



## MEMORANDUM

DATE: August 30, 2018

TO: Piu Ghosh, City of Cupertino

FROM: Judy Shanley and Kristy Weis

SUBJECT: Supplemental Text Revisions to the Vallco Special Area Specific Plan Final Environmental Impact Report

This memorandum describes changes made to the text of the Final Environmental Impact Report for the Vallco Special Area Specific Plan (“Final EIR” or “EIR”) following publication of the Final EIR on August 27, 2018.<sup>1</sup>

The text revisions include typographical corrections, insignificant modifications, amplifications and clarifications of the EIR. These text revisions are not considered “significant new information” pursuant to CEQA Guidelines Section 15088.5 because: (1) the text revisions would not result in a new environmental impact; (2) the text revisions would not cause a substantial increase in the severity of an environmental impact; (3) the project sponsor would adopt the revised mitigation measures, if the measures are selected by the City Council; and (4) the text revisions do not preclude meaningful public review and comment because they are substantively similar to the previously-identified measures. Therefore, recirculation of the Draft EIR is not required.

Underlined text represents language that has been added to the EIR; text with ~~strikeout~~ has been deleted from the EIR.

Final EIR, page 2, Section 2.1, Second paragraph is revised as follows:

The revised project includes 460,000 square feet of commercial uses (including a 60,000 square foot performing arts theater), 1,750,000 square feet of office uses, 339 hotel rooms, 2,923 residential units, 35,000 square feet of civic uses (including 10,000 square foot of governmental use and ~~35,000~~ 25,000 square feet of education space), and a 30-acre green roof. A comparison of the revised project to the previous project and project alternatives is provided in Table 2.1-1.

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<sup>1</sup> The Final EIR consists of the May 2018 Draft Environmental Impact Report (“Draft EIR”), the July 2018 Environmental Impact Report Amendment (“EIR Amendment”), and the August 2018 Final EIR.

Final EIR, page 32, Standard Permit Condition, 2<sup>nd</sup> and 3<sup>rd</sup> bullets, are revised as follows:

- To reduce exterior noise levels to meet the normally acceptable thresholds of 65 dBA CNEL at multi-family residences or 70 dBA CNEL at commercial uses, locate noise-sensitive outdoor use areas away from major roadways or other significant sources of noise when developing site plans. Shield noise-sensitive spaces with buildings or other methods ~~noise barriers~~ to reduce exterior noise levels. The final detailed design of these measures ~~heights and limits of proposed noise barriers~~ shall be completed at the time that the final site and grading plans are submitted.
- The following shall be implemented to reduce interior noise levels to meet the normally acceptable thresholds of 45 dBA CNEL at multi-family residences or 50 dBA  $L_{eq}(1-hr)$  at commercial uses during hours of operations:
  - If future exterior noise levels at residential building facades are between 60 and 65 dBA CNEL, incorporate adequate forced-air mechanical ventilation to reduce interior noise levels to acceptable levels by closing the windows to control noise.
  - If future exterior noise levels at residential building facades exceed 65 dBA CNEL, forced-air mechanical ventilation systems and sound-rated construction methods are normally required. Such methods or materials may include a combination of smaller window and door sizes as a percentage of the total building façade facing the noise source, sound-rated windows and doors, sound-rated exterior wall assemblies, and mechanical ventilation so windows may be kept closed at the occupant's discretion.
  - If the 50 dBA  $L_{eq}(1-hr)$  threshold would not be met, other site-specific measures, such as increasing setbacks of the buildings from the adjacent roadways, or ~~using shielding by other buildings or noise barriers~~ to reduce noise levels, implementing additional sound treatments to the building design, etc. shall be considered to reduce interior noise levels to meet the Cal Green Code threshold.

Final EIR, page 32, Standard Permit Condition, 2<sup>nd</sup> to last bullet, is revised as follows:

- Outdoor dining areas and playgrounds shall demonstrate that appropriate design and noise attenuation measures including, but not limited to, increased setbacks ~~and/or noise barriers~~ have been incorporated to meet the daytime threshold of 65 dBA and the nighttime threshold of 55 dBA in the City's Municipal Code at the existing, adjacent residences.

**MM NOI-1.1:** Construction activities under the revised project shall be conducted in accordance with provisions of the City's Municipal Code which limit temporary construction work to daytime hours,<sup>2</sup> Monday through Friday. Certain types of construction is are prohibited on weekends and all holidays pursuant to Municipal Code Sections 10.48.053(B), (C), and (D).<sup>3</sup> Further, the City requires that all equipment have high-quality noise mufflers and abatement devices installed and are in good condition. Additionally, the construction crew shall adhere to the following construction best management practices listed in MM NOI-1.2 below to reduce construction noise levels emanating from the site and minimize disruption and annoyance at existing noise-sensitive receptors in the project vicinity.

Final EIR, page 34, is revised as follows:

**MM NOI-1.3:** A qualified acoustical consultant shall be retained for development under the revised project to review mechanical noise, as these systems are selected, to determine specific noise reduction measures necessary to ensure noise complies with the City's noise level requirements. Mechanical equipment shall be selected and designed to reduce impacts on surrounding uses to meet the City's noise level requirements. Noise reduction measures could include, but are not limited to:

- Selection of equipment that emits low noise levels;
- Installation of noise dampening techniques barriers, such as enclosures and parapet walls, to block the line-of-sight between the noise source and the nearest receptors;
- Locating equipment in less noise-sensitive areas, where feasible.

Final EIR, page 35, is revised as follows:

**Impact NOI-2. The revised project would not expose persons to or ~~generation of~~ generate excessive groundborne vibration.**

Final EIR, page 35, is revised as follows:

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<sup>2</sup> Per Municipal Code Section 10.48.010, daytime is defined as the period from 7:00 AM to 8:00 PM weekdays.

<sup>3</sup> Municipal Code Section 10.48.053(B): Notwithstanding Section 10.48.053A, it is a violation of this chapter to engage in any grading, street construction, demolition or underground utility work within seven hundred fifty feet of a residential area on Saturdays, Sundays and holidays, and during the nighttime period, except as provided in Section 10.48.030. Municipal Code Section 10.48.053(C): Construction, other than street construction, is prohibited on holidays, except as provided in Sections 10.48.029 and 10.48.030. Municipal Code Section 10.48.053(D): Construction, other than street construction, is prohibited during nighttime periods unless it meets the nighttime standards of Section 10.48.040.

**MM NOI-2.1:** Where vibration levels due to construction activities under the revised project would exceed 0.3 in/sec PPV at nearby sensitive uses, development shall:

- Comply with the construction noise ordinance to limit hours of exposure. The City's Municipal Code allows construction noise to exceed limits discussed in Section 10.48.040 during daytime hours. No construction is permitted on Sundays or holidays. Certain types of construction are prohibited on weekends and all holidays pursuant to Municipal Code Sections 10.48.053(B), (C), and (D).
- In the event pile driving would be required, all receptors within 300 feet of the project site shall be notified of the schedule a minimum of one week prior to its commencement. The contractor shall implement "quiet" pile driving technology (such as pre-drilling of piles, the use of more than one pile driver to shorten the total pile driving duration, or the use of portable acoustical barriers), in consideration of geotechnical and structural requirements and conditions.
- To the extent feasible, the project contractor shall phase high-vibration generating construction activities, such as pile driving/ground-impacting operations, so they do not occur at the same time with demolition and excavation activities in locations where the combined vibrations would potentially impact sensitive areas.
- The project contractor shall select demolition methods not involving impact tools, where possible (for example, milling generates lower vibration levels than excavation using clam shell or chisel drops).
- The project contractor shall avoid using vibratory rollers and packers near sensitive areas.
- Impact pile driving shall be prohibited within 90 feet of an existing structure surrounding the project site. Vibratory pile driving shall be prohibited within 60 feet of an existing structure surrounding the project site.
- Prohibit the use of heavy vibration-generating construction equipment, such as vibratory rollers or clam shovel, within 20 feet of any adjacent sensitive land use.
- If pile driving is required in the vicinity of vibration-sensitive structures adjacent to the project site, survey conditions of existing structures and, when necessary, perform site-specific vibration studies to direct construction activities. Contractors shall continue to monitor effects of construction activities on surveyed sensitive structures and offer repair or compensation for damage.

Construction management plans for substantial construction projects, particularly those involving pile driving, shall include predefined vibration reduction measures, notification requirements for properties within 200 feet of scheduled construction activities, and contact information for on-site coordination and complaints.

Final EIR, page 36, is revised as follows:

**MM NOI-3.1:** Future development under the revised project shall implement available measures to reduce project-generated noise level increases from project traffic on Perimeter Road. The noise attenuation measures shall be studied on a case-by-case basis at receptors that would be significantly impacted. Noise reduction methods could include the following:

- ~~New or larger noise barriers or other noise reduction techniques constructed to protect existing residential land uses. Final design of such barriers shall be completed during project level review.~~

- Alternative noise reduction techniques, such as re-paving Perimeter Road with “quieter” pavement types including Open-Grade Rubberized Asphaltic Concrete. The use of “quiet” pavement can reduce noise levels by two to five dBA, depending on the existing pavement type, traffic speed, traffic volumes, and other factors.
- Traffic calming measures to slow traffic, such as speed bumps.

Building sound insulation for affected residences, such as sound-rated windows and doors, on a case-by-case basis as a method of reducing noise levels in interior spaces.

Final EIR, page 45, is revised as follows:

**MM TRN-1.3:** A fair-share payment contribution of \$3,865,182.00 to improvements identified in VTA’s VTP 2040 for freeway segments on SR 85, I-280, and I-880 that the project (or project alternative) significantly impacts shall be paid by future development associated with the revised project.

The VTA’s VTP 2040 identifies several freeway projects that are relevant to the identified freeway segment impacts, including:

- VTP ID H1: SR 85 Express Lanes: US 101 (South San José to Mountain View). This project would convert 24 miles of existing HOV lanes to express lanes, and allow single-occupancy vehicles access to the express lanes by paying a toll. An additional express lane will be added to create a two-lane express lane along a portion of the corridor. On November 13, 2017, the cities of Cupertino and Saratoga and the Town of Los Gatos entered into a settlement agreement<sup>4</sup> with VTA and Caltrans that requires VTA to implement the 2016 Measure B State Route 85 Corridor Program Guidelines which include preparing a Transit Guideway Study for this corridor to identify the most effective transit and congestion relief projects on SR 85 that will be candidates for funding. Upon completion of the study, and implementation plan for these projects will be developed.
- VTP ID H11: I-280 Express Lanes: Leland Avenue to Magdalena Avenue. This project converts existing HOV lanes to express lanes.
- VTP ID H13: I-280 Express Lanes: Southbound El Monte Avenue to Magdalena Avenue. This project builds new express lanes.
- VTP ID H15: I-880 Express Lanes: US 101 to I-280. This project would build new express lanes on I-880.
- VTP ID H35: I-280 Northbound: Second Exit Lane to Foothill Expressway. This project constructs a second exit lane from northbound I-280 to Foothill Expressway.
- VTP ID H45: I-280 Northbound Braided Ramps between Foothill Expressway and SR 85: This project would conduct preliminary engineering, environmental studies, and design to widen the existing off-ramp to Foothill Expressway from Northbound I-280 from a single-lane exit to a two-lane exit opening at I-280.

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<sup>4</sup> As part of the Settlement Agreement, *City of Saratoga, et al. v. California Department of Transportation, et al.* (Santa Clara County Superior Court Case No. 115CV281214), which was a suit by the three cities challenging Caltrans’s approval of the State Route 85 Express Lanes Project, was dismissed on November 17, 2017.

Final EIR, page 47, is revised as follows:

**MM TRN-2.5:** Intersections 43-45, Contribute a fair-share of \$96,000.00 to a traffic signal timing study and implementation of the revised timings on Stevens Creek Boulevard at Stern Avenue, Calvert Drive, and Agilent Driveway. The revised project impacts would likely improve with modifications to the signal timings as traffic volumes change, but the impact is concluded to be significant and unavoidable because the effectiveness of the improvement would be determined through the signal timing study and because the intersection is under the jurisdiction of another agency and the City cannot guarantee the implementation of the signal timing study. **(Significant and Unavoidable Impact with Mitigation Incorporated)**

**MM TRN-2.6:** Intersection 48, Lawrence Expressway/Homestead Road: Pay a fair-share contribution of \$291,000.00 to the near-term improvement identified in the Santa Clara County's Expressway Plan 2040 Study for this intersection. The Expressway Plan 2040 Study identifies a near-term improvement of an additional eastbound through lane on Homestead Road. With this improvement, intersection operations would improve, but the intersection would continue to operate at LOS F with delays greater than under background conditions.

The ultimate improvement identified by the County's Expressway Plan 2040 is to grade-separate the intersection. That is a long-term improvement, however, which would not be implemented within the next 10 years. Therefore, the impact is considered significant and unavoidable. **(Significant and Unavoidable Impact with Mitigation Incorporated)**

**MM TRN-2.6:** Intersection 48, Lawrence Expressway/Homestead Road: Pay a fair-share contribution of \$219,000.00 to the near-term improvement identified in the Santa Clara County's Expressway Plan 2040 Study for this intersection. The Expressway Plan 2040 Study identifies a near-term improvement of an additional eastbound through lane on Homestead Road. With this improvement, intersection operations would improve, but the intersection would continue to operate at LOS F with delays greater than under background conditions.

The ultimate improvement identified by the County's Expressway Plan 2040 is to grade-separate the intersection. That is a long-term improvement, however, which would not be implemented within the next 10 years. Furthermore, the improvement is under the jurisdiction of another agency and the City cannot guarantee its implementation. Therefore, the impact is considered significant and unavoidable. **(Significant and Unavoidable Impact with Mitigation Incorporated)**

**MM TRN-2.7:** Intersection 51, Lawrence Expressway/Calvert Drive-I-280 Southbound Ramp: Improvements to mitigate the impact would include providing a fourth northbound through lane (for a total of four through lanes and one right-turn lane). This would require four receiving lanes north of Calvert Drive-I-280 Southbound Ramps. With this improvement, the intersection would operate at acceptable LOS E or better. The widening of Lawrence Expressway from three to four lanes in each direction between Moorpark Avenue to south of Calvert Drive is included in the VTP 2040 as a constrained project (VTP 2040 Project# X10). The VTP 2040 does not include widening of

Lawrence Expressway at or north of Calvert Drive, however. The fourth northbound through lane on Lawrence Expressway could potentially be provided with an added receiving lane that would connect directly to the off-ramp to Lawrence Expressway (also known as “trap” lane) just north of the I-280 overcrossing. The City shall coordinate with the County of Santa Clara to and Caltrans to determine if a fourth through lane could be provided. Future development under the proposed project shall be required to pay a fair-share contribution of \$133,380.00 if the improvement is feasible. The impact would remain significant and unavoidable because the feasibility of the improvement is yet to be determined, and because the intersection is within the responsibility and jurisdiction of another agency and the City cannot guarantee the improvement would be constructed concurrent with the proposed project. **(Significant and Unavoidable Impact with Mitigation Incorporated)**

Final EIR, page 48, is revised as follows:

**MM TRN-2.8:** Intersection 53, Lawrence Expressway/Bollinger Road: Improvements to mitigate the revised project’s impact would include providing a fourth northbound through lane (for the PM peak hour impact) and fourth southbound through lane (for the AM peak hour impact). The widening of Lawrence Expressway from three to four lanes in each direction between Moorpark Avenue to south of Calvert Drive is included in the VTP 2040 as a constrained project (VTP 2040 Project# X10). This VTA project also includes the provision of an additional westbound through lane on Moorpark Avenue.

Assuming that both the northbound and southbound approaches would be modified to accommodate four through lanes, the intersection would operate at or better than acceptable LOS E under the revised project during the AM and PM peak hours. Future development under the revised project shall be required to pay a fair-share contribution of \$133,380.00 to VTP Project# X10. The impact would remain significant and unavoidable, however, because the intersection is within the responsibility and jurisdiction of another agency and the City cannot guarantee the improvement would be constructed concurrent with the proposed project. **(Significant and Unavoidable Impact with Mitigation Incorporated)**

Final EIR, page 49, is revised as follows:

**MM TRN-6.1:** The VTA’s VTP 2040 identifies the Stevens Creek Bus Rapid Transit project (VTP ID T4) as an improvement near the project site. Ultimately, the VTP ID T4 would enhance travel choice for the revised project and make more efficient use of the transportation network. Thus, future development under the revised project would be required to contribute its fair-share contribution of \$4,832,000.00 to VTP ID T4. However, the impact would remain significant and unavoidable because the implementation of the VTP projects are within the responsibility and jurisdiction of another agency and the City cannot guarantee the improvement would be implemented concurrent with the revised project. **(Significant and Unavoidable Cumulative Impact with Mitigation Incorporated)**

Final EIR, page 50, is revised as follows:

**MM TRN-7.5:** Intersection 23, Wolfe Road/Fremont Avenue: Provide a dedicated southbound right-turn lane from Wolfe Road onto westbound Fremont Avenue. This would improve intersection delay to lower than cumulative conditions under the revised project. Thus, the impact would be mitigated to a less than significant level.

The City of Sunnyvale recently approved improvements to the “Triangle” area of Wolfe Road/El Camino Real, Wolfe Road/Fremont Avenue, and El Camino Real/Fremont Avenue. The “Triangle” improvements include the provision of a southbound right-turn lane from Wolfe Road to Fremont Avenue. Thus, future development under the revised project would be required to contribute their fair-share contribution of \$527,000.00 to the “Triangle” improvement project. However, the impact would remain significant and unavoidable because the intersection is within the responsibility and jurisdiction of another agency and the City cannot guarantee the improvement would be constructed concurrent with the proposed project. **(Significant and Unavoidable Cumulative Impact with Mitigation Incorporated)**

Final EIR, page 51, is revised as follows:

**MM TRN-7.10:** Intersection 48, Lawrence Expressway/Homestead Road: Implement MM TRN-2.6. As discussed under MM TRN-2.6, the revised project shall pay a fair-share contribution of \$291,000.00 to the long-term improvement identified in the Santa Clara County’s Expressway Plan 2040 Study for this intersection. The impact would remain significant and unavoidable, however, because the intersection is within the responsibility and jurisdiction of another agency and the City cannot guarantee the improvement would be constructed concurrent with the proposed project. **(Significant and Unavoidable Cumulative Impact with Mitigation Incorporated)**

**MM TRN-7.13:** Intersection 60, Stevens Creek Boulevard/Cabot Avenue: Contribute a fair-share contribution of \$23,000.00 to a traffic signal timing study and implementation of the revised timings on Stevens Creek Boulevard at Cabot Avenue. The revised project impact would likely improve with modifications to the signal timings as traffic volumes change. The impact would be significant and unavoidable, however, because the effectiveness of the improvement would be determined through the signal timing study and because the intersection is within the responsibility and jurisdiction of another agency and the City cannot guarantee the implementation of the signal timing study. **(Significant and Unavoidable Cumulative Impact with Mitigation Incorporated)**

Final EIR, page 53, Conditions of Approval, first bullet is revised as follows:

- To ensure neighborhood cut-through traffic and parking intrusion are minimized, future development under the revised project shall fund neighborhood cut-through traffic monitoring studies and provide fees in the amount of \$500,000 to the City of Cupertino, \$150,000 to the City of Santa Clara, and \$250,000 to the City of Sunnyvale to monitor and implement traffic calming improvements and a residential parking permit program to



minimize neighborhood cut-through traffic and parking intrusion, if determined to be needed by the respective City's Public Works Department. The details of the neighborhood parking and traffic intrusion monitoring program shall be determined when the conditions of approval for project development are established. The monitoring program shall include the following components: (1) identifying the monitoring areas (roadways where the monitoring would occur), (2) setting baseline conditions (such as, number of parked vehicles and traffic volumes on the roadways), (3) determining thresholds for ~~parking and traffic volume increases~~ requiring action, (4) establishing the monitoring schedule, and (5) creating reporting protocols. The baseline conditions shall be established prior to but within one year of initial occupancy. Monitoring shall then occur annually for five years.

Final EIR, page 55, is revised as follows:

**MM UTIL-2.3:** No ~~certificates of occupancy~~ building permits shall be issued by the City for structures or units that would result in the permitted peak wet weather flow capacity of 13.8 mgd through the Santa Clara sanitary sewer system being exceeded. The estimated sewage generation by the revised project shall be calculated using the sewer generation rates used by the San Jose - Santa Clara Water Pollution Control Plant Specific Use Code & Sewer Coefficient table, and from the City of Santa Clara Sanitary Sewer Capacity Assessment, May 2007,<sup>5</sup> unless alternative (i.e., lower) sewer generation rates achieved by future development are substantiated by the developer based on evidence to the satisfaction of the CuSD.

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<sup>5</sup> The average dry weather sewerage generation rates used by the San Jose - Santa Clara Water Pollution Control Plant Specific Use Code & Sewer Coefficient table, and the City of Santa Clara Sanitary Sewer Capacity Assessment, May 2007, for the different uses within the project are as follows: High Density Residential = 121 gpd/unit; Commercial/Retail = 0.076 gpd/SF; Commercial/Restaurant = 1.04 gpd/SF; Office = 0.1 gpd/SF; Hotel = 100 gpd/Room; Civic Space (office) = 0.21 gpd/SF; Adult Education = 15 gpd/Person; and Civic Space (Auditorium) = 0.11 gpd/SF.