auto/pedestrian/cyclist conflict is very high.
- There is also a merging issue of cyclists from cross lane exit onto the SCB Bike lane.
- The suggested west side bike route will keep cyclist off ~200M of very busy SCB.

Walk-Bike was disappointed that the bike/ped path along the Hwy sound wall (included in the 2017 Westport plan) was not included in the 2020 plan. This would allow for a safe route through the west side of the property and a landing area for a future BP bridge spanning Hwy 85 - which makes it our preferred solution.

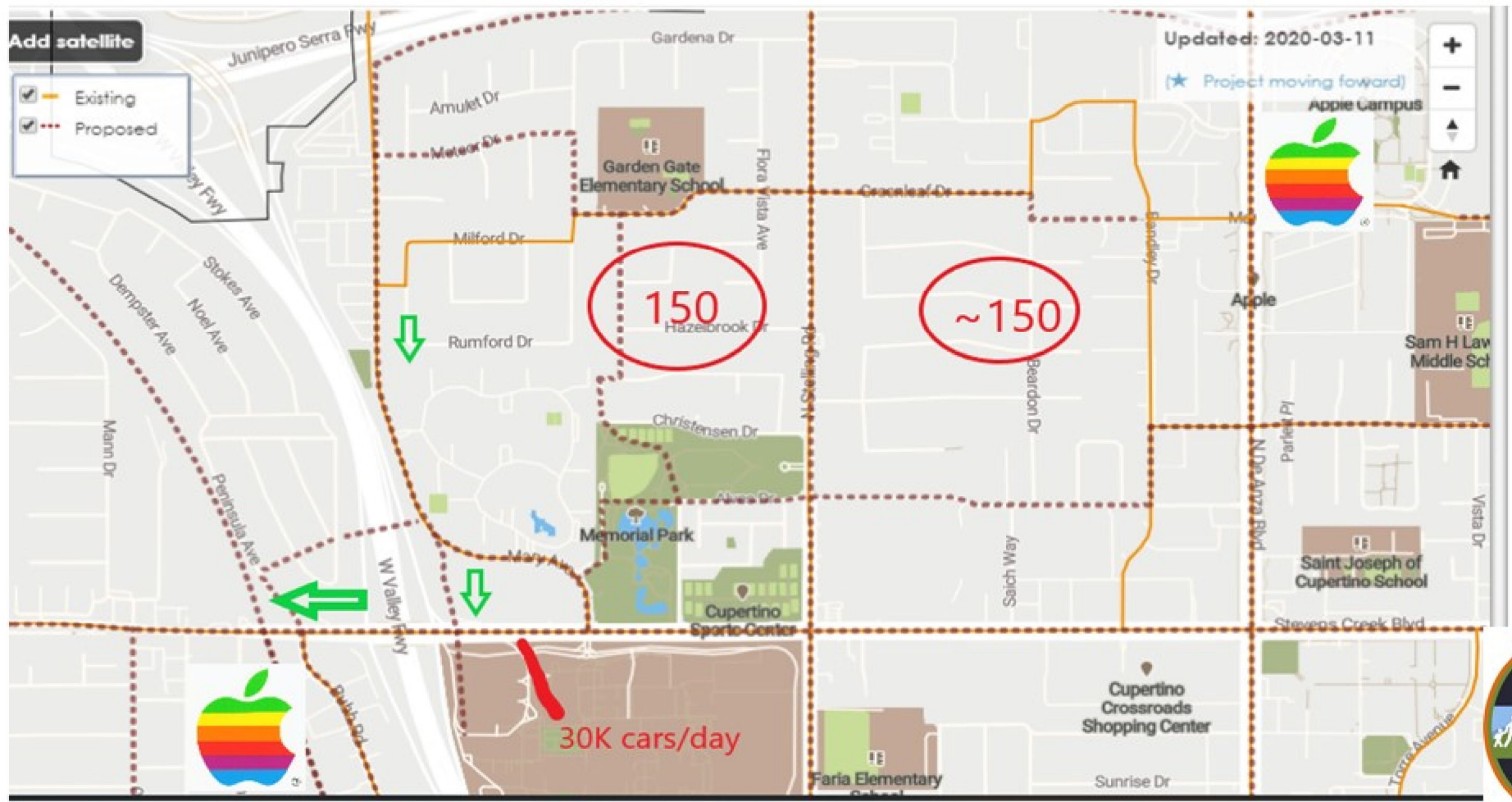
The board of Walk-Bike Cupertino supports KT Urban's development rights and its willingness to agree to a Class III bikeway on the project's west side and along the main cross route from Mary Ave to SCB. We appreciate and approve of KT Urban's openness to do so and look forward to having this commitment part of the development agreement with the city.

Sincerely,

Larry Dean

Walk-Bike Cupertino

Garden Gate/Westport Bike Flows



HIGHWAY 85

TERMINAL FOR TRANSIT CENTER -
INCLUDED IN PROPOSAL

TRANSIT CENTER -
NOT INCLUDED IN PROJECT

ON-RAMP TO
HIGHWAY 85

OFFICE

HOTEL

MARY AVE

FLATS

RESIDENTIAL - RETAIL BUILDING A

RESIDENTIAL - RETAIL BUILDING B

STEVENS CREEK BOULEVARD

PARKING STRUCTURE-
DE ANZA COLLEGE

MARY AVE

Beth Ebben

From: Matt Widmann <mattwdmn@gmail.com>
Sent: Tuesday, May 12, 2020 1:54 PM
To: City of Cupertino Planning Commission
Subject: Westport Shopping Center bypass path

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,

I'm a Cupertino resident and often used the Don Burnett Bicycle-Pedestrian Bridge during my commute. What keeps me from using it more often is its lack of a connection to other safe bicycle infrastructure. It's usually safer during commute hours, with the current infrastructure for me to find an alternate route that avoids Mary Ave. and Homestead Road.

I noticed that the new plans submitted for the Westport Shopping Center don't include a bike path on the western side of the complex. It's really important to consider how residents who are walking and biking will be affected by the new development. Consider a map of the development area with Mary Ave. wrapping around the north and east and Steven's Creek on the south. Mary Ave. southbound bicyclists have to cross every single entrance to the complex to go westbound on Steven's Creek Blvd. without this path -- they have to wrap around to the east and come back around to the west, only to deal with an extremely tricky 85 on-ramp lane switch.

Please urge the developer to add a path to the west of the complex that bypasses the tricky intersections and parking required for the complex.

– Matt