



**COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION**

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PLANNING COMMISSION STAFF REPORT

Meeting: September 4, 2018

Subject

Consideration of the Vallco Town Center Specific Plan and associated amendments to the General Plan, Zoning Map, Municipal Code, to modify development standards, including heights, density, and residential, commercial, office, and hotel development allocations within the Vallco Town Center Special Area and related actions for environmental review to consider the effects of the project; and consideration of a Development Agreement with Vallco Property Owner, LLC for the property located at 10101 to 10333 N Wolfe Road in the City of Cupertino.

(Application No(s): GPA-2018-02, Z-2018-01, SPA-2017-01, MCA-2018-01, DA-2015-02 (EA-2017-05); Applicant(s): City of Cupertino (Specific Plan, General Plan Amendments, Zoning, Municipal Code Amendments and Environmental Review) and Vallco Property Owner, LLC (Development Agreement); APN: 316-20-080, 316-20-081, 316-20-103, 316-20-107, 316-20-101, 316-20-105, 316-20-106, 316-20-104, 316-20-088, 316-20-092, 316-20-094, 316-20-099, 316-20-100, 316-20-095)

Recommended Action

That the Planning Commission adopt the draft resolutions to recommend that the City Council:

1. Certify the Final Environmental Impact Report (FEIR), adopt CEQA findings, a statement of overriding considerations and a Mitigation Monitoring and Reporting Program (Attachment 1)
2. Adopt the General Plan amendments required to implement the Specific Plan (Attachment 2)
3. Adopt the proposed Vallco Town Center Specific Plan, and associated clarifying/supplemental language (Attachment 3),
4. Adopt Municipal Code text amendments (Attachment 4)
5. Adopt Zoning Map amendments (Attachment 5), and
6. Approve proposed Development Agreement between the City and Vallco Property Owner, LLC (Attachment 6).

Discussion

Project Data:

General Plan Designation	Commercial/Office/Residential
Special Area	Vallco Town Center
Zoning Designation	Vallco Town Center
Plan Area	58.1 acres
Base Density	35 units/acre

Background:

The Vallco Town Center Specific Plan (“Specific Plan” or “SP”) covers a Plan Area is located adjacent to and south of I-280, along the west and east side of the intersection of Wolfe and Stevens Creek Blvd. The term “Plan Area” currently includes three ownerships and references these associated acres: (A) Simeon Properties, 5.16 acres north of Perimeter Road, adjacent to and southwest of I-280; (B) Vallco Property Owner LLC, 50.82 acres; and (C) KCR Properties, 2.12 acres, the site of the Hyatt Hotel currently under construction and adjacent to the I-280 southbound on ramp. The surrounding existing uses are I-280 to the north, a single family neighborhood to the west, commercial/office/residential uses to the south and office uses to the east.

While the property has a history of multiple ownerships, additions and remodels since opening in 1976, these are previous recent proposals for the Vallco Mall property under the current ownership of the main 50.82 acres:

- The Hills at Vallco in October 2015
- Ballot Measures C and D in 2016
- Request in October 2017 from Sand Hill Property Company to restart the specific plan process
- SB 35 application in March 2018. The SB 35 project is a separate application process and is not being evaluated within the Specific Plan process.

Why a specific plan? The Vallco Special Area was included as a Housing Element site and provided an allocation of 389 residential units, 600,000 square feet of commercial (retail/entertainment) use and 2 million square feet of office space as part of the General Plan and Housing Element updates in 2014 and 2015 respectively. The General Plan also had a number of requirements for the Vallco Special Area including the preparation of a Specific Plan before development could occur.

A specific plan allows for a focused and customized approach to a particular neighborhood or plan area to accomplish broad policy goals and predictable growth.

When adopted, a specific plan would establish objective standards, such as a development program, heights, setbacks, parks and open space, street standards, allowed land uses, traffic/mobility provisions, expected review processes and many other key standards. These standards would run with the Plan Area. A large plan area may, over the long-term, have partner ownerships or developers based on expertise of construction types. For example, housing development has different needs and requirements than retail. Below market rate housing (“BMR” or “affordable housing”) likewise is a category of specialty knowledge for construction, financing and regulatory complexities. The Specific Plan would help the city manage future development in a more predictable way regardless of ownership. A specific plan can also allow development standards to be tailored to the community vision for a special area.

In October 2017, Sandhill requested that the City restart the process of preparing a specific plan and in November 2017, the Council authorized the preparation of the Specific Plan, consultant team and outreach program.

Community outreach. The path to a draft specific plan started in January 2018 with the launch of the project website, www.envisionvallco.org. It was, and is, the city’s objective to facilitate civil dialogue, information access, and a diverse offering of types of participation. The city sought to reach a wide demographic across the Cupertino community. To that end, there were a variety of venues in which to receive information or have a conversation: by email, online, by US mail, in-person, formal presentations, informal presentations, staff access, consultant access, open house style, sign-in optional (charrettes), sign-in required (online), weekdays during business hours, evenings after business hours, weekend, small group, large group and individual correspondence. The website launch and city-wide postcard notice were followed by a series of public events and a variety of communications including:

- 14 small group interviews
- 2 week-long charrettes featuring a total of 8 presentations, 5 open studio, 3 brown bags & 3 open houses
- 3 EIR scoping plus comment
- 2 student/youth on-campus
- 2 public hearings (final PC & CC)
- 1 Environmental Review Committee
- 1 City Council study session
- 1 online civic comment opportunity
- 1 Fine Arts Commission check-in/update
- 1 Housing Commission check-in/update
- 1 Parks & Rec Commission check-in/update
- 1 Teen Commission check-in/update
- 1 Economic Development Committee check-in/update
- 1 Block Leaders check-in/update
- Project website with urban design information, online engagement,

- updated documents, presentation videos, time lapse 3-D models
- Multiple individual email correspondence
- Multiple press releases
- Multiple social media postings
- 2 city-wide post card notices
- Updates in Cupertino Scene

The most common themes and concerns emerging from the conversation include:

- Housing needs – The Plan Area provides a unique opportunity to provide more housing of different sizes and types, from micro-units to larger units, from rental to for-sale. The diversity of types of housing would be one factor in creating affordability.
- Traffic – Community members expressed concern that the project would add to traffic congestion. Those who were interested in seeing redevelopment were interested in ensuring that the project contributed to traffic solutions and created a walkable, bikeable environment that reduced reliance on single-occupancy cars.
- Retail – There is a desire for local retail so that residents do not need to drive to other cities to shop. Many residents expressed the memories they had of Vallco Mall and view a new retail center as a social gathering space for people of all ages.
- Parks and open spaces – There is a desire for public parks and open space.
- Walkable and bikeable – Community members want the shopping and neighborhood areas to feel safe for pedestrians and those on bicycles, and to allow these modes of transportation to be viable and safe options.
- School enrollment – There is concern about impacts of additional housing on schools.
- Medical office and other service office – Opportunities to provide resident-serving office is important to some in the community, who requested that the code reflect that flexibility.
- Massing of buildings- Residents are concerned about the impact of new development on privacy and buildings looming over their home and/or creating an overly-massive effect on public streets.

Analysis:

Specific Plan

Key issues. Planning Commission review, comment and deliberation is requested on these following key issues within the Specific Plan and the associated community benefits through a development agreement. The discussion regarding each key chapter is expanded on these topics but are summarized here:

1. **Development allocation.** Chapter 3.4 outlines the approach to the development program in two tiers: Tier 1 and Tier 2. Tier 1 is the base program that runs with the Plan Area with no community benefits. Tier 2 is the larger development

program allowing a “community benefits density bonus” as an alternative to the state Density Bonus.

2. *Edges/height treatment.* Chapters 3.8 and 6.2.203 illustrate the height treatments in various street cross sections, a height map and height adjacent to open space. Both chapters show the comparison between Tier 1 (45 feet to 120 feet range) and Tier 2 heights (45 feet to 150 feet range), where Tier 2 has higher heights to account for a larger program to allow community benefits. Both tiers maintain the same lowest heights of 45 feet along the western edge and 60 feet along Stevens Creek Boulevard.
3. *Open space approach.* Chapter 3.3 discusses parks and open space as one of the special design areas, and Chapter 6.2.202 outlines the standards for open space. The plan requires six acres of open space at grade level and allows a menu of park/open space types (with required minimum standards) that may count toward the total acreage requirement.
4. *Community benefits.* While the Specific Plan allows the Tier 2 development when a development agreement with certain community benefits are proposed, the list of community benefits that were negotiated are not in the Specific Plan. The terms of the development agreement are items specific to Vallco Property Owner LLC, and not the Specific Plan in general. The list of community benefits are discussed in greater detail in the development agreement section of this report.

Planning Commission comments, recommendations and ideas will be brought forward to the City Council for their consideration.

Charrettes. Outreach efforts before and during the charrettes yielded guiding principles and performance metrics. With the guidance of those principles, metrics and known topics of concerns, the city hosted two week-long charrettes in April and May 2018, where the city planning and urban design consultants, Opticos Design, lead the visual exploration of the basic building blocks of creating a plan: buildings, public space, land use, street systems, transportation, parking and economic/fiscal impacts. Opticos created renderings, a 3-D model with time lapse photography and preference images to distill three to four plan options, which would continue to be refined over the weeks that followed the initial detailed studies. During both charrettes, interviews and meetings, there were 928 in-person participants. In addition, the consultant team also reached out to the Plan Area owners. Local public agencies also participated in the charrettes.

The resulting draft plan options made every effort to balance the various, strong points of view from owners and community members, while creating standards for a real and feasible plan that would actually be built over an approximate 10-15 year timeline.

Study Session. A study session in June 2018 with City Council assisted the city staff and consultants in focusing efforts to complete the draft Specific Plan. Feedback and discussion occurred on key topics including:

- More housing and more affordable housing than the city's current requirement
- Parks and open space
- Mix of housing types to include for sale and rental
- Community benefits – consider items such as performing arts center, city hall
- Work with schools collaboratively and provide space, if requested
- Concern about jobs/housing
- Concern about heights (verify heights for various housing options)

Tier 2 brings together and addresses these key issues along with a community benefit density bonus program to make the project feasible.

Public Review Draft Specific Plan. (See Attachment 3 – Exhibit SPA-1) The city worked closely with Opticos, Fehr and Peers and EPS in an iterative process on all key topics to decide where flexibility and predictability could be reasonably balanced for effective implementation. To that end, several reports were generated to assist and inform the preparation of the specific plan (see Attachment 7.) While all chapters of the proposed Specific Plan are essential, the following is an executive summary of the key chapters containing the Plan's vision, goals, policies, and development standards:

Vision (Chapter 3)

The community's concerns and wishes shaped six guiding principles for the vision for the Plan Area. They are the basis for the vision, which then shapes the development program, design guidelines and recognizing three distinct areas with the Plan Area:

1. A vibrant mixed-use district providing goods, services and entertainment for all ages.
2. Transportation solutions that support walkable, bikeable, transit-oriented neighborhoods.
3. Parks, greens and plazas link the district's individual places.
4. Diverse housing choices for all incomes and abilities.
5. Robust public and cultural amenities create a unique identity.
6. Thoughtful physical transitions to context.

To start carrying out this vision, the proposed SP creates three districts within the Plan Area:

- *Neighborhood/Mixed-use District* in the northwest plan area. This area is next to the existing, single family neighborhood in the Portal Avenue area. The intensity of development in this district is lower. For example, the first 56 feet adjacent to the property line wall is a no-build zone where Redwood trees would be preserved and a multi-use path or greenway could be a buffer between the two areas. The feeling and aesthetics in this district should be predominantly residential.
- *Retail & Entertainment/ Mixed-use District* in the southwest plan area, south of the existing pedestrian bridge and west of the intersection of North Wolfe Road and Stevens Creek Blvd. This district is intended to be the lively core of the Plan Area, intended to create new shopping, entertainment and gathering spaces, organized around a Town Square.
- *Office/ Mixed-use District* in the northeast plan area, at the corner of Vallco Parkway and North Wolfe Road. This is the district that would accommodate corporate office, highest heights closer to the freeway and other existing offices, with activated spaces organized around an East Plaza within the block adjacent to Vallco Parkway. It is envisioned that the uses facing Vallco Parkway would knit together other existing mixed use or commercial centers such as 19800 and Main Street.

Each district is meant to each have a distinct look and feel, with varying uses and intensity of development to create a more engaging environment, rather than one monolithic development. To accomplish this goal, the Specific Plan organizes blocks based on district character, which is defined through allowed land uses, street types and frontage requirements.

Within the three districts, the Plan identifies "special design areas" within the public realm that will further help contribute to the distinct look and feel of the new Town Center:

- *Town Square and East Plaza* – the two main open spaces create a heart in each respective district.
- *District edges* – North Wolfe Road, Stevens Creek and Vallco Parkway are given extra attention because these are the areas with the greatest public visibility. Buildings would also be required to step down in height toward these three streets. A frontage road on North Wolfe Road would create a boulevard concept to allow three through lanes in each direction along North Wolfe; a separate slower frontage road along the Vallco frontages, east and west of North Wolfe, creates the pedestrian and bike areas and allow uses along those building frontages to be active and more pedestrian facing. This concept also creates a tree lined barrier and additional setback for buildings.

- *Vallco Gateway* – The intersection of Vallco Parkway and North Wolfe Road is considered the gateway, visually and physically and slightly taller elements are allowed here for distinct visual identity.

Throughout the planning process, the community conveyed the desire to balance the scale of the project with feasibility, specifically that the plan would create parameters for a real project where vision meets reality. There was an emphasis on planning for transitions in development intensity, so that new buildings will be sensitive to the overall existing context. In response, the plan permits the most intense building size and scale, and the greatest building heights, in the Office/Mixed-use District in the northeastern portion of the Plan Area. Buildings are required to decrease in height, mass, and scale (while distance from the sidewalks, setbacks, and landscaping buffers are increased) as development approaches the existing residential neighborhoods along the Plan Area's western boundary.

General plan strategies implemented by these Specific plan policies include:

- Taller buildings should provide appropriate transitions to fit into the surrounding area and
- Buffers such as setbacks, landscaping and/or building transitions to buffer abutting single-family residential areas from visual and noise impacts.

Development Allocation

The Specific Plan contemplates two potential levels of development: Tier 1 and Tier 2. The Tier 1 program is base density allowed by right under the Specific Plan. It retains the existing residential density of 35 dwelling units an acre, minimizes office uses, and maximizes commercial development.

The Specific Plan also includes a "community benefits density bonus" program or Tier 2, as an alternative to the State Density Bonus Law (which allows a maximum residential density bonus of 35% above the base density). Tier 2 provides a project applicant with the ability to increase the residential density to 50% above the base density of 35 units an acre (52.5 dwelling units an acre). A key requirement for Tier 2 is the requirement to dedicate more than 11% of the base density (or 7.34% of max. residential yield under the bonus density) for below market rate housing affordable to very low income households (which is the minimum percentage of units required under State Density Bonus Law). However, because the community benefits density bonus is an alternative to the State Density Bonus Law, an applicant would not be permitted to apply for additional incentives, concessions, or waivers for applicable development standards or further increase the development capacity under Tier 2. The ability to apply for additional incentives, concessions, or waivers for applicable development standards under State

Density Bonus Law was a key issue that came up during discussions with members of the public and the strategy for Tier 2 addresses this issue.

In addition, the Tier 2 program requires a number of community benefits that are discussed later in this report. The community benefits would be memorialized in a development agreement, which is discussed in more detail below. To help ensure that the Tier 2 program is feasible with the community benefits incorporated, the amount of office development permitted under Tier 2 would be increased from 750,000 square feet to 1.5M square feet (with an additional 250,000 square feet of office amenity space for non-employee generating uses such as labs, fitness areas, etc.) and the amount of commercial uses would be decreased from 600,000 square feet to 485,000 square feet (including civic/educational uses). Tier 2 development standards also allow increased heights to accommodate the additional density and development allocation. However, as noted earlier an applicant would not be permitted to apply for additional incentives, concessions, or waivers for applicable development standards or further increase the development capacity.

Mobility (Chapter 4)

This chapter provides strategies for managing how people move to, from and around the Plan Area. The policies in this chapter, which includes a menu of realistic transportation demand management (TDM) options, also relates to the subsequent parking standards within Chapter 6. Consistent with General Plan strategies, the districts promote streets and blocks laid out in a grid to slow down traffic and provide multiple connectivity points (rather than one way in, one way out).

This is a menu of realistic options to manage traffic and allow for a more comfortable environment for walking and biking and encourages owners to create a program tailored to future visitors, residents and employees:

- TDM for a 34% non-SOV rate for office
- Transportation Management Association
- Mobility hub
- Community shuttle pilot connecting to high schools and/or nearest transit station
- Potential additional VTA routes
- Maximum parking standards to ensure that people are not encouraged to drive
- Transit for employees and residents
- Shared parking to maximize use of existing parking and promote a successful retail center
- Parking wayfinding

There are also additional provisions allowed for residential units, such as unbundling of parking, to promote other transit choices and reduce housing cost.

Development Standards (Chapter 6)

The vision becomes reality with objective standards that address the elements that concerned many community members. The numbers and requirements are an outgrowth of the policies established in earlier chapters and represent studied urban design principles.

- Land uses – a land use table connects with the expectation for each district. Uses are also organized so they can be most successful. For example, while allowing some flexibility, the most active uses have predictable locations to create a lively atmosphere in the most logical places: around the plazas, along Stevens Creek, North Wolfe Road and Vallco Parkway.
- Open space – Six acres are required at the ground level, while owners are incentivized and allowed to create additional spaces at other levels or locations to serve residents of the plan area.
- Building heights – On the western edge, no build zone of 56 feet. Then, heights are the lowest (45 feet) at the western edge of the plan area, step up to 75' and then higher towards the center (Tier 1 – 85 feet and Tier 2 – 120 feet) (better than a 1:1 setback). Building heights would then have to step down toward the public streets - Stevens Creek Boulevard and North Wolfe Road. On the east side, buildings are lower along public streets (Vallco Parkway and North Wolfe Road) and taller towards the center and the east (Tier 1-120 feet and Tier 2 - 150 feet).
- Façade Articulation – Heights and perception of massing are managed through the requirement for special frontages types and articulation of the architecture to prevent blocky and flat structures. These treatments also create more interest at the pedestrian level, so that the scale can feel more human and approachable.
- Screening – Unsightly but necessary mechanical, trash and utility are required to be screened and located appropriately.
- Bird-safe design – measures are in place to protect birds.

Administration and implementation (Chapter 7)

This chapter outlines the application process for permitting, related applications, findings and process within the Vallco Town Center zoning district. Prior to development on the site, a Master Site Development Permit is required to allow appropriate review of the final site plan and location of uses. The Planning Commission and City Council will review the future Master Site Development Permit. Further architectural review will be reviewed at the administrative level since there would already be an approved Master

Site Development Plan Permit and a clear form-based code (the specific plan) on development standards. Other processing criteria include provisions to allow:

- Adjustments of development standards (not including than heights and setbacks abutting the western edge) by 10% or less and transfers of development allocation by up to 25% at an administrative level.
- Adjustments of development standards (not including than heights and setbacks abutting the western edge) by more than 10% and transfers of development allocation by more than 25% with Planning Commission review.
- Any amendments proposed to building heights and setbacks abutting the western edge requires a Specific Plan amendment with Planning Commission review and City Council approval.
- Any other application type would be processed per the existing Municipal Code requirements.

Supplemental language/Errata. Some edits that are required of the draft Specific Plan to provide greater clarity and consistency, or to correct errors, are included with Attachment 2 (See Attachment 3 – Exhibit SPA-2).

Sustainability. The proposed Specific Plan is consistent with General Plan goals in that it will increase the number of places to live within the Plan Area. The plan supports infill development, conversion of vacant and outdated buildings, and location of housing near employment centers to reduce the use of single occupancy cars, increase commute choices reduce long commutes, reduce the use of fossil fuels, improve energy efficiency, reduce carbon dioxide emissions, and help meet air quality standards.

General Plan and Zoning

General Plan Policy. While the Vallco Specific Plan is consistent with most of the policies and strategies in the General Plan, one of the implementation actions for the Specific Plan include amendments to the General Plan (See Attachment 3).

The proposed Vallco Town Center Specific Plan would be consistent with the City's goals and policies as established in the General Plan and have been translated into objective development standards including these key policies and strategies:

- LU-8.1 Fiscal Impacts. Evaluate fiscal impacts of converting office/commercial uses to residential use, while ensuring that the city meets regional housing requirements.
- LU-8.2 Land Use. Encourage land uses that generate City revenue.
- LU-8.3 Polices for Reinvestment. Provide incentives for reinvestment in existing, older commercial areas.

- LU-9.2 Work Environment. Encourage the design of projects to take into account the well-being and health of employees and the fast-changing work environment.
- Policy LU-19.1 Specific Plan. Create a Vallco Shopping District Specific Plan prior to any development on the site that lays out the land uses, design standards and guidelines, and infrastructure improvements required. The Specific Plan standards proposed is based on and consistent with the following General Plan strategies:
 - Master Developer
 - Parcel Assembly
 - Complete Redevelopment of “town center” plan
 - Variety of land uses: retail, entertainment, hotel, residential, office
 - “Town Center” Layout.
 - Complete street grid hierarchy of streets, boulevards and alleys that is pedestrian-oriented, connects to existing streets, and creates walkable urban blocks for buildings and open space.
 - Incorporate transit facilities
 - Provide connections to other transit nodes
 - Coordinate with the potential expansion of Wolfe Road bridge over I-280
 - Contribute towards a study and improvements to a potential I-280 trail along the drainage channel south of the freeway and provide pedestrian and bicycle connections from the project sites to the trail.
 - Improve Stevens Creek Blvd and North Wolfe Rd to become more bike and pedestrian-friendly with bike lanes, wide sidewalks, street trees, improved pedestrian intersections to allow connections to Rosebowl and Main Street.
 - Open space in the form of a central town square on the west and east sides of the district interspersed with plazas and “greens” that create community gathering spaces, locations for public art, and event space for community events.
 - Standards for Building Form
 - Standards for Gateway Character
 - Phasing Plan
 - Limited surface parking
 - Underground parking beneath buildings is preferred
 - Retain trees along the I-280, Wolfe Road and Stevens Creek Boulevard to the extent feasible, when new development proposed.
 - Neighborhood Buffers.

However, General Plan amendments are necessary to update to reflect the allowed development program in Table LU-1, and appropriate development standards in Figure LU-2 in the General Plan. In addition, other general plan amendments are needed to the following strategies identified in Table 1 below:

Table 1: Key General Plan Amendments

<i>Current General Plan</i>	<i>Amended</i>
LU-19.1.2 - Parcelization discouraged	Parcelization discouraged unless required to facilitate senior housing, affordable housing or if demonstrated to be necessary for financing reasons
LU-19.1.4 - Minimum of 600,000 square feet of retail	Minimum of 600,000 square feet of retail in Tier One and 485,000 square feet in Tier Two
LU-19.1.4 - Entertainment uses may be included but shall consist of no more than 30 percent of retail uses.	No cap
LU-19.1.4 - Encourage high-quality office space arranged in a pedestrian-oriented street grid with active uses on the ground floor, publicly-accessible streets and plazas/green space.	<p>Under Tier 2 and with community benefits, a single corporate user in the Office Mixed-Use District, may use bollards, gates or fencing at the interior street to reserve them for private access for security purposes, subject to the City's design review. Bollards, gates and fencing must be removable to revert back to public access in the event that the tenants become multi-users. The fences, bollards shall be artistically integrated subject to design review and shall be located in the private portion of the streets. The surrounding streets (Perimeter Road, frontage road along Wolfe Road and street around the East Plaza) and the East Plaza shall remain accessible to the public and ground floor uses around the East Plaza must incorporate active uses.</p> <p>Buildings in the office/mixed-use district are allowed to connect via overhead bridges, as long as the bridges are above the third story, subject to design review and so that the ground level streets are not substantially covered by the overhead bridges.</p>

In addition, the General Plan Land Use Map must be amended to reflect the adoption of the new specific Plan (see Attachment 3 – Exhibit GPA-2).

Municipal Code Amendments. The Municipal Code must be amended to ensure implementation of the specific plan is possible. Amendments have been identified in Chapter 19.16 (to establish the Vallco Town Center Zone), Chapter 19.12 (to recognize the permits in the Vallco Town Center Specific Plan) and Chapter 20.04 (to allow designation of the specific plan area zoning designations in the Zoning Code) (see Attachment 4.)

Zoning Map Amendments. The Zoning Map must also be amended to ensure implementation of the specific plan is possible. The parcels within the Plan area are zoned “Vallco Town Center” and the zoning map is amended to reflect this change as well (see Attachment 5.)

Development Agreement. As described above, the proposed Specific Plan provides that the Tier 2 program may be developed, if the developer enters into a Development Agreement with the City which provides for certain community benefits. Vallco Property Owner, LLC (“Developer”) has proposed to provide certain community benefits and to develop the Tier 2 program in accordance with the Specific Plan. City staff and the Developer have negotiated the terms of a proposed Development Agreement (“DA”), which would vest the rights of the Developer for 11 years (plus a possible 5 year extension) to develop the Tier 2 Specific Plan program and provide limited vested rights as to the Tier 1 Specific Plan program for 5 years. By vesting the Specific Plan as discussed, the City would be bound by the terms of the Specific Plan in processing subsequent approvals, such as the Master Site Development Permit (MDSP), including permitted uses, densities, heights and other development standards.

The proposed Development Agreement provides that once vertical construction on the site begins, Developer would be required to commit to develop the SB35 project, the Tier 2 program (with community benefits) or the Tier 1 program. The Development Agreement would be consistent with and implement the provisions of the Specific Plan regarding the Tier 2 program and the community benefits density bonus, as well as the provisions of the General Plan, as amended. The vesting provisions of the Development Agreement would also provide a greater degree of certainty in the development of the project.

The list of community benefits is detailed in the development agreement and generally include:

- Below Market Rate Units – total 20% of units (7.34% VLI, 7.66% LI, 5% Mod). Also provides flexibility to developer to located BMR housing to get tax credit,
- A 60,000 square foot Performing Arts Center in the Retail and Entertainment Mixed/Use District (cash value upon election by City at \$22.8M)
- Building a 40,000 square foot City Hall at Civic Center (cash value \$30M)
- Community Shuttle
- \$11M for Hwy 280/Wolfe Road interchange city fair share and Junipero Serra Trail

Environmental Review:

In compliance with the California Environmental Quality Act (CEQA) and CEQA Guidelines, this Final EIR provides objective information regarding the significant

environmental effect of the proposed project. The Final EIR also identifies mitigation measures and alternatives to the proposed project intended to reduce or eliminate significant environmental impacts. The Final EIR is intended to be used by the City and responsible agencies in making decisions regarding the project.

Pursuant to CEQA Guidelines Section 15090(a), prior to approving a project, the lead agency must certify that:

1. The final EIR has been completed in compliance with CEQA;
2. The final EIR was presented to the decision-making body of the lead agency, and that the decision-making body reviewed and considered the information contained in the final EIR prior to approving the project; and
3. The final EIR reflects the lead agency's independent judgment and analysis.

The final EIR consists of:

1. The May 2018 Draft EIR (Attachment 8), which reviewed the proposed project and four alternatives to the project (described further below);
2. The July 2018 EIR Amendment (Attachment 9), which reviewed an additional alternative to the proposed project (the Housing Rich Alternative);
3. The August 2018 Final EIR Volume (Attachment 10), which reviewed a revised project and contains responses to comments on the Draft EIR and the EIR Amendment as well as text revisions; and
4. The August 2018 Supplemental Text Revisions to the Final EIR (Attachment 11).

Project, Alternatives and Impacts

The Draft EIR studied the following:

- Revised Project – Studied in the Final EIR, is closest to the anticipated development program under the Tier 2 option in the specific plan.
- Previous Project – Identified as the preferred project in the Draft EIR. This alternative is consistent with the development allocation in the current General Plan and assumes that residential development on the site is limited by the City's current residential allocation for the site.
- General Plan Buildout with Maximum Residential – This alternative is consistent with the current General Plan except that it assumes residential development on the site is not limited by the City's current residential allocation for the site and that development may occur at the maximum residential density currently allowed on the site.
- Occupied/Re-tenanted mall – This alternative is consistent with the current General Plan and assumes that the mall would undergo a minor facelift and could be repurposed and re-tenanted as a mall.

- **Housing Rich** – This alternative was identified based on input received from the City Council at its June 4, 2018 session in order to expand the development program to meet all of the objectives identified by the Council, including additional housing opportunities with substantial community benefits (as previously described).

Another alternative that is required to be studied under CEQA is the No Project alternative which assumes that the mall continues operations at its current occupancy level (~15%) and no financial investment is made to the site. However, since the No Project alternative is an existing, ongoing use and has no impacts under CEQA, this has not been discussed further in this staff report, but is discussed in the EIR.

Table 2 below indicates the development program of the each of the alternatives analyzed in the Final EIR (including May Draft EIR, July EIR Amendment, August Final EIR and August Supplemental Text Revisions memo).

Table 2: Development Program by Alternative

	Land Uses					
	Commercial (s.f.)	Office (s.f.)	Hotel (rooms)	Residential (units)	Civic Space (s.f.)	Green Roof (acres)
Revised Project *	460,000	1,750,000	339	2,923	35,000	30
Previous Project**	600,000	2,000,000	339	2,640	65,000	30
Project Alternatives						
General Plan Buildout with Maximum Residential Alternative**	600,000	1,000,000	339	2,640	65,000	30
Retail and Residential Alternative**	600,000	0	339	4,000	0	0
Occupied/Re-Tenanted Mall Alternative **	1,207,774	0	148	0	0	0
Housing Rich Alternative ***	600,000	1,500,000	339	3,250	65,000	30
Notes: * Revised project identified and analyzed in the Final EIR ** Project and project alternatives analyzed in the Draft EIR *** Project alternative analyzed in the EIR Amendment upon City Council direction at June 4, 2018 study session						

Table 3 below, which is based on Table 2.1-12 in the Final EIR, compares the impacts of each alternative to the Revised Project, as required by CEQA, for each environmental topic.

Table 3: Comparison of Impacts by Alternative

Topic	Revised Project (Closest to Tier 2 in Specific Plan)	Previous Project (Current General Plan)	GP Buildout with Maximum Residential Alternative	Retail and Residential Alternative	Occupied/ Re- Tenanted Mall Alternative (Informational only)	Housing Rich Alternative
Aesthetics	LTS	LTS	LTS	LTS	LTS	LTS
Agricultural Resources	NI	NI	NI	NI	NI	NI
Air Quality	SU/M	SU/M	SU/M	SU/M	LTS	SU/M
Biological Resources	LTS	LTS	LTS	LTS	LTS	LTS
Cultural Resources	LTS/M	LTS/M	LTS/M	LTS/M	LTS	LTS/M
Energy	LTS	LTS	LTS	LTS	LTS	LTS
Geology, Soils & Mineral Resources	LTS	LTS	LTS	LTS	LTS	LS
GHG Emissions	LTS/M	LTS/M	LTS/M	LTS/M	SU	LTS/M
Hazards & Hazardous Materials	LTS/M	LTS/M	LTS/M	LTS/M	LTS	LTS/M
Hydrology & Water Quality	LTS	LTS	LTS	LTS	LTS	LTS
Land Use & Planning	LTS	LTS	LTS	LTS	LTS	LTS
Mineral Resources	NI	NI	NI	NI	NI	NI
Noise	SU/M	SU/M	SU/M	SU/M	SU	SU/M
Population & Housing	LTS	LTS	LTS	LTS	LTS	LTS
Public Services & Recreation	LTS	LTS	LTS	LTS	LTS	LTS
Transportation & Traffic	SU/M	SU/M	SU/M	SU/M	SU	SU/M
Utilities & Service Systems	LTS/M	LTS/M	LTS/M	LTS/M	LTS	LTS/M

Notes: NI – No Impact; LTS - Less-than-significant impact; LTS/M - Less-than-significant with mitigation; SU/M – Significant and unavoidable with mitigation; SU - Significant and unavoidable.

As shown above, the impacts of the Revised Project, which includes the Tier 2 development anticipated in the Specific Plan, as well as the Previous project, General Plan Buildout with Maximum Residential, Retail and Residential and Housing Rich alternatives, show similar levels of impacts within each resource category as a whole, but in varying degrees. Each of the alternatives lessens at least one impact of the Revised Project. The EIR studied impacts of the buildout of the Revised and Proposed Projects and alternatives over a 10-year period as well as the cumulative build-out in the region.

The results indicate that the difference between the impacts of the various alternatives is not very significant, in the context of the cumulative impacts of regional plans over a 10-year period.

In general, the EIR finds significant and unavoidable impacts to Noise, Air Quality and Transportation and Traffic related to the Proposed and Revised Projects and the General Plan Buildout with Maximum Residential, Retail and Residential and Housing Rich alternatives. In some cases, the significant impacts have been determined to be significant and unavoidable because the mitigation measures require approval from a governmental agency other than the City of Cupertino (e.g. Caltrans), are not within the responsibility and jurisdiction of the City, and need approval from the other agencies for implementation. In other cases, a significant impact is unavoidable because the significant impact would not be fully mitigated even though mitigation measures have been identified and would be implemented.

In some cases (such as air quality, cultural resources and utilities and service systems), the impacts of the Occupied/Re-tenanted mall are less than the other alternatives, but other impacts are greater (such as Transportation, Greenhouse Gases and Noise) because the mall can be re-tenanted without discretionary approvals and the City could not be able to require implementation of mitigation measures.

The other alternatives have higher impacts than the Occupied/Re-Tenanted Mall Alternative in the following environmental topics:

- Air Quality: Since the mall is a permitted land use and re-tenanting may occur without any extensive construction or discretionary approvals that involve CEQA review, the impacts are considered Less than Significant. On the other hand, all of the other alternatives anticipate excavation, making the air quality impacts Significant and Unavoidable, even with required mitigation measures being implemented.
- Cultural Resources: Since no excavation is anticipated with the re-tenanting of the mall, the impacts to Cultural Resources is considered to be Less than Significant. However, for all the other alternatives the anticipated excavation could result in the finding of cultural resources. However, with the implementation of identified mitigation measures, the impact for the other alternatives is also Less than Significant.
- Utilities and Service Systems: Since the re-tenanting of the mall would not require any upgrades to the sewer lines/system, the impact is Less than Significant. On the other hand, in each of the other alternatives, upgrades are required to the sewer facilities. However, with implementation of the required mitigation, these impacts are Less than Significant.

The Occupied/Re-Tenanted Mall Alternative has higher impacts than the other alternatives in the following environmental topics:

- Greenhouse Gas (“GHG”): For the Occupied/Re-Tenanted Mall alternative, the annual GHG emissions would be significantly higher than any of the other alternatives. While required mitigation measures may be required and implemented in the approvals for future projects under the other alternatives, which would reduce the impact to Less than Significant, they cannot be required for the Occupied/Re-Tenanted Mall.
- Noise: Since the Occupied/Re-Tenanted Mall alternative may be occupied without any further discretionary approvals, the increase in ambient noise from operations at the site would not be mitigated. However, for the other alternatives, while the increase in ambient noise would be similar, mitigation measures can be required to mitigate the increase.
- Transportation: Since the mall may be re-occupied without the implementation of any transportation mitigation measures, the impacts are considered Significant and Unavoidable. On the other hand, for all the other alternatives, mitigation measures are available which may alleviate the impacts even if not to Less than Significant levels in some cases. The implementation of required mitigation measures, such as the formation of a Transportation Management Agency (TMA) that would support the users of the site to implement a Transportation Demand Management (TDM) program that will help reduce the number of trips to the site. The TDM goal is to reduce the number of Single Occupancy Vehicles to the site by 34% by encouraging office employees to use carpools, vanpools, shuttles or other modes of transportation. The effectiveness of the TDM program will be monitored annually with penalties associated with failure to meet the established trip caps for the office portion of the project. In addition, the mixed use nature of the site in the other alternatives would reduce the number of trip both to and from the site.

A project developed under this EIR would have to implement several mitigation measures. Mitigation measures have been identified in the following environmental topics:

- Air Quality: Mitigation measure include the implementation of Bay Area Air Quality Management District recommended measures to control dust, particulate matter and diesel exhaust emissions during construction and include both basic and enhanced measures. These includes wet vacuuming streets, watering the site multiple times a day, reducing idling times for equipment, requiring newer construction equipment.
- Cultural Resources: Mitigation measures include the retention of qualified personnel to assess archaeological resources, cultural remains or human remains found during demolition, excavation and construction and determine ultimate resolution upon review and approval of the appropriate authorities.

- Greenhouse Gas Emissions: Mitigation measures include the preparation and implementation of a GHG Reduction Plan to offset the increase in GHG emissions above the thresholds of significance.
- Hazardous Materials: Mitigation measures include the preparation, review and approval of appropriate plans for the review and approval of the Santa Clara County Department of Environmental Health and the Santa Clara County Fire District, the demolition and removal of equipment and facilities related to the Sears and JC Penney Automotive Centers, including remnant piping, below ground oil-water separators, a potential Underground Storage Tank, lift casings and associated piping etc. and other mitigations related to lead and asbestos removal and potential pesticide contamination.
- Noise: Mitigation measures include the implementation of the City's Noise Control Ordinance, a construction noise control plan to be review and approved by the City, which would include the designation of a disturbance coordinator responsible for implementing the plan, specific implementation actions related to the reduction of construction noise and vibration.
- Transportation: Mitigation measures are two prong and include reduction of trips to the site and the expansion or improvement of facilities to accommodate the increase in traffic. Notably, the project applicant would have to implement a robust Transportation Demand Management (TDM) plan (as previously mentioned – the goal would be to reduce the number of office trips to be 34% non-SOV, i.e., use other modes of transportation) with associated penalties if the project is unable to meet the established trip caps for office employees. The TDM program will also support the other users of the site and may use a multitude of strategies to reduce the number of trips including providing fewer parking spaces, unbundling parking spaces (thereby charging for a parking stall), providing transit passes to employees and residents, potentially providing a fixed route shuttle system within the City and to transit stations, such as Caltrans. In addition, in order to increase the capacity of existing roadways or improve existing facilities, project applicants would be required to pay the Transportation Impact Fee (TIF) to allow the City to implement identified improvement projects and pay their fair-share toward impacts on facilities within other jurisdictions. For e.g., fair share contributions will be paid for improvement projects on I-280, Lawrence Expressway and for signal timing improvements within the City of Santa Clara.
- Utilities and Service Systems: Mitigation measures include upgrades to the sewer lines on North Wolfe Road and potential limitation on the number of building permits issues depending on the results of modeling to ensure that the contracted flow rates are not exceeded from the Cupertino Sanitary District system flowing into the City of Santa Clara system

Agency Comments

Public agencies such as Fremont Union High School District, Cupertino Union, VTA, Santa Clara Valley Fire District, Cupertino Sanitary, and local cities either attended public events, met with staff to discuss relevant topics or provided comment letters. All comments have been addressed in the Final EIR. Also add that any letters received on the FEIR will be forwarded to the ERC, PC and CC.

Public Noticing and Outreach

The following table is a brief summary of the noticing done for this project:

Public Notice	Agenda
<ul style="list-style-type: none">▪ Site Signage (<i>14 days prior to the hearing</i>)▪ Legal ad placed in newspaper (<i>at least 10 days prior to the hearing</i>)▪ Public hearing notices mailed to property owners within 300 feet of the project site (<i>10 days prior to the hearing</i>)	<ul style="list-style-type: none">▪ Posted on the City's official notice bulletin board (<i>one week prior to the hearing</i>)▪ Posted on the City of Cupertino's website (<i>one week prior to the hearing</i>)

A summary of comments from community outreach efforts is included (see Attachment 12.) Public comments received after the posting of the public review draft as of the date of production of this staff report, are also included. Within the comments received, the topics raised include requested support for a particular retailer, questions about process, pollutants the project will produce annually, lack of parkland in the east side, and Phase II Environmental Site Assessment. It should be noted that the city does not regulate private party agreements between property owners and prospective retail tenants. The specific plan addresses park land and the FEIR addresses the environmental issues.

Permit Streamlining Act

Legislative actions are not subject to the Permit Streamlining Act (Government Code Section 65920 – 65964).

Next Steps

Planning Commission recommendation is forwarded to City Council for consideration at the public hearing scheduled for September 18, 2018.

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Aarti Shrivastava, Assistant City Manager

ATTACHMENTS:

1. Final Environmental Impact Report (FEIR), CEQA findings and Mitigation Monitoring and Reporting Program
2. Draft Resolution - General Plan amendments
3. Draft Vallco Town Center Specific Plan, and associated clarifying/supplemental language/errata
4. Draft Resolution - Municipal Code amendments
5. Draft Resolution - Zoning Map amendments
6. Development Agreement between the City and Vallco Property Owner, LLC
7. Supplemental Reports by Opticos Design, EPS and BKF Engineers
8. Draft EIR – May 2018
9. EIR Amendment – July 2018
10. Final EIR – Response to Comments and Text Revisions – August 2018
11. Supplemental Text Revisions – August 2018
12. Summary of comments and public comments