

CC 09-15-20

Special Meeting

Study Session #1

Small Cell Facilities

Written Comments

Cyrah Caburian

From: Paul Albritton <pa@mallp.com>
Sent: Friday, September 11, 2020 2:14 PM
To: Steven Scharf; Darcy Paul; Rod Sinks; Liang Chao; Jon Robert Willey; City Council; Lauren Sapudar
Cc: Chad Mosley; Roger Lee; Marlene Dehlinger
Subject: Verizon Wireless Comments on Draft Cupertino Guidelines, Small Wireless Facilities - Council Study Session September 15, 2020
Attachments: Letter to CC 09.11.20.pdf

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

Dear Mayor & Councilmembers, attached please find our letter prepared on behalf of Verizon Wireless providing comment on the draft guidelines for small wireless facilities in the right-of-way.

Thank you.

--

Paul Albritton
Mackenzie & Albritton LLP
155 Sansome Street, Suite 800
San Francisco, California 94104
(415) 288-4000
pa@mallp.com

MACKENZIE & ALBRITTON LLP

155 SANSOME STREET, SUITE 800
SAN FRANCISCO, CALIFORNIA 94104

TELEPHONE 415 / 288-4000
FACSIMILE 415 / 288-4010

September 11, 2020

VIA EMAIL

Mayor Steven Scharf
Vice Mayor Darcy Paul
Councilmembers Rod Sinks,
Liang Chao and Jon Willey
City Council
City of Cupertino
10300 Torre Avenue
Cupertino, California 95014

Re: Draft Guidelines for Encroachment Permit Submittals
for Wireless Communications Small Wireless Facilities on City-Owned Poles
City Council Study Session, September 15, 2020

Dear Mayor Scharf, Vice Mayor Paul and Councilmembers:

We write on behalf of Verizon Wireless regarding the draft guidelines for small cell wireless facilities on City-owned poles (the “Draft Guidelines”). Verizon Wireless continues to develop its small cell network in Cupertino to meet rapidly-increasing customer demand. However, absent revisions described below, the Draft Guidelines continue to include impediments to the expedited review of small cell applications mandated by federal requirements.

The process outlined in the Draft Guidelines should align with the “Shot Clock” rules set forth by the Federal Communications Commission (the “FCC”). The FCC determined that a reasonable period of time for cities to review small cell applications is 60 days (existing poles) or 90 days (new/replacement poles). 47 C.F.R. § 1.6003(c)(1). The FCC recognized the need for more small cells to meet growing demand, and allows wireless carriers to submit applications in batches. 47 C.F.R. § 1.6003(c)(2). Last month, the Ninth Circuit Court of Appeal upheld the FCC’s Shot Clock rules. *City of Portland v. United States*, --- F.3d ---, 2020 WL 4669906 (9th Cir. 2020) at 12-13.

The Draft Guidelines prefer that wireless carriers have a maximum of 10 applications active at one time. For more than 10 applications, the Draft Guidelines reserve the right for the City to request either a tolling agreement to extend the Shot Clock, or a \$5,000 deposit per application for review by a third-party consultant plus a 15 percent administrative fee.

Most small cells are of similar if not identical design, and staff permit review should become routine and expedient. A tolling agreement may be appropriate when a proposed location or nearby infrastructure present unusual challenges to timely approval, but Verizon Wireless does not consider a shortfall in a particular city's staffing to warrant a tolling agreement.

The alternative \$5,000 deposit far exceeds the small cell application fee of \$1,633 listed in the City's current fee schedule, and the Draft Guidelines compel applicants to pay any additional costs beyond the deposit before permit issuance. This could lead to runaway charges by third-party consultants. However, a 2018 FCC order set guidelines for small cell fees that the Ninth Circuit upheld, determining that permit fees must represent "a reasonable approximation of costs," and that unreasonable costs include "exorbitant consultant fees." *See Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment*, Declaratory Ruling and Third Report and Order, 33 FCC Rcd. 9088 (September 27, 2018) (the "Infrastructure Order"), ¶¶ 50, 56, 76. The FCC explained that a city's unreasonably high fees lead to an unlawful prohibition of service, in part because they drain a wireless carrier's capital to deploy facilities in other cities. *Id.* at 60.

The City cannot justify a threefold increase in permit fees when it already has approved numerous permits based on its published fee schedule. Verizon Wireless will not agree to pay substantially more for certain applications (over 10) than others, when the City should be streamlining its review process and staffing accordingly to meet FCC Shot Clock time periods. Experienced contract planners or engineers, working on an as-needed basis, should not take more time to review applications than the City's own staff. The City should consider collecting permit fees upfront to pay for contractors.

The Draft Guidelines would benefit from a few revisions to streamline the permit process. For example, the notice procedures consume much of the 60/90-day Shot Clock period. Notably, there is a 21-day period for public comment, which occurs *after* preliminary staff approval, and could invite requests to change the design of a proposed small cell that satisfies the guidelines. At that point, the Shot Clock would be running nonstop, and the City would jeopardize its own permitting authority because the application would be "deemed approved" under state law when the Shot Clock expires. Government Code § 65964.1. Instead of inviting public critique contrary to the guidelines, public notice should be strictly informational.

The review process also can be streamlined by making the design of Verizon Wireless small cells already installed in the City the "preferred equipment configuration," instead of underground vaulting. While the Draft Guidelines may excuse vaulting if infeasible, blanket vaulting requirements are unreasonable according to the FCC nonetheless, because small equipment components on the side of a pole are not "out-of-character" among other right-of-way infrastructure. *Infrastructure Order*, ¶¶ 86-88. A reasonable preference would be to allow a certain volume of associated (non-antenna) equipment on the side of the pole before vaulting is considered.

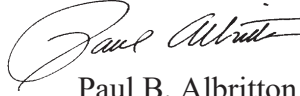
Cupertino City Council

September 11, 2020

Page 3 of 3

Verizon Wireless appreciates staff's diligent processing of its applications to date and the opportunity to provide comment on the Draft Guidelines. We encourage the Council to direct staff to work further on needed revisions to streamline the permit process to comply with federal requirements.

Very truly yours,

A handwritten signature in black ink, appearing to read "Paul Albritton", with a stylized flourish at the end.

Paul B. Albritton

cc: Marlene Dehlinger, Esq.
Chad Mosley

Cyrah Caburian

From: [REDACTED]
Sent: Monday, September 14, 2020 2:32 AM
To: Chad Mosley
Cc: Deborah L. Feng; Steven Scharf; Darcy Paul; Jon Robert Willey; Liang Chao
Subject: Revised Permitting Guidelines for Small Wireless Facilities

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 Mr. Mosley,

The local government can regulate the wireless facilities' placement based on the revised GUIDELINES FOR ENCROACHMENT PERMIT SUBMITTALS FOR WIRELESS COMMUNICATIONS SMALL WIRELESS FACILITIES ON CITY OWNED POLE. Thank you for considering residents. The revised guidelines has now categorization of sites in order of preference, increased the mailing public notification radius from 300 feet to 500 feet, notification period from 14 days to 21 days, and response to inquiries for 48 hours to 72 hours. So that the residents can have more time to evaluate and send our comments.

The revised guideline also has a lot more details of the small cell facility application process for carriers.

Based on City Council staff report, 4G network will help to make implementation of the next generation 5G more effective. The small cell antenna have a small size, less construction, use the existing city owned light pole, lower power output, smaller coverage area, and potentially higher signal frequency and faster transmission speed with 5G.

For the reasons, the small cell antenna has a lot more advantages rather than the macro cell antenna. City of Cupertino seems to be focusing on the small cell towers rather than the macro cell towers.

Does City still need AT&T macro cell tower in Memorial Park? AT&T already built the small cell towers and will build many more. They might focus on the small cell towers rather than the macro cell towers.

Regards,

[REDACTED]

Cyrah Caburian

From: Jennifer Griffin <grenna5000@yahoo.com>
Sent: Tuesday, September 15, 2020 6:03 PM
To: City Clerk
Subject: Small cell Study Session Question-

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.

Could you please read if my Fire Kindle is overheating or my audio is garbeled? Thanks.

Dear City Council:

I am concerned that there are now 80 applications. This is a lot of applications. Were these by all the major telecommunications vendors? Are these requests equally distributed among the five or six vendors or was one more dominant in the applications in the last month?

How many vendores are there in the telecommunications requests? I am assuming it was Verizon, Sprint , At and T, etc. Any others or small ones that maybe are new and no one is familiar with?

Thank you very much.

Jennifer Griffin

CC 09-15-20

Oral
Communications

Written Comments

Cyrah Caburian

From: City of Cupertino Written Correspondence
Subject: FW: N Wolfe Road Homeless/unhoused Encampments. ? Eviction of ?

From: Kirsten Squarcia <KirstenS@cupertino.org>
Sent: Tuesday, September 15, 2020 2:32 PM
To: Maxcinco <maxcinco@comcast.net>; Deborah L. Feng <DebF@cupertino.org>
Cc: City Clerk <CityClerk@cupertino.org>; Liana Crabtree <lianacrabtree@yahoo.com>; gorska@gorska.com; tessa parish <tessa@parishrealestategroup.com>; Peggy Griffin <peggy.griffin@gmail.com>; Danessa Techmanski <danessa@pacbell.net>; Lisa Warren <la-warren@att.net>
Subject: RE: N Wolfe Road Homeless/unhoused Encampments. ? Eviction of ?

Hello Jim,
Confirming that this email will be included as a written comment under Oral Communication for tonight's meeting.

Regards, Kirsten



Kirsten Squarcia

City Clerk
City Manager's Office/City Clerk's Office
KirstenS@Cupertino.org
(408) 777-3225



From: Maxcinco <maxcinco@comcast.net>
Sent: Tuesday, September 15, 2020 2:12 PM
To: Deborah L. Feng <DebF@cupertino.org>
Cc: City Clerk <CityClerk@cupertino.org>; Liana Crabtree <lianacrabtree@yahoo.com>; gorska@gorska.com; tessa parish <tessa@parishrealestategroup.com>; Peggy Griffin <peggy.griffin@gmail.com>; Danessa Techmanski <danessa@pacbell.net>; Lisa Warren <la-warren@att.net>
Subject: Re: N Wolfe Road Homeless/unhoused Encampments. ? Eviction of ?

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Hi Deb,

Please provide everyone participating in this meeting, including this (acting) Director, with a copy of this Notice posted by the City on Sunday, 9/13/2020. Thanks.

*** Please include this message in Written Communications for tonight's CCC Mtg. ***



CITY OF CUPERTINO

NOTICE TO VACATE ILLEGAL CAMPSITE

THIS ENCAMPMENT CREATES SIGNIFICANT PUBLIC HEALTH, PUBLIC SAFETY, AND ENVIRONMENTAL CONCERNS.

POSTING DATE/TIME SUNDAY, SEPTEMBER 13, 2020 at **2:50 P.M.**
LOCATION WOLFE ROAD at I-280 SOUTH CUPERTINO, CA 95014

VIOLATIONS noted at this time:

☒ **California Penal Code 647(e):** Unlawful camping or lodging. Every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor, who lodges in any building, structure, vehicle, or place, whether public or private, without the permission of the owner or person entitled to the possession or in control of it.

☐ **Cupertino Municipal Code 14.08.220(D):** If the City Engineer finds that any right-of-way obstruction is an immediate peril or menace to the public, to any person, or to pedestrian or vehicular traffic, the City Manager may cause it to be summarily removed.

☒ **Cupertino Municipal Code 14.08.020:** It is unlawful for any person to encroach or make or cause to be made any encroachment without first obtaining an encroachment permit from the City Engineer.

This includes:

- ✓ Unlawful storage of personal property
- ✓ Unlawful refuse disposal
- ✓ Unlawful camping

INSTRUCTIONS TO OCCUPANTS / TRESPASSER:

1. THE CITY OF CUPERTINO WILL BE CONDUCTING A CLEANUP OF THIS CAMPSITE ON MONDAY, SEPTEMBER 21, 2020 BETWEEN THE HOURS OF 7:00 AM TO 5:00 PM.
2. ANY PERSONAL PROPERTY LEFT AT THIS SITE AFTER 7AM ON SEPTEMBER 21, 2020 WILL BE CONSIDERED ABANDONED AND WILL BE REMOVED.
3. PERSONAL PROPERTY COLLECTED DURING THE CLEANUP OF THIS CAMPSITE WILL BE STORED FOR 90 DAYS UNLESS IT IS PERSHABLE, CONTAMINATED, OR OTHERWISE PRESENTS A HEALTH OR SAFETY HAZARD. TO RECLAIM PROPERTY CALL: (408) 294-2100 OR VISIT THE HOME FIRST SHELTER LOCATED AT 2011 LITTLE ORCHARD ST., SAN JOSE, CA 95125. FAILURE TO RECLAIM PROPERTY BY DECEMBER 21, 2020 WILL RESULT IN ITS DISPOSAL.
4. FOR MORE INFORMATION REGARDING THIS CLEANUP, PLEASE CALL CODE ENFORCEMENT AT (408) 777-3182.

COMMUNITY SERVICE ASSISTANCE IS AVAILABLE AT:

Home First Shelter 2011 Little Orchard St San Jose, CA 95125 (408) 294-2100 <small>(Shelter beds available at this facility, which has procedures to help prevent the spread of COVID-19)</small>	Social Ministries Office at St. Joseph's 80 S. Market St San Jose, CA 95112 (408) 283-8118
West Valley Community Services 10104 Vista Dr Cupertino, CA 95014 (408) 255-8033 <small>(Available to connect individuals to housing options, including shelters and hotels)</small>	The Salvation Army - Santa Clara 3090 Homestead Rd Santa Clara, CA 95051 (408) 247-4588

Cyrah Caburian

From: Jean Bedord <Jean@bedord.com>
Sent: Tuesday, September 15, 2020 6:13 PM
To: City Clerk
Subject: Oral Communications - Bedord
Attachments: Bedord-Council 2020-09-15.pptx; Bedord-Council-Report-Card-2020-09-15.docx

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

Kirsten,
I'd like to speak tonight using this PPT presentation.
I'm also attaching the Word version of my speech, which I would like to have included in the public record.

Thanks for accommodating my lateness.....

Warm regards,
Jean Bedord
Cell: 408-966-6174 / Land line: 408-252-5220

Title slide:

Good evening, Mayor Scharf and council members,

My name is Jean Bedord, and I am a long-time resident. For past several years, I have attended every single council meeting, including those that ended at 4 a.m.

I'm here tonight to present a Report Card on the performance of this council which I would rate as highly unsatisfactory.

Side #2

This council claims to be transparent but look at the record. In the last two years, there have been more closed-door meetings than meetings open to the public. Your performance has improved in 2020, but 2019 was abysmal.

Then there are the meetings which go beyond midnight. Most residents would say that 11 o'clock is their upper limit, but this council likes to do their deliberations in the wee hours of the morning. How many residents are engaged at 1, 2 or 3 am in the morning? I've been through all of the late nights, and your decision making deteriorates at that hour.

Slide 3

Now let's talk about the cost of lawsuits by members of this council and their appointees. These are avoidable yet look what they cost the city. This is taxpayer money, my money, that this council has wasted on unnecessary legal actions. And next year, it doesn't look any better since you have budgeted over \$2 million for the city attorney.

Slide 4:

Now let's look at where you are spending money to benefit residents. You paid your former city attorney more money than you are spending next year on library services. Mayor Scharf's appeal cost more than the city Tenant Eviction Program. What are the values of this community? Shouldn't you be spending money for the benefit of residents, not full employment for lawyers? Isn't it time for changes?

Thank you.



Cupertino City Council | **Jean Bedord**
September 15, 2020

1

(Lack of) Transparency and Accountability

- Council governs behind closed doors – NO resident engagement
 - 2020 through 8/12/2020: 13 regular and **13 closed sessions**
 - 2019: 22 regular meetings and **27 closed meetings**
- Meetings lasting after midnight – limits resident engagement
 - 15 meetings in 2019 (22 regular meetings)
 - 6 meetings in 2020 through 8/22/2020

Too much time on non-policy agenda items

2

Legal costs of self-inflicted lawsuits

- \$225,441 Mayor Steven Scharf Measure C appeals (lost)
- \$341,531 City attorney, Randy Hom (payoff - wrong on SB35)
- Vallco SB35 Planning Chair Kitty Moore, et. al lawsuit (lost)
 - \$241,382 (2018, 2019, 2020 Attorney's Fees)
 - \$171,072 (2018, 2019 Wendel Rosen)
 - \$ 70,310 (Shute Mihaly & Weinberger)
- \$\$\$ Unknown for city staff and staff city attorney

\$2,036,404 budgeted for City Attorney in 2021 Adopted Budget

3

Resident Funding

- \$318,340 Library Services FY 2020-21
- \$ 90,000 Community Funding
- \$200,000 Tenant Eviction Programs (Meriwest, WVCS, Earnin)
- \$229,017 Small Business Relief Grants

Support Residents NOT lawyers

4

Cyrah Caburian

From: Rhoda Fry <fryhouse@earthlink.net>
Sent: Tuesday, September 15, 2020 7:11 PM
To: City Clerk; City Council
Cc: fryhouse@earthlink.net
Subject: September 15 City Council Public Comment
Attachments: 2020-05-12 Agenda - Tuesday, May 12, 2020-compressed page 19.pdf; Letter from Water Boards - highlighted.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.

There is a landslide at Lehigh's Permanente Quarry in Santa Clara County that is a threat to public health and safety. On February 13, the Water Board stated "... we are concerned about the long term stability of the WMSA, especially the Yeager Yard area . . . County oversight of this issue is most appropriate, given the potentially significant health and safety concerns." And a Santa Clara County geologist report warned on February 18, "The Yeager Yard Landslide mass is moving towards Permanente Creek and its mass is sufficiently large to block the creek. Should this happen during winter months, the runoff from the upper watershed would likely pond, creating a new debris flow hazard to structures and residences downstream." Slope instability at the Yeager Yard, also known as Subarea 3, has been monitored by Santa Clara County since at least 2015. Don't you think that it is about time that the County stop monitoring and start protecting the Citizens of Santa Clara County and the Permanente Creek Watershed? The last thing we need is another disaster. Especially because we are approaching rainy season, I have gotten nowhere with the County and once again asked the State Mining and Geology Board and the Division of Mining Reclamation to intervene. If the Yeager Yard landslide does move into the creek, the County and the State will have played a part in Lehigh's willful negligence.

San Francisco Bay Regional Water Quality Control Board

February 13, 2020
Place ID 2020435 (LW)

Lehigh Southwest Cement Company
and Hanson Permanente Cement Inc.
Attn: Erika Guerra
24001 Stevens Creek Blvd.
Cupertino, CA 95014
(Sent via email to Erika.Guerra@LehighHanson.com)

**Subject: Conditional Concurrence for Yeager Yard Corrective Action Plan for
Permanente Quarry and Cement Plant (Lehigh), Cupertino, Santa Clara County**

Dear Ms. Guerra:

We have reviewed the January 24, 2020, submittal responding to our November 25, 2019, requirement for a corrective action plan (CAP), as a follow-up to a notice of violation (NOV) issued on July 9, 2019. These requirements were to address evidence of seep discharge, slope erosion, and earth movement in the Yeager Yard area of the West Materials Storage Area (WMSA). We appreciate your response and concur that you have complied with NOV and CAP requirements, with minor conditions regarding reporting of monitoring and planning outlined at the end of this letter.

Our November 25, 2019, letter required specifically that you identify and address the cause of seeps and erosion. The CAP detailed that increased stormwater infiltration due to an "extreme wet year" was a primary cause, with contributions from mining and disposal operational changes, including modifying locations of material excavation and placement along the slope face. The Yeager Yard slope was therefore regraded and BMPs were improved. In addition, a standard operating procedure was developed to predict and prevent similar occurrences during operational changes. Our letter also required you to collate the data and analysis collected in response to requirements from Water Board and Santa Clara County staff, including a slope stability analysis. This was submitted. Finally, our letter required you to address six specific concerns in the CAP, update the Operations, Monitoring, and Contingency (OM&C) Plan required by the Waste Discharge Requirements (WDRs, Order No. R2-2018-0028) to address changes necessary to mining and disposal, and update the Storm Water Pollution Prevention Plan (SWPPP) required by the NPDES permit (No. CA0030210, Water Board Order No. R2-2019-0024) to address changes to stormwater/erosion controls. These can be summarized as follows:

1. The boundary between native material and placed waste was identified and it was determined that it is unlikely that solid wastes were discharged to Permanente Creek.
2. A Grading and Drainage Plan was included, its implementation is complete and the SWPPP was updated to reflect changes.

JIM McGRATH, CHAIR | MICHAEL MONTGOMERY, EXECUTIVE OFFICER

3. The large corrugated metal pipe was investigated and confirmed to be out of service; in lieu of removal, which was deemed unsafe, the pipe will continue to be monitored for changes.
4. Data related to seeps and slope stability was presented and monitoring was added to the schedule outlined in the SWPPP;
5. The OM&C was updated to outline plans for operational changes (e.g., road construction and modification to stockpiles) along creek-facing slopes to maintain stability, including conducting a desktop analysis, site reconnaissance, and (as needed) consultation with a licensed professional geologist or engineer prior to the start of work; and
6. The SWPPP was updated to address the Yeager Yard slope, specifying that a sedimentation basin was installed to collect seepage for treatment prior to discharge.

We concur with these actions and updates with the following minor conditions:

- A. The slope stability monitoring outlined in item 4 is associated with the OM&C required by the WDRs. Therefore, reporting of monitoring results and analysis should be included in the self-monitoring reports (SMRs) required of that Order.
- B. Similarly, the standard operating procedures outlined in item 5 are associated with the OM&C and therefore reporting of the process should be included in the SMRs required of the WDRs.

Please note that SMRs must be certified by a licensed professional geologist or engineer as indicated in Specification 2 of the WDRs. Therefore, the slope stability monitoring and operational change planning outlined in items 4 and 5 should be conducted under the oversight of a licensed professional.

Lastly, we appreciate the slope stability analysis and supporting documentation submitted in response to our requirement and concur that actions you have taken were critical and appropriate to address immediate problems. However, we are concerned about the long-term stability of the WMSA, especially the Yeager Yard Area. Santa Clara County staff overseeing SMARA implementation and Water Board staff have jointly determined that County oversight of this issue is most appropriate, given the potentially significant health and safety concerns.

Therefore, we consider the slope stability analysis requirement in our NOV resolved and are available to provide technical input on water quality related stability issues, as needed. If you have any questions, please contact Lindsay Whalin (lwhalin@waterboards.ca.gov) or John Madigan (jmadigan@waterboards.ca.gov).

Sincerely,

Lisa Horowitz
McCann
Lisa Horowitz-McCann
Assistant Executive Officer

Digitally signed by Lisa
Horowitz McCann
Date: 2020.02.13 11:43:19
-08'00'
Water Boards

CC: Rob Eastwood, Rob Salisbury, and Jim Baker – Santa Clara County
rob.eastwood@pln.sccgov.org, Jim.Baker@pln.sccgov.org, Robert.Salisbury@pln.sccgov.org

COUNTY OF SANTA CLARA

RE: COMMENTS ON THE DECEMBER 20, 2019 AND JANUARY 17, 2020 PERMANENTE QUARRY MONTHLY INSPECTION

FEBRUARY 18, 2020

Page 9

provide the County with the coordinates, ground surface elevation and reference elevation for water level measurements at this new well. In addition, the mine operator should provide accurate groundwater level elevations at well WMSA-DMW-11A and the five vibrating wire piezometers since the beginning of 2018 up to and including the most recent monitoring measurements. Also, the mine operator should provide the well log for the monitoring well WMSA-DMW-11A and the five piezometers.

I also recommend that the mine operator take frequent measurements of groundwater levels in the Yeager Yard Landslide during winter months to track the rise and fall of groundwater levels. The rate and magnitude of rise and fall is an indication of how effective the mitigation measures are at preventing deep percolation of runoff into the landslide. If the elevation of groundwater increases above historical levels, the mine operator should notify the County immediately and provide an analysis of the Yeager Yard Landslide stability and potential for mass movement of the landslide into Permanente Creek.

Landslide Movement Monitoring

Information is provided on the depth and direction of landslide movement from the shearing of three slope inclinometers, WMSA-3, WMSA-4 and WMSA-5, in the February 7, 2020 CAP Addendum, section 5.0. These inclinometers sheared at elevations from 1341 to 1473 feet, msl, see Table 5. The direction of movement from the inclinometer readings was to the southeast, see Figure 5.1 in the February 7, 2020 CAP Addendum. There also appears to be a GPS survey station(s) installed on the Yeager Yard Landslide, photo 17. I'm assuming that these provide real-time measurements of the movement of the landslide. Fixed station GPS real-time measurements of the Yeager Yard Landslide surface provide valuable information on the stability of the slide and the success of the mitigation measures. Real-time tracking of the rate and direction of movement of the landslide is critical, particularly if the rate of movement of the landslide increases. The Yeager Yard Landslide mass is moving towards Permanente Creek and its mass is sufficiently large to block the creek. Should this happen during winter months, the runoff from the upper watershed would likely pond, creating a new debris flow hazard to structures and residences downstream.

I recommend that the mine operator provide the County with a monthly report of the readings from these GPS survey stations, which should be tabulated, and movement vectors plotted. Particular attention should be given to whether the landslide movement is changing, slower or faster, and whether there is a difference depending on the time of year and the elevation of groundwater. I also recommend that a protocol be established for immediately notifying the County should the rate of movement of the Yeager Yard Landslide, or any other waste pile, indicate that waste rock could slide into and block Permanent Creek.

Cyrah Caburian

From: City of Cupertino Written Correspondence
Subject: FW: Thank you

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

From: P Hershey <pamelakhershey@aol.com>
Sent: Tuesday, September 15, 2020 7:44 PM
To: Kirsten Squarcia <KirstenS@cupertino.org>
Subject: Thank you

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 Kristen,

I want to thank the council for all of their hard and dedicated work They deserve an A from myself as a teacher.

Pam Hershey
50 year resident
Sent from my iPhone

CC 09-15-20

#2

Report on
Committee
Assignments

Written Comments

Cyrah Caburian

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

From: Darcy Paul <DPaul@cupertino.org>

Sent: Tuesday, September 15, 2020 8:03 PM

To: Kirsten Squarcia <KirstenS@cupertino.org>

Subject: 9/15/2020 Council Meeting - Item 2 - Material at Meeting

Attached, thanks.

-Darcy

=====

Darcy Paul

Vice Mayor

City of Cupertino

=====

Cupertino City Council Meeting – September 15, 2020
Item 2 – Council Reports – Report of Vice Mayor Paul

SVRIA BOD Meeting – August 31, 2020

Key Point Closed session to interview prospective candidates for Executive Director

Cupertino Mayor's / Commissioners' Meeting – September 9, 2020

Key Points (notes of Vice Mayor Paul; attending in place of Mayor Scharf, who was participating in a County task force on the issue of homelessness)

Fine Arts (Diana) – Young Artists' contest; Mural project

Sustainability (Gary) – Plastics; Climate Action Plan updates

Planning (Kitty) – Bird-safe design and Dark-skies ordinance; hillside exemption for a residence

Teen (Anagaa) – Hack Cupertino event; Pizza and Politics

Library (Amanda) – Senior divide; digital divide; Curbside hours are now 3-7p Wed and Th, 1-5pm other days

Parks Rec (Carol) – Park amenities and upgrades from the fiscal year will be 200k for all parks, having public outreach; community gardens; off-leash trial period ended and extended

Public Safety (Tiffany) – Vehicle burglaries went up from June to July; public safety forum will be monthly (either four or five sessions) and online instead of an annual live forum this year, mental health will be the topic in October

Bike Ped (Muni) – Bollinger road safety study; Stevens Creek bike lane project

TICC (Mukesh) – Adaptive traffic signaling; climate and noise monitoring; fiber-optic and wireless master plan for the city, vendor report later this month

Housing (Siva) – Subcommittee work for the housing survey proceeding; discussion on developmentally disabled housing, looking for a prospective site

Audit (Darcy) – Internal audit work by Moss Adams proceeding; financially-related milestones are being met timely

VTA Policy Advisory Committee Meeting – September 10, 2020

Key Points Item 7 – Update on SR237 express lanes. Discussed express-lane tolling (from March 19 to end of May, tolls were not collected), ring of express-lane charges around the Bay looking to be considered in the future; express lane revenues from SR237 were up almost 2mm in fy2020, from 1.3mm in fy2019, despite the nearly two and a half months of no collections
Item 8 – Next Generation High Capacity Transit Study. Discussed VTA's current efforts to examine potential future high-capacity transit options; seem to have an openness to considering more innovative and longer-term solutions but need to keep the interest-factor known
Transit Service Plan (part of Staff updates); Couple of upcoming public-input dates of notes, September 23 at 6pm and September 29 at 11am. See <https://www.vta.org/projects/2021-transit-service-plan>
Automated electric bus pilot (part of Staff updates) – Occurring in the County; possibly at the PA VA hospital

CC 09-15-20

#5

Temporary Rent
Reduction, Coffee
Society, Blue
Pheasant

Written Comments

Cyrah Caburian

From: Mike Tsachres <bluepheasantrestaurant@yahoo.com>
Sent: Tuesday, September 15, 2020 4:06 PM
To: City Council
Cc: Chad Mosley; Deborah L. Feng
Subject: Requested Council Meeting Letter for Blue Pheasant Lease
Attachments: BP Letter.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 see the attached letter per discussed with Chad regarding the Blue Pheasant lease reduction.

Thank you.

Sincerely,
Mike Tsachres

Blue Pheasant Restaurant

22100 Stevens Creek Blvd.
Cupertino, CA 95014
Tel 408-255-8300
Fax 408-255-1467

September 15, 2020

City Council /City of Cupertino

Cc

.RE : Agenda : Blue Pheasant lease reduction due to COVID 19

Regarding the Blue Pheasant lease adjustment I would like to say the following:

First, from 3/14/20 to present the restaurant has been closed and that time I have accumulate close to \$ 35,000.00 in outstanding bills due to slower earlier months.

Second , since the 3/14/20 I have paid \$ 3,600 plus per month payments for licenses insurance .Utilities ,pluming repairs with no income due to COVID.

Third, when the restaurant opens the monthly expense will go from \$ 3,600 to \$18,000 to \$ 20,000.00

Furthermore I know that with food services only ,the restaurant will not survive. The BP Needs the bar and the music, the Banquets, which include birthday parties, special events like Halloween, New Years and Valentine's to survive .

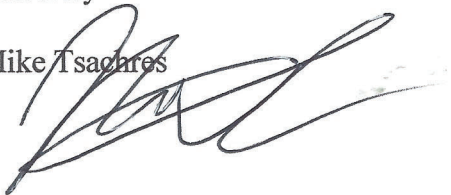
In addition I have be there for 15 years and I would like to continue to operate the BP I gave serious consideration ,and I thought is a good possibly to open and, be able to survive ,with some help with rent form the City of Cupertino .

My proposal for rent from the months is closed I would like to pay \$ 2000.00 for each month, and 3000.00/mo (almost 50% of the base rent) to be charged when the restaurant is open, until the Health Department allows to open our normal services like before ,bar, music etc are permitted.

To conclude I would like to say ,that I would like to open the BP but I need some Help to be able to stay open until economy, and health COVID goes back to Normal as before.

Sincerely

Mike Tsachres



CC 09-15-20

#7

Short Term Rental Ordinance

Written Comments

Cyrah Caburian

From: Jenny Griffin <grenna5000@yahoo.com>
Sent: Tuesday, September 15, 2020 6:37 PM
To: City Clerk
Subject: Number 7- short term rentals

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 Ccouncil:

I am wondering what the status of the city hiring the outside vendor who will monitor The short term rentals is at this point? Has the city found a vendor who will monitor The short term rentals if there are any issues of compliance or they need to contact The owners and they are not available? Will this vendor be shown on the city website And will the phone number be made available? Will they contact the owner of they need To get a hold of them? Is the city getting cost recovery for this? I think it is good To have this monitoring service engaged by the city. It will prevent Orinda incidents From happening.

Thank you, Jennifer griffin

CC 09-15-20

#8

Short-Term Rental
Registration, FY
2020-21

Written Comments

Cyrah Caburian

From: Jean Bedord <Jean@bedord.com>
Sent: Tuesday, September 15, 2020 9:57 AM
To: Cupertino City Manager's Office; City Council
Subject: Agenda Item #8 Fee schedule for Short term rentals -- Incomplete Staff reportAnalysis

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

Mayor Scharf and council members,

The staff report for this item is incomplete. It does not include very relevant information which was included in the Planning Commission meeting in Nov. 2108, and presented in a study session on April 2, 2019.

According to that information the average STR operator makes \$15,000 a year, which is less profitable than long term rental and less work. The average rental period is 107 days a year or about 30% of available days. This equates to an average cost per night of \$140 which is affordable to those not on a corporate credit card, particularly families and educators (second largest employer in Cupertino). While \$482 is listed, there are far more \$44 and \$66 rentals. The staff report did not provide a breakdown of the number of rentals in each category - how many Entire Homes vs. Private Rooms vs. Shared Rooms.

At that point, there were about 300 such rentals in Cupertino, or roughly 2% of housing stock (13,000 single-family homes). COVID-19 has severely impacted host income, so why should the city increase the fixed costs of running a small-time resident business? Residents need assistance from the city, not more and more fees.

I urge postponement of this agenda item until the council has sufficient information to make an informed decision. Increasing fees at this point smacks of a greedy city that wants to shut out reasonable lodging.

Warm regards,

Jean Bedord

Cell: 408-966-6174 / Land line: 408-252-5220

Cyrah Caburian

From: Jenny Griffin <grenna5000@yahoo.com>
Sent: Tuesday, September 15, 2020 6:54 PM
To: City Clerk
Subject: Number 8- tax for short term rentals?

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:

Can the city receive the full amount of hotel occupancy tax for short term rentals?

Is this charged daily or per month? Hotels rent by the day and so do short term Rentals? Is the occupancy tax collected guys same way? Does the city get TOT from ADUs? This might be an avenue for TOT from ADUs for the city. Are ADUs considered Short term rentals by the city of can the city get revenue from ADUs?

Thank you,
Jennifer griffin

CC 09-15-20

#9

Rainbow Crosswalk Installation

Written Comments

Cyrah Caburian

From: Richard Poppen <rpoppen@alum.pomona.edu>
Sent: Tuesday, September 15, 2020 11:47 AM
To: City Clerk; Kirsten Squarcia
Cc: Drew Lloyd
Subject: Images for use during Council meeting
Attachments: MeredithCrosswalk.pdf; AlamedaCrosswalk.pdf

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

Dear Ms. Squarcia,

Either my friend and colleague Drew Lloyd or I will ask to speak regarding agenda item number 9 (the rainbow crosswalk proposal) during the public comment time tonight. We would like to be able to refer to a couple of images, which are attached to this email as PDF files.

Is emailing them to you like this sufficient to make them available for our use during tonight's meeting? If not, can you help me understand what else I should do?

We would just ask for them by their file names, "AlamedaCrosswalk.pdf" and "MeredithCrosswalk.pdf", unless you give us other instructions. We expect to ask for AlamedaCrosswalk.pdf first.

Thanks in advance for any help you can give us!

Richard Poppen



Image capture: Apr 2019 © 2020 Google



Image capture: Feb 2020 © 2020 Google

CC 09-15-20

#11

2020 Blackberry
Farm Entrance
Road Feasibility
Study Report

Written Comments

Cyrah Caburian

From: Anne Ng <anneng@aol.com>
Sent: Monday, September 14, 2020 4:26 PM
To: City Council
Subject: #11: blackberry farm entrance

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.

Honorable Councilmembers:

Thanks to the City of Cupertino for purchasing the property that makes possible greatly improving the entrance to Blackberry Farm for non-motorists. I join the BPC and staff in recommending Alternative B, with an extra wide ADA path accommodating both pedestrians and cyclists.

The \$2M cost is significant, but so is the improvement. Blackberry Farm has the only entrance to the Stevens Creek corridor that doesn't require cyclists to ride up/down a steep hill on a busy arterial street (McClellan or Stevens Creek Blvd.). I believe it will encourage more families with children (at least those who live east of the creek, which is most of us) to bike there to access the corridor and the Stevens Creek Trail, along with the mobility-challenged in wheelchairs and stroller-pushing pedestrians.

I am a founding member of Cupertino's BAC (which became BPAC which became BPC) and of the Friends of Stevens Creek Trail board, but I am writing as a Cupertino resident.

Thank you!

Anne Ng
6031 Bollinger Road
Cupertino

Cyrah Caburian

From: Rhoda Fry <fryhouse@earthlink.net>
Sent: Tuesday, September 15, 2020 6:47 PM
To: City Clerk; City Council
Subject: Agenda Item 11: Blackberry Farm Entrance - City Council September 15, 2020

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.

Agenda Item 11: Blackberry Farm Entrance I'm concerned about the loss of trees.
These trees protect nearby homes from errant golf balls.
These trees also provide stability for the slope on the path side and the driveway.
Thanks, Rhoda Fry

Cyrah Caburian

From: Seema Lindskog <seema3366@gmail.com>
Sent: Tuesday, September 15, 2020 7:08 PM
To: City Clerk; Cupertino City Manager's Office; City Council
Subject: Please support modified Alternative B for Blackberry Farm Bike Lanes

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

Dear City Manager and City Council Members,

The city staff presented the various options for the Blackberry Farm Bike Lanes to the Bike Ped Commission in Feb 2020. The Bike Ped Commission supported Alternative B BUT with both uphill and downhill bike lanes next to each other and next to the pedestrian walkway, away from cars.

The current option B that city staff is presenting tonight to city council for approval has ONLY the uphill bike lane next to the pedestrian walkway, with downhill bikers are expected to share the road with cars. It is NOT what the Bike Ped Commission requested and it is not the safest option for bicycle riders in our community, especially children and less expert bikers.

Please approve a modified Alternative B with both the uphill and downhill bicycle lanes next to each other and next to the pedestrian walkway, away from the car lanes. It is the safest option for all bicycle riders.

Thank you for your hard work on behalf of the city.

Best regards,
Seema Lindskog

"You must be the change you want to see in the world." - Mahatma Gandhi

Cyrah Caburian

From: Jennifer Shearin <shearin.jen@gmail.com>
Sent: Tuesday, September 15, 2020 7:14 PM
To: City Clerk; City Council
Subject: City Council agenda item 11 (9/15/20)

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 Councilmembers and esteemed Mayor Scharf,

I am writing tonight to encourage you to approve the proposal to add safe bicycle access to the entrance to Blackberry Farm, with the caveat that it be a **two-way bike lane**—not one way, as the City Staff is proposing tonight.

The proposal that City Staff is presenting is not what the Bicycle Pedestrian Commission supported in February 2020 at their commission meeting. During that meeting, The Bike Ped Commission said they supported Option B but with both uphill and downhill bike lanes next to each other and next to pedestrian walkway, away from cars. The Staff proposal tonight would leave cyclists in one direction still trying to share the lane.

Cupertino has the land; let's do this right. Make the bike lane go in both directions, away from cars, to make it safe to exit and enter Blackberry Farm. This would be great for residents of all ages.

Thank you for your consideration of my input, and for your hard work on behalf of Cupertino.

Best Wishes,
Jennifer Shearin

Cyrah Caburian

From: Joseph Fruen <jrfruen@gmail.com>
Sent: Tuesday, September 15, 2020 11:10 PM
To: Kirsten Squarcia; Rod Sinks; Darcy Paul; Liang Chao; Jon Robert Willey; Steven Scharf
Subject: For Public Comment Re: Item 11

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

Mayor Scharf and Councilmembers:

Under the current recommendation (Alternative B), I'm concerned that by not separating cyclists riding downhill as well as uphill, we will create a situation where less experienced bike riders would have to mix with cars. Such a situation could make cyclists feel less safe and disincline them toward using bicycles to access Blackberry Farm.

I therefore encourage you to approve a modified Alternative B that cleaves to the Bicycle-Pedestrian Commission's original recommendation, which included bike lanes running both uphill and downhill and next to the pedestrian walkway. I think this recommendation represents the safest version of the alternative. Ensuring that cyclists feel safe here will encourage increased use of bicycles to access Blackberry Farm.

Many thanks,

J.R. Fruen

Cyrah Caburian

From: Kirsten Squarcia
Sent: Tuesday, September 15, 2020 8:50 PM
Cc: City Clerk
Subject: FW: Agenda Item 11 San Fernando entrance to Blackberry Farms
Attachments: Students near Carmen Bridge (002).jpg

Dear Mayor, Vice Mayor, and Councilmembers (Bcc'd on this email),

I am forwarding an email at the request of Larry Dean regarding agenda Item No. 11 San Fernando entrance to Blackberry Farm.

Regards, Kirsten



Kirsten Squarcia

City Clerk
City Manager's Office/City Clerk's Office
KirstenS@Cupertino.org
(408) 777-3225



From: Larry Dean <ldean95014@comcast.net>
Sent: Tuesday, September 15, 2020 8:42 PM
To: City Clerk <CityClerk@cupertino.org>
Subject: Agenda Item 11 San Fernando entrance to Blackberry Farms

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

Dear City Manager and City Council Members,

The re-engineering of the entrance to Blackberry Farms is a key segment/connector for the Monta Vista Bike Boulevard that extends from MVHS to Orange/San Fernando, through Blackberry Farms Park to Scenic Circle. It will connect over 1,300 middle and high school students from all of the neighborhoods West of Stevens (the) Creek to the schools complex. This area includes Deep Cliff, the Scenic, Inspiration Heights and Stevens Creek School neighborhoods with the main route that does not have extremely high cyclist/vehicle conflict (think McClellan Road and Stevens Creek Boulevard at rush hour). Please see the attached neighborhood layout.

Additionally, with the completion of the McClellan Road separated bike lane project, it will make Blackberry Farms more easily – and safer – accessed for all ages of cyclists in the community.

The city staff presented the various options for the Blackberry Farm Bike Lanes to the Bike Ped Commission in Feb 2020. The Bike Ped Commission supported Alternative B BUT with both uphill and downhill bike lanes next to each other and next to the pedestrian walkway, away from cars.

The current option B that city staff is presenting tonight to city council for approval has ONLY the uphill bike lane next to the pedestrian walkway, with downhill bikers are expected to share the road with cars. It is NOT what the Bike Ped

Commission requested and *it is not the safest option for bicycle riders in our community, especially children and less expert bikers.*

Please approve a modified Alternative B with both the uphill and downhill bicycle lanes next to each other and next to the pedestrian walkway, away from the car lanes. It is the safest option for all bicycle riders.

Thank you for your hard work on behalf of the city.

Larry Dean

Walk-Bike Cupertino

40 year resident of the Scenic and Stevens Creek School neighborhoods

