

FINAL

SANTA CLARA COUNTY HOUSING ELEMENT AND STANFORD COMMUNITY PLAN UPDATE

Program Environmental Impact Report

Prepared for
County of Santa Clara

September 2023



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CHAPTER 1

Introduction

1.1 Purpose of this Document

This Final Environmental Impact Report (Final EIR) document includes all agency and public comments received on the Draft Environmental Impact Report (Draft EIR, SCH # 2022080196) for the County of Santa Clara Housing Element Update (HEU) and Stanford Community Plan (SCP) Update. Written comments were received by the County during the Draft EIR’s public comment period from June 9, 2023, to July 24, 2023. This document includes written responses to each comment received on the Draft EIR. The responses correct, clarify, and amplify text in the Draft EIR, as appropriate.

This Final EIR document has been prepared in accordance with the California Environmental Quality Act (CEQA) and will be considered by the Planning Commission and the Board of Supervisors and used to inform their recommendations, decisions, and other actions on the EIR and related projects.

1.2 Contents and Organization of the Final EIR

This Final EIR incorporates the Draft EIR by reference. The Draft EIR and associated documents can be found at the following locations:

- At the County’s HEU project website at: <https://plandev.sccgov.org/ordinances-codes/general-plan/housing-element-update-2023-2031>.
- On the State Clearinghouse website: <https://ceqanet.opr.ca.gov/Project/2022080196>.

This Final EIR includes a list of those who commented on the Draft EIR, comments received and responses to those comments, necessary changes to the Draft EIR, and the proposed Mitigation Monitoring and Reporting Program. The Final EIR is organized as follows:

Chapter 1 – Introduction: This chapter describes the purpose and contents of the Final EIR.

Chapter 2 – Comments and Responses: This chapter contains a list of all of the comments received on the Draft EIR, followed by responses to those comments. Letters are grouped by agencies and organizations/individuals but are otherwise presented alphabetically by last name. Each comment letter is presented with brackets indicating how the letter has been divided into individual comments. Each comment is given a binomial with the letter number appearing first, followed by the comment number. For example, comments in Letter 1 are numbered 1-1, 1-2,

1-3, and so on. Immediately following each letter, responses are provided that correspond to the bracketed comments.

Some comments that were submitted to the County do not pertain to CEQA environmental issues or do not address the adequacy of the analysis contained in the Draft EIR. When a comment does not directly pertain to environmental issues analyzed in the Draft EIR, does not ask a question about the adequacy of the analysis contained in the Draft EIR, expresses an opinion related to the merits of the project, or does not question an element of or conclusion of the Draft EIR, the response notes the comment and may provide additional information where appropriate. The intent is to acknowledge the comment. While CEQA does not require that such comments be responded to, they are included in the Final EIR for informational purposes and for review by decision-makers.

Chapter 3 – Revisions to the Draft EIR: This chapter summarizes refinements and text changes made to the Draft EIR in response to comments made on the Draft EIR and/or staff-initiated text changes. Changes to the text of the Draft EIR are shown by either a line through the text that has been deleted or is underlined where new text has been inserted. The revisions contain clarification, amplification, and corrections that have been identified since publication of the Draft EIR. The text revisions do not result in a change in the analysis and conclusions presented in the Draft EIR. The comments received, responses to those comments, and revisions to the Draft EIR do not require recirculation of the EIR under the applicable CEQA statutes and Guidelines.

Chapter 4 – Mitigation Monitoring and Reporting Program: This chapter contains the Mitigation Monitoring and Reporting Program (MMRP) to aid the County in its implementation and monitoring of measures adopted in the EIR, and to comply with the requirements of Public Resources Code Section 21081.6(a).

1.3 Intended Uses of the Final EIR

Once complete and certified, the Final EIR will provide the CEQA compliance documentation upon which the County of Santa Clara may base its consideration of, and action on, the adoption of the HEU and SCP updates, rezonings, and all applicable approvals for the proposed project or an alternative.

The Final EIR will also provide the CEQA compliance to be relied upon by Responsible Agencies and Trustee Agencies in considering and acting upon other project approvals under their jurisdiction.

CHAPTER 2

Comments and Responses

2.1 Introduction

This section contains the comment letters and emails received on the Draft EIR. Following each comment letter is a response by the County. Comments not directly related to environmental issues may be discussed or noted for the record. Where text changes in the Draft EIR are warranted based upon the comments, those changes are discussed in the response to comments and also included in Chapter 3, *Revisions to the Draft EIR*.

2.2 List of Commenters

Table 2-1, below, provides a list of the comment letters and emails received on the Draft EIR. Letters are grouped by agencies, organizations, and individuals, but are otherwise presented alphabetically by last name. Each comment letter is presented with brackets indicating how the letter has been divided into individual comments. Each comment is given a binomial with the letter number appearing first, followed by the comment number. For example, comments in Letter 1 are numbered 1-1, 1-2, 1-3, and so on. Section 2.4, which follows later in this chapter, reproduces each letter with the binomial comment brackets indicated, followed by the responses to each comment.

**TABLE 2-1
COMMENT LETTERS RECEIVED CONCERNING THE DRAFT EIR**

Letter #	Name/Entity	Author(s) of Comment Letter/E-mail	Date
Agencies			
1	California Department of Transportation	Yungsheng Luo, Acting District Branch Chief	July 24, 2023
2	City of Palo Alto	Amy French, Chief Planning Official	July 24, 2023
Organizations and Individuals			
3	Stanford University	Erin Efner, Associate Vice President	July 21, 2023
4	Holland & Knight	Tamsen Plume	July 21, 2023
5	Herb Borock	Herb Borock	July 23, 2023
6	Pria Graves	Pria Graves	July 24, 2023

Some comments that were submitted to the County do not pertain to CEQA environmental issues or do not address the adequacy of the analysis contained in the Draft EIR. When a comment does not directly pertain to environmental issues analyzed in the Draft EIR, does not ask a question about the adequacy of the analysis contained in the Draft EIR, expresses an opinion related to the merits of the project, or does not question an element of or conclusion of the Draft EIR, the response notes the comment and may provide additional information where appropriate. The intent is to acknowledge the comment. While CEQA does not require that such comments be responded to, they are included in the Final EIR for informational purposes and for consideration by decision makers.

2.3 Master Responses

This section presents responses to issues raised in multiple comments. Rather than responding individually and repetitively, master responses have been developed to address such comments comprehensively. The Master Response number is then identified in the individual response to comment so reviewers can readily locate all relevant information pertaining to the following issues of concern.

Master Response 1: Comments on the Merits of the Project and Preferences for Implementation of the HEU

A number of comments presented the commenter’s opposition to the project as proposed by the County or provided preferences concerning its implementation. These comments did not address the sufficiency of the environmental analysis contained within the Draft EIR, and instead offered the commenter’s opinion on the merits of the project as proposed. As stated in the CEQA statute: “The purpose of an environmental impact report is to identify the significant effects on the environment of a project, to identify alternatives to the project, and to indicate the manner in which those significant effects can be mitigated or avoided.” [CEQA Section 21002.1(a)]. Following public review of an EIR, lead agencies are directed to “evaluate comments on *environmental issues* [emphasis added] received from persons who reviewed the Draft EIR and shall prepare a written response.” [CEQA Guidelines Section 15088(a)]. Many of the comments received during the Draft EIR’s public comment period did not address specific environmental issues or environmental effects associated with the project or the analysis in the Draft EIR. Ultimately, these comments asserted the opinions of the commenters as to how the project should or should not be implemented, and therefore did not present information on environmental issues or the adequacy of the Draft EIR. No additional analysis or response is required in the EIR for these types of comments [see *Twain Harte Homeowners Ass’n v. County of Tuolumne* (1982) 138 Cal.App.3d 664, 679].

That said, it is important to note as part of this discussion that the housing opportunity sites and potential housing densities evaluated in the Draft EIR represented a broad “envelope” of sites and densities that could be utilized to meet the County’s Regional Housing Needs Allocation (RHNA). The Draft EIR assessed a collection of sites and densities that could meet or exceed the State’s requirements. The “envelope” for the Draft EIR’s analysis was necessarily large in order to account for the complete range of impacts that could result from the project under a scenario

where all of the sites were up-zoned to the maximum densities under consideration. Casting such a wide net of potential outcomes ensured that the Draft EIR adequately captured all the potential impacts of the project. The project that is ultimately adopted by the County will fit within the envelope of the analysis conducted for the Draft EIR and will therefore conform to the requirements of CEQA. For this reason, all the comments that were submitted on the Draft EIR, including those that did not relate specifically to environmental issues or the Draft EIR, will be forwarded to applicable decision-makers as they consider the ultimate form of the project.

2.4 Individual Responses

This section contains the responses to comments submitted during the public review period. Commenters on the Draft EIR, their associated agencies and organizations, and assigned letter identifications are listed in the table below. Letters are grouped by agencies, organizations, and individuals, but are otherwise presented alphabetically by last name. Each comment letter received during the public comment period was bracketed to identify individual topics, and individual responses to those comments are provided. In situations where the comment issue was identified in multiple letters, a “Master Response” was prepared to address the general concern, and the response to comment may refer the reader to the Master Response provided above. If a subject matter of one letter overlaps that of another letter, the reader may be referred to more than one group of comments and responses to review all information on a given subject. Where this occurs, cross-references are provided.

California Department of Transportation

DISTRICT 4
OFFICE OF REGIONAL AND COMMUNITY PLANNING
P.O. BOX 23660, MS-10D | OAKLAND, CA 94623-0660
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July 24, 2023

SCH #: 2022080196
GTS #: 04-SCL-2022-01210
GTS ID: 27254
Co/Rt/Pm: SM/VAR/VAR

Michael Meehan, Principal Planner
County of Santa Clara
70 W. Hedding Street
San Jose, CA 95112

Re: County of Santa Clara 6th Cycle Housing Element Update & Stanford Community Plan Update – Draft Environment Impact Report (DEIR)

Dear Michael Meehan:

Thank you for including the California Department of Transportation (Caltrans) in the environmental review process for the County of Santa Clara 6th Cycle Housing Element Update & Stanford Community Plan Update. We are committed to ensuring that impacts to the State's multimodal transportation system and to our natural environment are identified and mitigated to support a safe, sustainable, integrated and efficient transportation system.

The Local Development Review (LDR) Program reviews land use projects and plans to ensure consistency with our mission and state planning priorities. The following comments are based on our review of the June 2023 DEIR.

Project Understanding

The proposed project would include the adoption of a general plan amendment that would add or modify goals, objectives, policies, and implementation programs related to housing throughout Santa Clara County. This project would also identify sites appropriate for the development of housing for a range of income levels and would involve rezoning areas if necessary.

Travel Demand Analysis

With the enactment of Senate Bill (SB) 743, Caltrans is focused on maximizing efficient development patterns, innovative travel demand reduction strategies, and multimodal improvements. For more information on how Caltrans assesses Transportation Impact Studies, please review Caltrans' Transportation Impact Study Guide ([link](#)).

"Provide a safe and reliable transportation network that serves all people and respects the environment"

Michael Meehan, Principal Planner
July 24, 2023
Page 2

Due to the significant and unavoidable Vehicle Miles Traveled (VMT) impact identified in the DEIR, Caltrans suggests providing Fair Share Contributions to projects that would help mitigate VMT impacts when feasible. For the housing development projects subject to project-level CEQA analysis, please consider the transportation improvement projects listed below from the Metropolitan Transportation Commission (MTC)'s Regional Transportation Plan (RTP) - Plan Bay Area (PBA). These projects are important to help reduce VMT and support multi-modal transportation improvement.

1-1

- PBA 2050 RTP ID 21-T-12-116 I-680 Northbound Express Lane
- PBA 2050 RTP ID 21-T12-122 I-680 Express Bus Service Expansion
- PBA 2050 RTP ID 21-T05-012 Per Mile Tolling Program
- PBA 2050 RTP ID 21-T06-032 Corridor & Interchange Improvements on State Route (SR)-17

Multimodal Transportation Planning

Please review and include the reference to the *Caltrans District 4 Pedestrian Plan* (2021) and the *Caltrans District 4 Bike Plan* (2018) in the DEIR. These two plans studied existing conditions for walking and biking along and across the State Transportation Network (STN) in the nine-county Bay Area and developed a list of location-based and prioritized needs.

1-2

Please note that any Complete Streets reference should be updated to reflect Caltrans Director's Policy 37 (link) that highlights the importance of addressing the needs of non-motorists and prioritizing space-efficient forms of mobility, while also facilitating goods movement in a manner with the least environmental and social impacts. This supersedes Deputy Directive 64-R1, and further builds upon its goals of focusing on the movement of people and goods.

1-3

Integrated Transportation and Land Use Planning

Transportation and housing are integrally connected. The Housing Element Update process provides a mechanism to reflect current transportation and land use policy and adopt efficient land-use strategies such as transit-oriented, infill and mixed-use developments that can potentially reduce vehicle miles traveled and address climate change.

Please review and include the reference to the current California Transportation Plan (CTP) in the DEIR. CTP 2050 envisions that the majority of new housing located near existing housing, jobs, and transit, and in close proximity to one another will reduce vehicle travel and GHG emissions, and be accessible and affordable for all Californians, including disadvantaged and low-income communities. The location, density, and affordability of future housing will dictate much of our future travel patterns, and our ability to achieve the vision outlined in CTP 2050. Caltrans

1-4

Michael Meehan, Principal Planner
July 24, 2023
Page 3

encourages the County to consider and explore the potential of excess state-owned property for affordable housing development, per Executive Order N-06-19.

↑ 1-4
cont.

Lead Agency

As the Lead Agency, the County of Santa Clara is responsible for all project mitigation, including any needed improvements to the STN. The project's fair share contribution, financing, scheduling, implementation responsibilities and lead agency monitoring should be fully discussed for all proposed mitigation measures.

↑ 1-5

Thank you again for including Caltrans in the environmental review process. Should you have any questions regarding this letter, please contact Marley Mathews, LDR Coordinator/Transportation Planner, via LDR-D4@dot.ca.gov.

For future early coordination opportunities or project referrals, please contact LDR-D4@dot.ca.gov.

Sincerely,



YUNSHENG LUO
Acting District Branch Chief
Local Development Review

c: State Clearinghouse

Letter 1 Response: Yunsheung Luo, California Department of Transportation, July 24, 2023

- 1-1 The County appreciates the Department’s provision of this information. If and when housing development projects are proposed on the HEU’s identified housing opportunity sites, the Department will be consulted relating to the issues expressed in this comment for those sites where such consultation is applicable.
- 1-2 The County appreciates the Department’s provision of this information. Page 4.14-15 of the Draft EIR has been updated to include this information. Please see Chapter 3 of this Final EIR, *Revisions to the Draft EIR*, for the full text of the revisions. The revisions incorporated into Chapter 3 of this Final EIR do not change the findings contained in the Draft EIR, do not identify any new environmental effects that were not previously identified, and have no bearing on the severity of the project’s environmental effects as previously reported in the Draft EIR. The revisions therefore do not constitute “significant new information” as defined in CEQA Guidelines Section 15088.5(a). No further analysis or response is required.
- 1-3 The Draft EIR did not include any Complete Streets references. Therefore, this requested revision is not applicable.
- 1-4 The County appreciates the Department’s provision of this information. Page 4.14-14 of the Draft EIR has been updated to include this information. Please see Chapter 3 of this Final EIR, *Revisions to the Draft EIR*, for the full text of the revisions. The revisions incorporated into Chapter 3 of this Final EIR do not change the findings contained in the Draft EIR, do not identify any new environmental effects that were not previously identified, and have no bearing on the severity of the project’s environmental effects as previously reported in the Draft EIR. The revisions therefore do not constitute “significant new information” as defined in CEQA Guidelines Section 15088.5(a). No further analysis or response is required.
- 1-5 The County is aware of its responsibilities with respect to provision of effective mitigation and fair-share obligations related to future housing projects that could arise from implementation of the HEU and affect the State Transportation Network. If and when housing development projects are proposed on the HEU’s identified housing opportunity sites, the Department will be consulted relating to the issues expressed in this comment for those sites where such consultation is applicable.



PLANNING & DEVELOPMENT SERVICES

CITY OF PALO ALTO 250 Hamilton Avenue, 5th Floor
Palo Alto, CA 94301
(650) 329-2441

July 24, 2023

County of Santa Clara Planning Office
Attention: Michael Meehan, Principal Planner
County Government Center
70 West Hedding, 7th Floor, East Wing, San José CA 95110
E-mail: Planning2@pln.sccgov.org

Dear Michael Meehan and the County of Santa Clara Planning Office,

Thank you for the opportunity to comment on the Draft Environmental Impact Report (EIR) for the County of Santa Clara Housing Element and Stanford Community Plan Update (SCH 2022080196), released June 9, 2023.

It is our understanding that the Draft EIR intends to consider potential impacts of development resulting from adoption of the County’s proposed Housing Element Update, including rezoning of potential housing sites to allow housing and/or mixed-use developments, and related actions to encourage housing production including, but not limited to, changes in allowable densities, changes in development standards, and adoption of incentives such as a density bonus for the creation of affordable housing. It is our understanding that the Draft EIR also considers potential impacts of development that may result from adoption of an update to the Stanford Community Plan, including to identify the three new housing sites and a potential new school location in the West Campus Development District.

The City of Palo Alto submits the following comments on the Draft EIR:

1. Project Description.

While the Draft EIR summarized the proposed updates to the Housing Element and Stanford Community Plan and provided weblinks to the webpages where the documents could be found, the Draft EIR did not provide a date or the title of either document. The City is unable to confirm if it is reviewing the correct version of each. The City requests confirmation of document dates and titles to confirm review of the correct versions and finalize analysis on the Draft EIR.

2-1

2. Impact Assessment and Mitigation Measures.

The City argues that there is the potential for environmental impacts from development of the proposed Stanford housing sites and the proposed school site, including those pertaining to noise, transportation, biological resources, cultural, utilities and service systems, public services, and other required topics discussed in the Draft EIR. The Draft EIR specifies that the level of environmental review provided at this time is for a planning-level Housing Element Update and

2-2

Attached: Findings and Conditions of Approval

an update to the Stanford Community Plan. At the same time, the Draft EIR states that future housing development at the three Stanford sites - Quarry-El Camino, Quarry-Arboretum, and Escondido Village would be ministerially approved based upon objective standards. The City requests confirmation that the County would apply the mitigation measures outlined in the Draft EIR for to the Stanford housing sites and proposed new school site, including any sites proposed to be ministerially processed.

↑
2-2
cont.

Regarding potential operational impacts, the City's April 20, 2023 comment letter raised that one housing site is located in an area of gateways to the City, raised overall housing and school site design considerations regarding transportation and safety (traffic, transit, pedestrian, and bicycle circulation), provision of public services and utilities, protection of oak woodland and other biological resources, and cumulative considerations. The City incorporates its April 20, 2023 comment letter herein by reference.

2-3

Regarding potential construction impacts for the Stanford housing sites and the proposed new school location, the Draft EIR does not discuss potential impacts on the condition of the City's roads, circulation in the vicinity of project sites and any construction staging area, and the routing of emergency response services during construction.

2-4

If the County proposes to ministerially process the Stanford housing sites in the future, it is necessary for the Draft EIR to describe and provide a weblink to the relevant County objective standards that would be utilized so the City can understand the potential development standards and processing for those sites. Furthermore, the Draft EIR also intermittently states that the Stanford sites would need to adhere to both County and City guidelines, standards, and specifications, but did not outline what these are and how they would be used relative to the County's ministerial approval process. This clarification is essential toward understanding the proposed process and potential impacts. One way to provide this clarification would be to update the impact discussions and mitigation measures to outline a program for each to be used during ministerial processing, including a list of the specific guidelines, standards, and specifications to be applied and implemented at the time.

2-5

As an example, the City requests an update to the impact discussion to clarify potential impact TRANS-1 and TRANS-5. It appears that the Draft EIR does not clarify if future housing projects on sites adjacent to Palo Alto are study and meet the City's LOS guidelines, standards, and specifications related to transit, bicycle, or pedestrian facilities. Requiring the study as part of this environmental document or a future environmental analysis and projects meeting the guidelines, standards, and specifications would be appropriate mitigation for potential impacts.

2-6

As another example, the Draft EIR states that there would be no impact to an applicable program, plan, ordinance, or policy establishing measures of effectiveness for the performance of addressing the circulation system, including transit, bicycle, and pedestrian facilities.

According to the City's Office of Transportation:

- Development of the Stanford Quarry Road sites has the potential to be in conflict with existing plans for bicycle and pedestrian infrastructure unless these plans are incorporated. Palo Alto adopted policies and programs in support of creating multi-use paths throughout the City, including in the Quarry Road area. Note the following:
 - The City's Bicycle + Pedestrian Transportation Plan identifies a recommended Class I Multi-Use Path across the Quarry Road/El Camino site (see Map 6-1. Proposed

2-7
↓

Bikeway Network;
https://www.cityofpaloalto.org/files/assets/public/transportation/bicycling-walking/bike-resources/bicycle-pedestrian-transportation-plan_adopted-july-2012.pdf).

- The Stanford University Medical Center Design Guidelines call for a bicycle and pedestrian path in the immediate vicinity of the Quarry Road/El Camino site and the Quarry Road/Arboretum site, including on the southeast side of the sites.
- The Palo Alto Comprehensive Plan contains the City Program T3.10.4 to pursue extension of Quarry Road for pedestrians, bicyclists, and transit to access the Palo Alto Transit Center from El Camino.
- The location of proposed Stanford housing sites relative to existing and potential school locations could cause impact to the City’s highly successful Safe Routes to Schools Program. Impacts could include the need to reassess school routes and generate new Walk & Roll Maps for Stanford-residing students or the need to assess and map new routes as a result of adjusted school catchment areas due to enrollment changes on the Stanford campus. Mitigation measures should be applied for these potential impacts.

↑
2-7
cont.

2-8

According to the City’s Utilities Department, development of the Stanford sites has the potential to impact wastewater infrastructure Impact UT-1, Impact UT-2, Impact UT-3, and Impact UT-6. Projects will need to undergo a wastewater flow monitoring and analysis to determine if there are any capacity issues and flow limitations, given existing wastewater conveyance sizing in the vicinity of the Stanford sites, which is currently larger than downstream sizing. Further, the City requests the County’s review of the existing sewer collection system agreement, as it might not address the proposed discharge loads. The City requests inclusion of mitigation measures to assess and address capacity and service costs. Please contact the City’s Utilities and Fire Departments to discuss.

2-9

According to the City’s Utilities Department, development of the Stanford sites has the potential to exceed water supply capacity regarding fire suppression. The City requests an update to the impact discussion under Impact UT-1, Impact UT-6, Impact PSR-1, and Impact PSR-7, as well as inclusion of mitigation measures to assess and address capacity and service costs. Please contact the City’s Utilities and Fire Departments to discuss.

2-10

The Draft EIR also did not identify the necessary mechanism by which the cost of increased demand for City services would be captured, such as for use of the roadway network, libraries, parks, bikeways, safe routes to school programming, fire protection infrastructure, and wastewater treatment infrastructure. In some instances, demand was stated as less than significant and in other instances the topic was deferred to project-level processing. Either way, the Draft EIR did not yet address the City’s potential costs due to the potential development.

2-11

3. **Cumulative Analysis.**

The Draft EIR indicates that the project list used for the cumulative analysis was prepared by the County using information off of the City’s website in March 2023. In its April 20, 2023 comment letter, the City requested incorporation of its identified 6th Cycle Housing Element housing opportunity sites into VMT and other cumulative analysis, at least some of which are within a one mile radius of the proposed Stanford sites. To facilitate inclusion, see the City’s adopted

2-12
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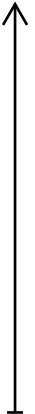
Housing Element and site inventory at the following weblink:

<https://paloaltohousingelement.com/>.

There are a additional approved, pending, or proposed projects to include from the City's website of mapped projects, which can be found here:

www.cityofpaloalto.org/Departments/Planning-Development-Services/Current-Planning/Projects. Please contact the City's Current Planning Division to identify the project list to include in the cumulative analysis discussion, especially because Palo Alto housing, commercial, and mixed-use development in the vicinity of the proposed Stanford sites would potentially utilize some of the same existing City infrastructure. Example projects include:

- 3150 El Camino Real: New **380 Unit** Apartment Building [Under Review SB-330/Major ARB]
- 3400 El Camino Real: New **189 Unit** Apartment Building w/200 Room Hotel [Under Review – SB-330/Builder's Remedy]



2-12
cont.

The City of Palo Alto looks forward to reviewing the Draft EIR when it is released and requests to be on your distribution notification list.

Please feel free to contact us if you have any questions regarding these comments.

Sincerely,



Amy French, AtCP
Chief Planning Official

Letter 2 Response: Amy French, City of Palo Alto, July 24, 2023

- 2-1 The links provided in the Draft EIR to the Draft Housing Element and the Draft Stanford Community Plan Update point to versions of those documents that were current at the time of the Draft EIR's publication and during the Draft EIR's 45-day public comment period.
- 2-2 As stated on page 1-2 of the Draft EIR, the EIR is a Program EIR. Since specific development projects have not yet been proposed, it is not possible to provide a detailed assessment of development-specific impacts until development applications have been submitted and the specific parameters of those projects are known. As also stated in response to the City's NOP comments on these matters on page 4.14-2 of the Draft EIR, a detailed analysis of these potential impacts would be speculative and infeasible at this time. Further, and as stated on page 1-3 of the Draft EIR, future discretionary actions that would be facilitated by the HEU's and SCP's adoption, particularly those related to the development of specific housing projects, would require additional assessment to determine consistency with the analysis provided in the Program EIR. Potential future actions, whether discretionary or ministerial, would also be subject to the applicable mitigation measures established in the Program EIR unless superseded by a subsequent environmental document that may be required to analyze significant environmental impacts not foreseen in the Program EIR.
- 2-3 The potential transportation impacts of the HEU's and SCP's implementation were evaluated in Section 4.14, *Transportation*, of the Draft EIR, and include impacts to transit, pedestrian, and bicycle circulation. Impacts to public services were evaluated in Section 4.13, *Public Services and Recreation*, of the Draft EIR, and impacts to utilities were evaluated in Section 4.16, *Utilities and Service Systems*. Impacts to biological resources were evaluated in Section 4.3, *Biological Resources*. Cumulative effects were evaluated in each of the topical sections of the Draft EIR. As discussed in response to Comment 2-2, this is a Program-level EIR and it is not possible to evaluate potential site-specific impacts unless and until applications are submitted. The comment does not raise specific points as to the adequacy of the Draft EIR concerning these issues, so no further response is required here.
- 2-4 Please see the response to comment 2-2, above.
- 2-5 Any future projects would be required to comply with all applicable objective standards in effect at the time the project is approved. As the Housing Element Update would cover an eight-year period and the Stanford Community Plan Update would apply until it is amended in the future, the applicable objective standards would likely change over time. Thus, it is not possible to predict what objective County or City standards would apply to a particular development proposal until an application is submitted. Please also see the response to comment 2-2, above.

- 2-6 Whether a project would comply with LOS guidelines is no longer a consideration under CEQA. The applicable measure for assessing whether a project would have significant impacts on traffic congestion is vehicle miles traveled (VMT). (Pub. Res. Code § 21099(b)(2); CEQA Guidelines § 15064.3(a).) Please also see the responses to comments 2-2 and 2-5, above.
- 2-7 Please see the responses to comments 2-2 and 2-5, above.
- 2-8 Please see the responses to comments 2-2 and 2-5, above.
- 2-9 The County presumes that the City would require any development project that proposes to connect to City utilities to comply with all City requirements that apply to such connections at the time those connections are approved. Please also see the responses to comments 2-2 and 2-5, above.
- 2-10 The County understands that Stanford contracts with the City for provision of fire protection services and presumes that any issues related to capacity and service costs associated with the City's provision of such services to Stanford would be addressed through that contract. Please also see the response to comment 2-2, above.
- 2-11 Please see the response to comment 2-2, above. With respect to costs associated with provision of public services and infrastructure, this is not an environmental effect that falls within the purview of CEQA. No further response is required.
- 2-12 Consistent with standard CEQA practice, the cumulative projects used in the Draft EIR were current at the time of the EIR's Notice of Preparation and the date indicated in the Draft EIR (p. 1-4). The County and City were developing their 6th Cycle Housing Element Updates simultaneously and it would have been speculative for the County to forecast what the City's Housing Element Update would ultimately contain. Moreover, as of September 2023, HCD still had not certified the City's Housing Element Update. The two projects identified by the City in comment 2-12 are "builder's remedy" projects filed pursuant to SB 330. Thus, applications for those projects would not have been submitted until after the January 1, 2023 deadline for having its 6th Housing Element Update certified by HCD. The plans submitted for these proposed projects provided on the City's website are dated June 15, 2023 for the proposed 3150 El Camino Real project, and June 5, 2023 for the proposed 3400 El Camino Real project. The County released the Draft EIR for public comment on June 9, 2023.

For a description of the methodology that was used to perform the EIR's VMT analysis, please see pages 4.14-19 and 4.14-20 of the Draft EIR. Of note, the cumulative conditions for transportation were developed using the ABAG 2040 land use data projections. The list of approved and pending projects was cross-checked to ensure that the ABAG projections at the zonal level (developed by VTA) included the growth of those cumulative projects.



Stanford University

July 21, 2023

VIA EMAIL DELIVERY

County of Santa Clara Planning Office
Attention: Michael Meehan, Principal Planner
County Government Center
70 West Hedding, 7th Floor, East Wing, San José CA 95110
E-mail: Planning2@pln.sccgov.

RE: DRAFT ENVIRONMENTAL IMPACT REPORT FOR THE COUNTY OF SANTA CLARA HOUSING ELEMENT & STANFORD COMMUNITY PLAN UPDATE (STATE CLEARINGHOUSE NO. 2022080196)

Dear Mr. Meehan,

We appreciate the opportunity to comment on the Draft EIR for the Housing Element and Stanford Community Plan (SCP) update. Over the course of this process, Stanford University has submitted multiple letters and statements to decision makers, made oral comments at public hearings, and worked with County Planning staff regarding the contents of the SCP. While we have worked collaboratively and productively with County staff throughout this process, we have also registered various policy objections into the public record when necessary.

The following letter is focused on the content, adequacy, and accuracy of the Draft EIR and not on the contents of the policies themselves. Our feedback on the policies has been detailed in previous letters to the Planning Commission and Board of Supervisors throughout the process, with the most prominent concerns being summarized in Stanford’s letter to the Board of Supervisors dated December 12, 2022.

General Comments

1. **Discrepancies in Policy Language between the Stanford Community Plan and Draft EIR:**
 Certain proposed SCP policies are restated inaccurately in the Draft EIR and, thus, we request the following changes to maintain consistency.
 - **General Use Permit Updates** - For accuracy, please correct this statement as follows: “Includes a requirement to update ~~limitation of~~ future GUP approvals ~~every to a~~ ~~maximum of 10 years,~~ subject to adjustment by the Board, with periodic progress reports as determined by future GUP conditions of approval.” (Pages 2-19, 3-18; please see draft Policy SCP-GD 18.)
 - **Academic Growth Boundary** - For accuracy, please correct this statement as follows: “Extends the duration of the Academic Growth Boundary (AGB) for a period of 99 years

3-1

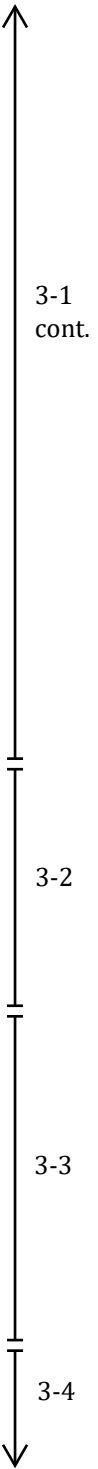
Comment Letter 3

Stanford Comment Letter on Draft EIR

June 21, 2023

Page 2 of 6

- and establishes a the set of factors required for consideration by the Board to modify the location of the AGB ~~reduce that timeframe.~~” (Pages 2-19, 3-18; please see draft amendments to Policy SCP-GD 3.)
- **Minimum Density** – Please correct the statement that the amended plan “Allows housing for faculty and staff to be developed within the Academic Campus land use designation at densities above 30 dwelling units per acre (du/ac).” The existing zoning and SCP already allow housing over 30 du/acre. The proposed policies SCP-H (i) 6 states “Amend the zoning ordinance to establish housing at minimum densities (30 du/ac) within the Academic Campus land use designation, to make efficient use of land and enhances the affordability of housing.” (Page 2-19). Please update references to this policy throughout the Draft EIR.
 - **Circulation Performance Standards** - To accurately reflect the SCP update’s amendments to Circulation policies, the following new first bullet should be added under the summary of Chapter 4: “Establishes new performance standards for ‘no net new commute trips’ in the ‘reverse commute’ direction and during ‘3-hour peak periods.’” (Pages 2-20, 3-19; please see draft amendments to Policy SCP-C 1.)
 - **Centralized Delivery Location** – The restatement of the policy on delivery centers is not accurate. The proposed policy does not “Require centralized locations for the receipt of deliveries.” Implementation Measure SCP-C(i)10 from the June 2023 draft states that it “supports the facilitation” of centralized delivery locations (Page 2-20 and 3-19). Please update references to this policy throughout the Draft EIR.
2. **Stanford Housing Sites Accommodating Future Growth:** The Executive Summary on page 2-8 states that the housing opportunity sites will accommodate the future growth of academic uses on campus. There is no permitted growth beyond the existing allowances in the 2000 General Use Permit. We also note that no nexus study has been completed to determine the specific housing need associated with future growth of academic uses. The proposed policies recognize that need and require a new nexus study to be completed. Please acknowledge in the EIR the link between academic and associated housing growth.
3. **Project Overview:** To increase clarity on the purpose for combining the SCP and Housing Element Update into a single CEQA document, please replace the first sentence of paragraph 4 on page 1-1 (“Since the project also includes housing opportunity sites on Stanford University lands...”) with the following paragraph at the end of section 1.1: “Finally, at the direction of the Board of Supervisors, and as the first phase of planned work to update the County General Plan, the County Administration is proposing updates to the Stanford University Community Plan (SCP). Since the HEU project includes housing opportunity sites on Stanford University lands within unincorporated Santa Clara County, an update to the SCP is also proposed as part of the HEU project.” Please reflect similar language in the 5th paragraph on page 3-1.
4. **Relationship of Proposed SCP to Existing General Use Permit (GUP):** Development under the 2000 GUP, a preexisting entitlement, would not be affected by any updates to the SCP that may be enacted. Existing conditions of approval in the 2000 GUP would continue to regulate all previously authorized development. For this reason, please delete the following (or similar)



statements in the Draft EIR: “The SCP update would facilitate the development of remaining net new academic, academic support, and residential uses authorized under the existing 2000 General Use Permit; . . .” For the same reason, impact analyses in the Public Services and Recreation section also should be revised to eliminate all discussion of development under the 2000 GUP. Revised impact analyses for the SCP update can eliminate most of the current discussion and instead can state simply that the SCP update would not authorize additional development and would not affect fire protection, police protection, schools, parks, and other public facilities (aside from a brief analysis of the alternative potential future school location). (Pages 4.10-13, 4.10-14, 4.13-16 through 4.13-23 of the Draft EIR.)

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3-4
cont.

- 5. **Population on Stanford University lands:** Pages 2-7, 2-8, 3-5, 3-18, and 4.2-21 of the Draft EIR: The current SCP already acknowledges that Stanford staff may live on campus. Also, the SCP update cannot, on its own, “expand” the population housed on Stanford lands. For accuracy, therefore, the following sentence should be revised on all five cited pages as follows: “This approach also provides for expanding the ~~expands the previous~~ housed population from ‘students, ~~and~~ faculty and staff’ to ‘undergraduate students, graduate students, faculty, staff, postgraduate fellows, and other workers.’”

3-5

Housing and Transportation

- 6. **Incentivize Affordable Housing:** The project objective that states “Update the SCP to...incentivize affordable housing...” is not supported by the SCP policies. The most marked examples of this inconsistency are policies SCP-H(i)3 and SCP-H14 which restrict future housing solely to Stanford’s main campus and Palo Alto and eliminate in-lieu payments that facilitate the creation of affordable community housing. Stanford has repeatedly registered our objections to these policies. Please consider whether the abovementioned project objective is appropriate given the continued inclusion of these policies and the likely effects these policies would have if implemented. (Page 5-2, 3-20)

3-6

- 7. **Transportation Policies and Housing Incentives:** The significance conclusions identified in the Air Quality and Greenhouse Gas (GHG) sections (AQ-1, GHG-1) rely on principles of locating housing near transit to reduce vehicle miles traveled (VMT). Stanford agrees that operations-related impacts related to Air Quality, GHG, and Transportation can be reduced through the siting of residential uses in transit-rich areas. However, proposed transportation policies in the SCP are inherently at odds with this goal.

3-7

Congestion-focused metrics such as limiting trips can discourage housing development even if that housing is placed near transit and job centers. Penalizing new auto trips that inevitably are generated by residents in new housing projects discounts the mobility benefits and shorter trip lengths that increased density and housing near transit provides. Trip-based metrics historically were used to encourage travel demand management, but they have proven to be counterproductive by discouraging housing near transit and instead encouraging sprawl. For this reason, new CEQA guidelines focus solely on VMT and not trip-based metrics. We acknowledge the County is trying to address this concern by adding proposed Policy SCP-

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C(l)4, which would allow an adjustment of the baseline to account for some trips from the housing opportunity sites, but we also continue to be concerned with the onerous monitoring requirements and unknown baseline requirements that may continue to make housing development untenable.

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cont.

To acknowledge this, we request that the AQ and GHG sections include a discussion regarding the inconsistency with trip-based metrics and the environmental benefits of transit-oriented development.

- 8. **Transit Priority Areas:** We also note that all of Stanford’s housing sites are located within Transit Priority Areas (within one-half mile of high-quality transit) that are exempt from site-specific analyses of VMT. Because of this, please clarify that Stanford housing sites will not be subject to Mitigation Measure TRANS-2 (Page 4.14-21).

3-8

Biological Resources

- 9. **2016 Habitat Conservation Plan:** All references to the Stanford Habitat Conservation Plan (HCP) should reference the 2016 version. Please note that the 2016 version received a state Consistency determination and acts as both a federal and a state document.

3-9

Hydrology, Water Quality and Hazardous Materials

- 10. **Searsville Dam Capacity:** Please update the reference on page 4.9-12 regarding the capacity of Searsville Dam and Reservoir from 1,840 acre feet to the correct design storage volume of 1,200 acre feet.
- 11. **Local Surface Water:** Please update the text on page 4.16-4 and 4.16-5 to correctly reference all of Stanford’s water rights which also include diversions from the Los Trancos Creek watershed (S015695, 001723).
- 12. **Inundation from Dam Failure:** Please add the following text to page 4.9-10 of the Draft EIR to reflect recent changes at Felt Reservoir: “In 2020, Stanford conducted a seismic evaluation. The evaluation found that Felt Dam complies with safety requirements based on the California Department of Water Resources, Division of Safety of Dams’ Inspection and Reevaluation Protocols (2018) (as required by California Water Code division 3, part 1, chapter 4, article 2, section 6103) for existing dams, but that when Felt Reservoir is at full capacity, the dam’s failure risk is considered by Stanford to be unacceptably high compared to the design requirements for new dams and given Stanford’s risk tolerance. Stanford is voluntarily restricting the maximum water depth in Felt Reservoir to no more than 25 feet below full, reducing the risk of downstream flooding. Consequently, the amount of water stored in Felt Reservoir is presently limited to approximately 200 AF (about 20 percent of the reservoir’s existing design capacity).”

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3-12

Cultural Resources

- 13. **No Historic Resources on Stanford Sites:** The three housing opportunity sites at Stanford have all been surveyed and no historic resources are present. The two sites on Quarry Road are currently vacant. The existing buildings in the Escondido Village Housing Opportunity site have been evaluated by qualified professionals in reports accepted by Santa Clara County for CEQA purposes and found not to be eligible for listing on the California Register. Accordingly, we recommend adding the following language to a new paragraph on page 4.4-24: “The three Housing Opportunity Sites located at Stanford University have been surveyed for historic resources. The two sites on Quarry Road are vacant. The Escondido Village Housing Opportunity site contains potentially age-eligible buildings. These buildings have been evaluated by qualified professionals in reports accepted by Santa Clara County for CEQA purposes and found not to be eligible for listing on the California Register. There appear to be no historic resources within the Housing Opportunity Sites on the Stanford campus.” (Table 4.4-1)
- 14. **Peter Coutts Library:** The Peter Coutts Library is not located within the Escondido Village housing opportunity site. Please remove this reference from the text and in the table below as well. (Table 4.4-1 Housing Opportunity Sites and Page 4.4-8)
- 15. **Methodology:** This section should be expanded to include the survey and evaluation process established by the 2000 GUP. Extensive survey and evaluation work has been completed since 2000 and should be referenced here. Suggested language: “Surveys completed by qualified professionals, and accepted by County of Santa Clara, for potential resources located at the Stanford University Housing Opportunity Sites were also reviewed.” (Page 4.4-23)

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Future Potential School Site Location

- 16. **Specificity of School Site Location:** The SCP update, including Figure 2.2 (“Land Use Designations”), does not identify a precise location for the potential future public school site. Rather, the site is identified as located “in the West Campus Development District, not including any portion of the Stanford Golf Course.” (SCP Page 52) The Draft EIR erroneously assumes in its impact analyses that any future public school would be located at a precisely defined location. The Draft EIR should be revised to acknowledge that, under the SCP update, the location of a future public school would not be limited to the discrete area currently assumed in the Draft EIR, as a school instead could be developed elsewhere within the West Campus Development District, outside of the Stanford Golf Course.
- 17. **Historic Status of the Golf Course:-** The Stanford Golf Course was evaluated in the 2000 GUP EIR and found not to be a historic resource. There are no historic resources within the potential future school site. Please make the appropriate updates to the text in the Draft EIR. (Page 4.4-8)

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Geology

18. **Mitigation Measure GEO-1:** Fossil finds at Stanford have been documented only at depths greater than 15 feet. For the Stanford campus, consider changing the depth for paleontological analysis to below 12 feet.

3-18

We thank you for the opportunity to comment on the Draft EIR and we look forward to continuing our work with the County on the Housing Element and Stanford Community Plan update.

Sincerely,



Erin Efner
Associate Vice President, Land Use and Environmental Planning

Letter 3 Response: Erin Efner, Stanford University, July 21, 2023

- 3-1 This comment requests various text changes to the Stanford Community Plan Update that do not affect the Draft EIR’s analysis of environmental impacts. Please see Master Response 1, above.
- 3-2 Condition F.7 of the 2000 GUP expressly allows Stanford to apply to construct housing beyond the 3,018 housing units initially allowed under the 2000 GUP with approval of the County Planning Commission and subject to further environmental assessment. Stanford has previously sought and received such approval. No linkage study is needed for Stanford to apply for, or the County to approve, applications to build additional housing units. Regardless, development on any of the Housing Opportunity Sites would require some level of approval by the County.
- 3-3 The Draft EIR clearly explains that the EIR analyzes both the HEU and SCP Update and related rezonings. (See, e.g., section 1.1 and chapters 2 and 3.) The requested clarification is not required.
- 3-4 Please see response to comment 3-2, above.
- 3-5 The requested revisions to the Draft EIR have been completed. Please see Chapter 3 of this Final EIR, *Revisions to the Draft EIR*, for the full text of the revisions. The revisions incorporated into Chapter 3 of this Final EIR do not change the findings contained in the Draft EIR, do not identify any new environmental effects that were not previously identified, and have no bearing on the severity of the project’s environmental effects as previously reported in the Draft EIR. The revisions therefore do not constitute “significant new information” as defined in CEQA Guidelines Section 15088.5(a). No further analysis or response is required.
- 3-6 Please see Master Response 1, above.
- 3-7 The EIR uses VMT methodology to analyze transportation impacts, as required by CEQA. The trip-based metrics do not conflict with VMT goals, nor is there any evidence that the County’s trip-monitoring requirements have caused or contributed to sprawl or environmental impacts. Stanford has managed to construct virtually all of the development authorized under the 2000 GUP, including more housing than initially allowed by the GUP, which belies Stanford’s assertion that the County’s monitoring requirements “making housing development untenable.”
- 3-8 It is possible that, based upon their proximity to high-quality transit and their location within identified transit priority areas, the housing opportunity sites on the Stanford campus may be exempt from VMT analysis. Whether that is the case depends on the

laws and regulations in effect when applications to develop those projects are submitted.

Regardless, Stanford is already subject to VMT-reduction and travel demand management requirements per the University's existing SCP and General Use Permit, and those policies would continue to be enforced under the HEU and the SCP update.

- 3-9 The County appreciates the University's provision of this information. Pages 4.3-2, 4.3-22, and 4.3-40 of the Draft EIR have been updated to include this information. Please see Chapter 3 of this Final EIR, *Revisions to the Draft EIR*, for the full text of the revisions. The revisions incorporated into Chapter 3 of this Final EIR do not change the findings contained in the Draft EIR, do not identify any new environmental effects that were not previously identified, and have no bearing on the severity of the project's environmental effects as previously reported in the Draft EIR. The revisions therefore do not constitute "significant new information" as defined in CEQA Guidelines Section 15088.5(a). No further analysis or response is required.
- 3-10 The County appreciates the University's provision of this information. Page 4.9-12 of the Draft EIR has been updated to include this information. Please see Chapter 3 of this Final EIR, *Revisions to the Draft EIR*, for the full text of the revisions. The revisions incorporated into Chapter 3 of this Final EIR do not change the findings contained in the Draft EIR, do not identify any new environmental effects that were not previously identified, and have no bearing on the severity of the project's environmental effects as previously reported in the Draft EIR. The revisions therefore do not constitute "significant new information" as defined in CEQA Guidelines Section 15088.5(a). No further analysis or response is required.
- 3-11 The University's surface water diversions from Los Trancos Creek are documented in the Water Supply Assessment prepared for the project and included in the Draft EIR as Appendix C. Reference to these diversions and their associated water rights were also described on page 4.16-4 of the Draft EIR. No revisions are required.
- 3-12 The County appreciates the University's provision of this information. Pages 4.9-10 and 4.9-29 of the Draft EIR have been updated to include this information. Please see Chapter 3 of this Final EIR, *Revisions to the Draft EIR*, for the full text of the revisions. The revisions incorporated into Chapter 3 of this Final EIR do not change the findings contained in the Draft EIR, do not identify any new environmental effects that were not previously identified, and have no bearing on the severity of the project's environmental effects as previously reported in the Draft EIR. The revisions therefore do not constitute "significant new information" as defined in CEQA Guidelines Section 15088.5(a). No further analysis or response is required.
- 3-13 The County has no record of concurrence with the findings described in the University's comment, though the University's assertion concerning the two Quarry Road sites may be accurate given the absence of structures at those locations. While

the Escondido Village site may have been evaluated as a part of previous efforts and found to contain no structures eligible for listing, that previous finding would not negate the possibility that the structures may have become eligible in the intervening period since the most recent evaluation, particularly since they are known to be age-eligible as the University has stated in its comment. This possibility was stated as such on page 4.4-24 of the Draft EIR. Accordingly, the structures would still require evaluation if and when development is proposed, as provided for in Mitigation Measures CR-1A, CR-1B, and CR-1C of the Draft EIR. Based upon these considerations, no revisions to the Draft EIR are required.

3-14 The County appreciates the University’s provision of this information. Table 4.4-1 and associated narrative text on page 4.4-8 of the Draft EIR have been updated to include this information. Please see Chapter 3 of this Final EIR, *Revisions to the Draft EIR*, for the full text of the revisions. The revisions incorporated into Chapter 3 of this Final EIR do not change the findings contained in the Draft EIR, do not identify any new environmental effects that were not previously identified, and have no bearing on the severity of the project’s environmental effects as previously reported in the Draft EIR. The revisions therefore do not constitute “significant new information” as defined in CEQA Guidelines Section 15088.5(a). No further analysis or response is required.

3-15 As stated on page 4.4-10 of the Draft EIR, a records search was conducted at the Northwest Information Center (NWIC) of the California Historical Resources Information System on September 14, 2022 (File No. 22-0436), October 27, 2022 (File No. 22-0691), and January 17, 2023 (File No. 22-1068). The reviews focused on the proposed housing opportunity sites and potential future school location on Stanford’s campus. Previous surveys, studies, and site records were accessed. Records were also reviewed in the Built Environment Resources Directory (BERD) for Santa Clara County, which contains information on places of recognized historical significance including those evaluated for listing in the National Register, the California Register, the California Inventory of Historical Resources, California Historical Landmarks, and California Points of Historical Interest. The extent to which these information resources overlap with other information sources in possession of the University is unknown, and since specific information resources were not cited in the University’s comments, it is not possible to make the requested revision based on the information provided in the comment. Regardless, the Draft EIR’s program-level findings remain accurate, and the comment does not change the findings thereof.

3-16 The Draft EIR’s project description and other references to the potential school site each referred to the West Campus Development District as the location for the school. For instance, on page 3-4 of the Draft EIR it is stated: “Three of the unincorporated sites identified in the HEU as appropriate and likely locations for residential development within the 2023-2031 planning period are within the SCP area. In addition, a potential future school location on the Stanford campus was

identified in the current SCP. The updated SCP would relocate that potential future school location to the *West Campus Development District* [emphasis added] in the northerly portion of the campus to be closer to the proposed HEU housing opportunity sites. This description does not identify a specific location within the district. Similarly, the summary description of the SCP states: “Relocates the “potential future school site” designation to the *West Campus Development District*, [emphasis added] but not within the Stanford Golf Course.” In response to the University’s comment, other sections of the Draft EIR were reviewed to see if they had erroneously assigned specificity to a precise location on the campus, and none were found. Regardless, the County concurs with the University’s view that identification of a specific school location is outside the purview of the current planning effort, and that a determination of a specific location in the West Campus Development for the school will occur at a later time once the need for a school is established and specific requirements are known.

3-17 Please see the response to comment 3-15.

3-18 The mitigation measure as prescribed in the Draft EIR provides that excavations below a depth of six feet would be assessed “to determine the potential for a project to encounter significant paleontological resources, based on a review of site-specific geology and the extent of ground disturbance associated with each project.” Such a review would consider the site-specific attributes of the Stanford campus, along with documented finds on the campus and information provided by the University. The review would assign a level of sensitivity based upon that information and would determine the depths of excavation at which a higher level of sensitivity would be expected and additional protective actions as specified in the mitigation measure would be required. This determination would be made based upon available site-specific information, including that which might be provided by the University. Accordingly, the County believes that the mitigation measure as currently written is sufficient.

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July 21, 2023

VIA E-MAIL

Michael Meehan
Principal Planner
County of Santa Clara Planning Office
County Government Center
70 West Hedding, 7th Floor, East Wing
San José, CA 95110
planning2@pln.sccgov.org

**Re: Supplemental Request to Include 1320 Diana Avenue, Morgan Hill, CA
Property in County's Sixth Cycle Housing Element Update and Comments on
Draft Environmental Impact Report**

Dear Mr. Meehan,

Our firm represents North Diana, LLC with respect to a housing development project proposed at 1320 Diana Avenue ("Property")¹ in Morgan Hill, California ("City"). Our firm previously submitted two letters advocating for the County of Santa Clara ("County") to include the Property in the site inventory of the County's forthcoming Sixth Cycle Housing Element ("Housing Element").² Our letters objected to the County's exclusion of the Property in the draft Housing Element's site inventory due to the suitability of residential use on the Property, North Diana, LLC's interest in developing a multifamily residential project at the Property, and how including the property would promote the County's obligation to affirmatively further fair housing ("AFFH"). These requests have gone largely ignored.

¹ The Property includes the following parcels: 1320 Diana Ave. (APN: 728-17-015), 1220 Diana Ave. (APN: 728-17-013), 1250 Diana Ave. (APN: 728-17-014), 1250 Condit Rd. (APN: 728-17-037).

² See, e.g., Letter re Request for Inclusion of 1320 Diana Avenue, Morgan Hill, CA (Nov. 1, 2022); Letter re Request for Inclusion of 1320 Diana Avenue, Morgan Hill, CA (April 20, 2023), attached hereto at **Exhibit A** and **Exhibit B**, respectively.

July 21, 2023

Page 2

Since that time, the County has released for public review a Draft Environmental Impact Report (“DEIR”) for the Housing Element. North Diana, LLC and its undersigned counsel have reviewed the DEIR and believe it is deficient in a number of ways, chiefly, its failure to fully analyze the environmental impacts associated with a higher concentration of housing opportunity sites in two geographic areas of the County. The Housing Element — as well as the DEIR — would be better served and more legally defensible if it included a broader dispersion of housing opportunity sites.

4-1

The purpose of this letter is to call the County’s attention to these deficiencies, as well as to reiterate the request for inclusion of the Property in the Housing Element site inventory.

I. The DEIR Does Not Need to be Substantially Revised to Assume Build-out at the Property; the County May Tier from a Prior EIR.

Residential development of the Property has already been subject to environmental review under the California Environmental Quality Act (“CEQA”). The City’s General Plan 2035 EIR analyzed the environmental impacts associated with the Morgan Hill 2035 General Plan and Residential Development Control System.³ The City Council certified the EIR on July 27, 2016, and adopted a Statement of Overriding Considerations regarding environmental impacts and a related Mitigation Monitoring and Reporting Program.⁴

4-2

The EIR assumed the Property would be annexed and redesignated as “Residential Detached Medium” under the City’s General Plan.⁵ The Property is identified as Site #7 in the City’s Site Inventory and the EIR further assumed that 3 to 6 dwelling units per acre could be developed under the Residential Detached Medium designation.⁶ Accordingly, it follows that *the City’s EIR analyzed the environmental impacts associated with redeveloping the Property at a density range proposed by the Project*. Here, the County may tier from this previously certified EIR for purposes of the Housing Element DEIR as long as the Housing Element assumes the same residential density for the Property.

CEQA “‘tiering’ refers to using the analysis of general matters contained in a broader EIR” (e.g., a General Plan EIR), “within later EIRs . . . on narrower projects; incorporating by reference the general discussions from the broader EIR; and concentrating the later EIR or negative declaration solely on the issues specific to the later project.” CEQA Guidelines, § 15152; Pub. Res. Code § 21094. Tiering is appropriate when a lead agency has prepared a program EIR and a later action is “within the scope” of that EIR. Pub. Res. Code § 21093; CEQA Guidelines, §§ 15152, 15385. The CEQA Guidelines encourage tiering for separate but related projects, and acknowledge that

³ See, City of Morgan Hill, Morgan Hill 2035 Final EIR, available at <https://www.morganhill.ca.gov/1495/MH2035-Final-EIR>

⁴ See, City of Morgan Hill, Resolution No. 16-127, available at https://www.morganhill.ca.gov/DocumentCenter/View/19468/Reso_16-127_MH2035EIR_SOC_MMRP?bidId=

⁵ City of Morgan Hill, Morgan Hill 2035 DEIR, (Jan. 13, 2016), Figure 3-3, <https://www.morganhill.ca.gov/DocumentCenter/View/22185/Morgan-Hill-2035-Draft-EIR?bidId=>.

⁶ *Id.*, at 3-16, 3-35,

July 21, 2023

Page 3

tiering “can eliminate repetitive discussions of the same issues.” CEQA Guidelines, § 15152(b). Pertinent here, the CEQA Guidelines also recognize that:

“Where a lead agency is using the tiering process in connection with an EIR for a large-scale planning approval, such as a general plan *or component thereof* . . . , the *development of detailed, site-specific information* may not be feasible *but can be deferred, in many instances, until such time as the lead agency prepares a future environmental document in connection with a project of a more limited geographical scale*, as long as deferral does not prevent adequate identification of significant effects of the planning approval at hand.” CEQA Guidelines, § 15152(c) (emphasis added).

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cont.

Since, like the City’s General Plan 2035 EIR, the DEIR is a Program EIR, the City may appropriately tier from the former and defer project-specific analyses for the ultimate development of the Property if and to the extent needed.

II. Comments on the DEIR

a. The DEIR Contains a Deficient Alternatives Analysis.

In addition to analyzing the environmental effects of a proposed project, CEQA requires an EIR to “describe a range of reasonable alternatives to the project, or to the location of the project, which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project, and evaluate the comparative merits of the alternatives.” CEQA Guidelines, § 15126.6(a). Although CEQA does not require lead agencies to consider every alternative fathomable, an EIR must consider a “range of reasonable alternatives,” which is governed by the “rule of reason.” CEQA Guidelines, §§ 15126.6(c), (f).

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Here, the DEIR only meaningfully analyzes *two* alternatives: the (i) No Project Alternative, and (ii) Lesser Intensity Alternative.⁷ The DEIR mentions a number of alternatives that were considered, but ultimately rejected from further evaluation (including the Fewer Urban HEU Sites Alternative).⁸ This alternative would have included housing opportunity sites in the southern portion of the County near the cities of Morgan Hill and Gilroy.⁹ However, “[c]omments received concerning those sites suggested a potential for significant impacts related to agricultural resources, public services and recreation, and utilities and service systems.”¹⁰ Based on these considerations, the County decided to eliminate the Morgan Hill and Gilroy sites from further consideration, and to add additional sites in the unincorporated urbanized area of San José.¹¹ According to the DEIR, the Fewer Urban HEU Sites Alternative “was eliminated from further

⁷ DEIR, at 5-9.

⁸ *Id.*, at 5-4 to 5-5.

⁹ *Id.*, at 5-4.

¹⁰ *Id.*

¹¹ *Id.*

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consideration due to the potential for significant environmental effects, and also in consideration of greater suitability and feasibility of developing housing in more urbanized areas, particularly with respect to development of affordable housing and minimizing VMT (e.g., proximity to job centers, services, and public transit).”¹²

Without more, the County has failed to provide a sufficient basis for rejecting the Fewer Urban HEU Sites Alternative from further analysis. It is entirely unclear from the DEIR which comments the County relied on to determine that this alternative may result in significant environmental effects related to agricultural resources, public services and recreation, and utilities and service systems, or whether such comments included substantial evidence supporting that determination (or mere speculation or layperson opinion).¹³ The proper place to offer a comparative analysis of the environmental effects and benefits of this alternative is the DEIR itself.

Further, as discussed below, it is plausible that a Fewer Urban HEU Sites Alternative would have fewer environmental impacts than the proposed project. For example, the DEIR assumes — without any data or analysis — that the project would result in less VMT impacts than the Fewer Urban HEU Sites Alternative. But even if that were true, transportation impacts are just one category of environmental effects an EIR is required to analyze. The Fewer Urban HEU Sites Alternative would likely have less environmental impacts related to a number of environmental media (e.g., air quality, noise, and impacts on local transit). The Fewer Urban HEU Sites Alternative would also appear to satisfy all of the DEIR’s Project Objectives — including Objective #3: “integrate AFFH into the process of site selection, outreach and policy/program development.”¹⁴

Yet, by prematurely rejecting this alternative from further consideration, the DEIR fails to apprise County decisionmakers and the public of the environmental effects and benefits of this alternative.

b. The DEIR’s Cumulative Impacts Analysis Fails to Consider the Impacts Associated with the City’s Housing Element.

The term “‘cumulative impacts’ refers to two or more individual effects which, when considered together, are considerable or which compound or increase other environmental impacts.” CEQA Guidelines, § 15355. “[A] cumulative impact consists of an impact which is created as a result of the combination of the project evaluated in the EIR together with other projects causing related



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¹² DEIR, at 5-5.

¹³ CEQA Guidelines, § 15384(a) (“(a) ‘Substantial evidence’ as used in these guidelines means enough relevant information and reasonable inferences from this information that a fair argument can be made to support a conclusion, even though other conclusions might also be reached. Whether a fair argument can be made that the project may have a significant effect on the environment is to be determined by examining the whole record before the lead agency. *Argument, speculation, unsubstantiated opinion or narrative, evidence which is clearly erroneous or inaccurate, or evidence of social or economic impacts which do not contribute to or are not caused by physical impacts on the environment does not constitute substantial evidence.* (b) Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts.”) (emphasis added).

¹⁴ DEIR, at 2-21.

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impacts.” CEQA Guidelines, § 15130(a)(1). “Cumulative impacts can result from individually minor but collectively significant projects taking place over a period of time.” CEQA Guidelines, § 15355(b). A proper cumulative impact analysis is vital to the CEQA process “because the full environmental impact of a proposed project cannot be gauged in a vacuum. One of the most important environmental lessons that has been learned is that environmental damage often occurs incrementally from a variety of small sources. These sources appear insignificant when considered individually, but assume threatening dimensions when considered collectively with other sources with which they interact.”¹⁵

An EIR is also required to discuss significant impacts that the project will cause *in the area that is affected by the project*. CEQA Guidelines, § 15126.2(a). Furthermore, CEQA Guidelines Section 15130(b)(1)(B)(3) directs agencies to “define the geographic scope of the area affected by the cumulative effect and provide a reasonable explanation for the geographic limitation used.” “This area cannot be so narrowly defined that it necessarily eliminates a portion of the affected environmental setting.”¹⁶

For purposes of cumulative impacts, the DEIR “considers the effects of the proposed HEU alongside ABAG’s 2040 growth projections . . . , and also includes *other pending and reasonably foreseeable residential projects within a one-mile radius* of the HEU’s opportunity sites.”¹⁷ Table 4.0-1 includes a list of “past, present and probable future residential projects” within one mile of housing opportunity sites, equating to 1,335 units in the City of San José. The DEIR goes on to note that:

“A substantial amount of residential development is currently in the review and approval pipeline within the South Bay region (many tens of thousands of units); *if the cumulative analysis were to assess a broader geography (say, the entire County or the entire City of San José), the HEU’s effects would appear to be substantially diluted*, thus rendering the analysis hollow. The County has thus elected to consider a more localized approach, with the aim of identifying the cumulative effects of the HEU’s implementation that area residents are reasonably likely to experience.”¹⁸

*Thus, the DEIR acknowledges — but fails to analyze — the cumulative impacts associated with other probable future projects in the project area — namely, the City of San José’s Sixth Cycle Housing Element.*¹⁹ The City of San José has been allocated 62,200 residential units for the Sixth Cycle RHNA planning period.²⁰ The DEIR ignores how many City of San José housing



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¹⁵ *Bakersfield Citizens for Loc. Control v. City of Bakersfield*, 124 Cal.App. 4th 1184, 1214 (2004) (internal quotations and citations omitted).

¹⁶ *Id.* at 1216 (rejecting the geographic scope of project impacts analyzed in two separate EIRs for large shopping centers, when each EIR failed to consider cumulative impacts of the other larger shopping center).

¹⁷ DEIR, at 4.0-5.

¹⁸ *Id.* (emphasis added).

¹⁹ See, City of San José, Draft 2023-2031 Housing Element, available at: <https://www.sanjoseca.gov/home/showpublisheddocument/99846/638241507309200000>

²⁰ *Id.*, at 1-3.

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opportunity sites are to be located within one-mile of the County’s currently selected housing opportunity sites, and accordingly, how environmental impacts may be compounded with the total development of these reasonably foreseeable projects. The County’s decision not to include a proper geographic scope of cumulative impacts analysis masks the substantiality of cumulative impacts. This omission categorically violates CEQA’s cumulative impacts mandate.

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c. The DEIR Assumes (Without Analysis) That Less Dispersed Housing Results in Fewer VMT Impacts.

As stated above, in rejecting certain alternatives from consideration, the DEIR assumes that the proposed project would result in fewer VMT impacts. Specifically, the DEIR notes that “[i]n considering an alternative to avoid [VMT] impact[s], consideration was given to an alternative that would concentrate all housing opportunity sites associated with the proposed project to those areas of Santa Clara County that lie within identified low-VMT areas. . . . This is done by bringing transit, jobs, and housing together in downtowns, along main streets, and around rail stations.”²¹ While the DEIR is correct that, as a general principle, the placement of residential dwelling units proximate to transit options can lead to fewer VMT than a project located farther away from transit options — the DEIR contains no quantitative analysis confirming that conclusion is correct as applied to the Fewer Urban HEU Sites Alternative, or to any alternative that would disperse housing opportunity sites more equitably throughout the County. The DEIR does not reflect that housing projects can be located outside the City of San José, but also proximate to local and regional transit options. It is entirely plausible that transit-oriented developments could be located in unincorporated County in Morgan Hill, which hosts not only the Morgan Hill CalTrain Station (located at 17300 Depot St.), but also rapid and frequent regional bus service (i.e., the VTA 568 and 68 bus routes). The DEIR cannot merely assume that a higher concentration of housing opportunity sites in San José will unquestionably result in fewer County-wide VMT impacts without a comparative analysis.

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d. The DEIR Fails to Consider Environmental Impacts Associated with Less Dispersed Housing Throughout the County

- Air Quality – While emissions of greenhouse gases (“GHG”) and certain criteria pollutant have global impacts, other air emissions have more localized effects. These can include, but are not limited to, particulate matter (“PM”) 2.5 and 10 from fugitive dust, carbon monoxide (“CO”), and toxic air contaminants (“TAC”). For Impact AQ-3, the DEIR finds the “[c]onstruction and operation of individual development projects . . . could result in a cumulatively considerable net increase in criteria pollutants for which the region is in nonattainment status.”²² The DEIR ignores the possibility that localized air quality

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²¹ DEIR, at 5-9.

²² *Id.*, at 5-21.

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emissions would be compounded in existing urban population centers (i.e., San José) as opposed to a more equitable dispersion throughout the County.

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- **Noise** – The DEIR acknowledges that “[t]he noise environment in and around the County is influenced by vehicular traffic along arterial roadways . . . [and] [o]ther noise sources in the region includ[ing] the Valley Transit light rail operations and Caltrain operations.”²³ The primary source of noise from project implementation would be from demolition and construction activities.²⁴ For Impact NO-1, the DEIR determines that “because of the potential proximity of receptors, it could still be likely that during peak construction activities, noise levels in excess of 10 dBA over ambient may still occur at some sensitive receptors on or near the project site after mitigation, and the construction noise impact would be significant and unavoidable with mitigation.”²⁵ By concentrating housing opportunity sites in dense clusters in County islands, the proposed project may lead to greater levels of urban environmental noise increases as compared to a more dispersed alternative.²⁶
- **Local Transit** – Table 4.14-1 of the DEIR includes a list of regional and local transit options serving the project area (including CalTrain and VTA), but contains no analysis as to whether existing transit systems have sufficient capacity to meet future demand from the new housing opportunity sites. The CEQA Appendix G Checklist recommends that lead agencies analyze whether a project would “[c]onflict with adopted *policies, plans, or programs regarding public transit, bicycle, or pedestrian facilities, or otherwise decrease the performance or safety of such facilities.*”²⁷ The DEIR implicitly assumes that the influx of new residential units will not trigger new or improved transportation infrastructure, and does not analyze impacts related to the core capacity of existing transit systems.

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III. Conclusion

For the reasons discussed above, North Diana, LLC respectfully requests that County staff revise the Housing Element to include the Property in the site inventory, and modify the DEIR accordingly to reflect this revision.

²³ DEIR 4.11-4.

²⁴ *Id.*, at 4.11-12.

²⁵ *Id.* at 4.11-14.

²⁶ See, King G, et al. *Noise levels associated with urban land use. J Urban Health.* 2012 Dec;89(6):1017-30. doi: 10.1007/s11524-012-9721-7. PMID: 22707308; PMCID: PMC3531357.

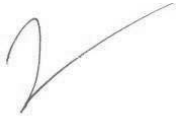
<https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3531357/> (“Municipal planning strategies emphasizing increases in urban development densities, mixed-uses, as well as a continuation of automobile-centered traffic planning policies may lead to an increase in population level exposure to traffic and related urban environmental noise.”)

²⁷ CEQA Appendix G Checklist, available at <https://resources.ca.gov/CNRALegacyFiles/ceqa/docs/ab52/final-approved-appendix-G.pdf> (emphasis added).

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Sincerely,

A handwritten signature in black ink, appearing to be 'Tamsen Plume', written in a cursive style.

HOLLAND & KNIGHT LLP

Tamsen Plume

Cc:

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Deborah Brundy, Holland & Knight

Kevin J. Ashe, Holland & Knight

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EXHIBIT A

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November 1, 2022

Via E-mail

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 San Jose, CA 95110
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 valerie.negrete@pln.sccgov.org

Re: Request for Inclusion of 1320 Diana Avenue, Morgan Hill, CA in the Santa Clara County Housing Element Update - Site Inventory

Dear Ms. Negrete,

We represent North Diana, LLC in land use matters related to redevelopment of 1320 Diana Avenue (the “Property”) in Morgan Hill, California (the “City”). We understand that the County of Santa Clara (the “County”) is in the final stages of drafting its Housing Element Update and that the County’s Regional Housing Needs Assessment (“RHNA”) allocation for the 6th RHNA planning cycle is a very significant increase over prior cycles.

The purpose of this letter is to formally object to the County’s decision to exclude the Property within the County’s Housing Element site inventory as a housing opportunity site for the 6th RHNA planning cycle despite the landowner’s express request for inclusion and long-term interest and intent to develop housing on the Property, including affordable housing. For the reasons explained in this letter, we request the County revise the draft 6th Cycle Housing Element to include the Property for the following:

APN	Size (acres)	Urban/Rural	Potential Density (du/ac)		Potential Units		Existing Zoning	Existing General Plan
			Low	High	Low	High		
728-17-015	13.23	Rural	5	7	62	93	A-20Ac-sr - Agriculture	Agriculture Medium Scale (County); Residential Detached Medium (Morgan Hill)

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Although not designated as an Urban Service Area (“USA”), inclusion of the Property within the Housing Element will support the County’s goal of planning “for housing development within USAs not planned for annexation during a RHNA cycle”¹ because the Property is essentially a USA due to its status as a peninsula within City limits. Most importantly, the landowner wishes to and plans to develop housing as soon as possible, so this Property - unlike some other sites that have been included in the County’s inventory - has the realistic potential to develop within the next eight years. Therefore, its inclusion will contribute to the County meeting its housing target within the planning cycle as required by the state’s Housing Element law.

I. State Standards for Suitable Sites in the Housing Inventory

As mentioned in the County’s September 7, 2022 Community Workshop #3, the County must plan for the development of **3,125 units** of housing. Recent changes to the state’s Housing Element law require that jurisdictions do more than plan for development. The County must now critically analyze the sites identified for inclusion and demonstrate to the Department of Housing and Community Development (“HCD”) that the sites have “realistic and demonstrated potential for redevelopment during the planning period.”² Specifically, the site inventory must now meet the following stringent standard:

“An inventory of land suitable and available for residential development, including vacant sites and sites having realistic and demonstrated potential for redevelopment during the planning period to meet the locality’s housing need for a designated income level, and an analysis of the relationship of zoning and public facilities and services to these sites, and an analysis of the relationship of the sites identified in the land inventory to the jurisdiction’s duty to affirmatively further fair housing.”³

North Diana, LLC has repeatedly and openly communicated its intention to develop the Property with residential uses, demonstrating “potential for redevelopment during the planning period.”⁴ The Property is adjacent to and surrounded by existing residential development. Development of the Property will densify the existing neighborhood and contribute to the County’s and community’s goals of avoiding sprawl, preserving agriculture and not stimulating unintended development in rural areas.

¹ County of Santa Clara, Department of Planning and Development, Housing Element Update 2023-2031, Community Workshop #3, (Sept. 7, 2022), available at: <https://plandev.sccgov.org/ordinances-codes/general-plan/housing-element-update-2023-2031>.

² Gov. Code § 65583(a)(3).

³ *Id.*

⁴ *Id.*

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II. Suitability of the County's Site Inventory

According to HCD, “[s]ites are suitable for residential development if zoned appropriately and available for residential use during the planning period.”⁵ HCD explains that the types of sites that have potential for new residential development within the planning cycle include:

- *“Vacant sites zoned for residential use.*
- *Vacant sites zoned for nonresidential use that allow residential development.*
- *Residentially zoned sites that are capable of being developed at a higher density (nonvacant sites, including underutilized sites).*
- *Sites owned or leased by a city, county, or city and county.*
- *Sites zoned for nonresidential use that can be redeveloped for residential use and a program is included to rezone the site to permit residential use.”⁶*

The initial site inventory shared at the Community Workshop indicates that a majority of the sites included in the County's site inventory are located near Palo Alto and in San Jose (in the Fruitdale area).⁷ The development potential of many of these identified sites and the bases for assuming development in the next eight years are questionable. With respect to the sites near Palo Alto, the site inventory assumes significant development at each of the three sites identified. Development in this area has a long history of controversy and community opposition. It would be more realistic to make a more conservative development assumption and to identify more sites to ensure the County can meet its targets.

The feasibility of developing certain identified San Jose sites is questionable because many of the 18 sites are not vacant and, in fact, are developed with operating businesses. For example, the site inventory projects 12-25 units at 1800 W. San Carlos St., a used car dealership; 90-150 units at 2400 Moorpark Ave., a community health clinic; 210-350 units at 2425 Enborg Ln., a methadone clinic; 31-62 units at 14520 Camden Ave., a liquor store; and 44-74 units at 350 N. White Rd., a strip mall featuring a 7/11 convenience store and three small businesses. All of these sites feature active businesses or services. According to HCD, for these and other non-vacant sites, the County's housing element “must consider the extent that the nonvacant site's existing use impedes additional residential development, the jurisdiction's past experience converting existing uses to higher density residential development, market trends and conditions, and regulatory or other incentives or standards that encourage additional housing development on the nonvacant sites.”⁸ As such, the active uses present at many of the identified San Jose sites

⁵ HCD, Housing Element Site Inventory Guidebook Government Code Section 65583.2, (June 10, 2020), at 3, https://www.hcd.ca.gov/community-development/housing-element/docs/sites_inventory_memo_final06102020.pdf [hereinafter HCD Housing Element Site Inventory Guidebook].

⁶ *Id.* at 5.

⁷ County of Santa Clara, Housing Element Update 2023-2031, Community Workshop #3, Housing Element Strategies, PowerPoint Presentation (Sept. 7, 2022), at 30, https://stgenpln.blob.core.windows.net/document/HousingElement_Meeting_Community3_Presentation.pdf.

⁸ HCD, Housing Element Site Inventory Guidebook, at 24,

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decrease both the likelihood of redevelopment during the 6th RHNA cycle, and the likelihood that HCD will accept the sites absent a robust non-vacancy analysis. Again, it would be more realistic to make a more conservative development assumption and to identify more sites to ensure the County can meet its targets.

The County's Notice of Preparation ("NOP") for the Housing Element Update also identifies 14 sites within the Morgan Hill area that have the potential to develop a maximum of 680 dwelling units. The sites are all zoned for agriculture (A-20Ac - Agriculture and A-20Ac-sr - Agriculture). Although they are designated Residential Detached Medium in the City of Morgan Hill's General Plan, the sites are designated for Agriculture in the County's General Plan. Review of the site inventory on the Office of the Assessor for Santa Clara County's map indicates that these sites are located within two unincorporated County areas abutting the City of Morgan Hill. One area appears to comprise the majority of sites, which includes a number of non-vacant sites with active uses on-site, all of which sit just to the west of US-101. The second area is an active, operating orchard: Andy's Orchard, at 1615 Half Rd.

Notably, several of the sites situated along US-101 will potentially be impacted by the development of the San Jose to Merced segment of the California High Speed Rail project. In particular, although the site inventory projects that a range of 39-55 units will be developed at 17750 Laurel Rd., 17820 Laurel Rd., and 17900 Laurel Rd., those properties are subject to High Speed Rail right of way easements and construction easements under two of the four planned route scenarios. In addition, two of the properties – 17820 and 17900 Laurel Rd. – are designated as non-viable remnant parcels, likely because construction of the High Speed Rail will render these parcels unfit for development. Many of the remaining parcels in this cluster are smaller properties featuring occupied single-family homes, and there is no indication that developers would be able to buy out these homeowners at the scale needed to accomplish development at the identified densities.

Andy's Orchard at 1615 Half Rd., meanwhile, features an active, operating orchard business. In addition to requiring an analysis of the potential for redevelopment in view of the active use, as discussed above, this site's inclusion threatens to jeopardize a critical community resource: a beloved local business that neighbors a high school, and is frequently visited by students, teachers, and families. Although we understand that the County selected Andy's Orchard in part due to its proximity to transit options, businesses, and amenities, the same is true of the Property, which is within five hundred feet of a MoGo stop, and within a mile of two VTA bus stops, as well as the Live Oak High School, Nordstrom Elementary School, Nordstrom Park, Morgan Hill Outdoor Sports Center, Safeway, Home Depot, Trader Joe's, Walgreen's, CVS, and many other amenities and services. Additionally, unlike Andy's Orchard, the Property is adjacent housing developments and is unlikely to be subject to the sort of agricultural setbacks with which any development on Andy's Orchard will have to contend.

For these reasons, the Property should be included in the site inventory, and we request that the County do so. The site demonstrates potential for development because the owner is actively

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and expressly seeking to redevelop the Property with housing, which differentiates it from many of the sites identified. The Property does not have any active uses on-site and, like the other sites, is zoned A-20Ac-sr. The Property does contain vacant greenhouses that were used to grow flowers in the past, but they have not been used for many years and do not constitute an impediment to redevelopment for residential uses. Furthermore, the Property is a peninsula within City limits. Therefore, the Property's inclusion in the site inventory will forward the County's goals of protecting prime agricultural land and prioritizing development on County parcels that are surrounded by incorporated City lands.

Additionally, because the site is zoned for agricultural use, like many of the other sites in Morgan Hill, rezoning the site for residential uses will likely have similar environmental impacts as the other sites and will not affect the environmental review of the Housing Element Update. In fact, residential development of the site has already been analyzed by the City of Morgan Hill in its certified General Plan 2035 Environmental Impact Report. Specifically, this Environmental Impact Report designates the Property for residential uses at 3-6 dwelling units per acre. As such, the County may simply tier off this analysis of the Property's impacts in its own CEQA findings for the Housing Element Update.⁹

In light of the other sites identified, there is no rational basis for excluding the Property. The Property's inclusion will contribute to the County's housing total and buffer in the event that the sites identified in Stanford, Fruitdale, Gilroy, or Morgan Hill are not developed or are downzoned to accommodate other types of development.¹⁰

III. Consequences of a Non-Compliant Housing Element Site Inventory

It is important to account for the inevitable reality that for market reasons a number of the sites identified in the County's Housing Element site inventory will likely not be developed at the densities for which the County has planned. This is because recent changes to Housing Element law have also increased the consequences for non-compliance. For jurisdictions that are found to be out of compliance, the consequences range from steep monthly penalties, injunction orders mandating rezoning or other actions, receivership, and loss of permitting authority.¹¹ Additionally, jurisdictions without Housing Elements in substantial compliance with Housing

⁹ City of Morgan Hill, Morgan Hill 2035 DEIR (certified July 27, 2016) at 3-10, 3-13, <https://www.morgan-hill.ca.gov/DocumentCenter/View/22185/Morgan-Hill-2035-Draft-EIR?bidId>.

¹⁰ In addition to the new stringent standards for the Housing Element Site Inventory, “[a] jurisdiction must maintain adequate sites to accommodate its remaining unmet RHNA by each income category at all times throughout the entire planning period.” HCD, No Net Loss Law, Government Code Section 65863, (Oct. 2, 2019), at 1, <https://www.hcd.ca.gov/community-development/housing-element/housing-element-memos/docs/sb-166-final.pdf> (emphasis original).

¹¹ HCD, Housing Element Compliance, (last visited Oct. 6, 2022), available at: https://abag.ca.gov/sites/default/files/documents/2021-04/HE_Compliance_One-Page.pdf.

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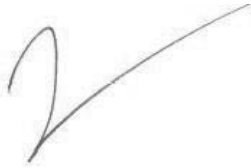
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Element law are subject to the Builder's Remedy.¹² The deadline for Bay Area jurisdictions to have a substantially compliant Housing Element is January 31, 2023.¹³

Therefore, for the above reasons, we respectfully request that 1320 Diana Avenue be included in the County's Housing Element site inventory. If you need any additional information or have any questions related to this request, please do not hesitate to contact me at (415) 743-6941 or tamsen.plume@hklaw.com.

Sincerely yours,

HOLLAND & KNIGHT LLP



Tamsen Plume

TP

Cc: Scott Murray, North Diana, LLC
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Jennifer Carman, Development Services Director, City of Morgan Hill
Don Larkin, City Attorney, City of Morgan Hill

¹² Gov. Code § 65589.5(d)(5).

¹³ Sarah Klearman, "S.F. got the state's housing deadline wrong – so did Berkeley, Oakland and San Jose," SILICON VALLEY BUSINESS JOURNAL (Oct. 14, 2022) (per David Zisser, head of HCD's Housing Accountability Unit, "[t]here is no room for interpretation there."), available at: <https://www.bizjournals.com/sanjose/news/2022/10/14/bay-area-housing-element-deadline.html>.

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EXHIBIT B

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April 20, 2023

VIA E-MAIL

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 San José, CA 95110
planning2@pln.sccgov.org

Re: Request for Inclusion of 1320 Diana Avenue, Morgan Hill, CA in the Santa Clara County Housing Element Update - Site Inventory

Dear Mr. Meehan,

Our firm represents North Diana, LLC in land use matters related to redevelopment of 1320 Diana Avenue (the “Property”) in Morgan Hill, California (the “City”). On November 1, 2022, we submitted a letter (“November Letter”) formally objecting to the County of Santa Clara’s (the “County”) decision to exclude the Property from the County’s Housing Element site inventory as a housing opportunity site for the 6th cycle Regional Housing Needs Assessment (“RHNA”) planning period. We understand that the County has released a public review draft of the Housing Element, which continues to exclude the Property.

The purpose of this letter is to again formally object to the exclusion of the Property, despite the landowner’s express request for inclusion and long-term interest and intent to develop housing on the Property. For the reasons explained in this letter and the November Letter, we request the County revise the draft 6th Cycle Housing Element to include the Property for the following:

APN	Size (acres)	Urban/Rural	Potential Density (du/ac)		Potential Units		Existing Zoning	Existing General Plan
			Low	High	Low	High		
728-17-015	13.23	Rural	5	7	62	93	A-20Ac-sr - Agriculture	Agriculture Medium Scale (County); Residential Detached Medium (Morgan Hill)

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The November Letter explains that although the Property is not designated an Urban Service Area (“USA”), inclusion of the Property in the site inventory will support the County’s goal of developing housing within urban unincorporated areas.¹ As noted in the Housing Element “[c]oordination with housing developers, especially affordable housing developers, is crucial to seeing more housing built in Santa Clara County.”² Given the landowner’s express wish to develop the Property for housing, including affordable housing, the Property has a “*realistic and demonstrated potential for redevelopment during the planning period.*”³ Recently, the Court of Appeal affirmed that “[t]he goal [of the site inventory] is not just to identify land, but to pinpoint sites that are adequate and realistically available for residential development targets for each income level.” *Martinez v. City of Clovis*, No. F082914, 2023 WL 2820092, at *19 (Cal. Ct. App. Apr. 7, 2023).

Although the draft Housing Element identifies “sites providing 110 percent more capacity than is required under the RHNA,” the County’s plan fails to satisfy the County’s statutory duty to affirmatively further fair housing (“AFFH”) by planning for the entirety of the County’s RHNA within two communities.⁴ Government Code Section 65583, subdivision (c)(5), requires the County to “affirmatively further fair housing opportunities and promote housing throughout the community or communities for all persons.” The “AFFH duty goes beyond simply prohibiting a public agency from discriminating in its housing programs and zoning.” *Martinez*, No. F082914, 2023 WL 2820092, at *49 (holding that “acts and omissions . . . related to the amended housing element qualify as the administration of ‘programs and activities relating to housing and community development’ for purposes of section 8899.50, subdivision (b)(1)”). By excluding the vast majority of communities within the County from the site inventory, the County’s Housing Element does not meet the statutory requirement to “*promote housing throughout the community or communities for all persons.*”⁵ Review of comments from the Department of Housing and Community Development (“HCD”) on the Housing Elements submitted by jurisdictions across the state indicates that ensuring jurisdictions affirmatively further fair housing is a top priority for HCD. Without meeting this duty, the County’s Housing Element cannot be found to substantially comply with Government Code Section 65583. The addition of the Property to the site inventory represents an excellent opportunity for the County to satisfy these obligations by planning for housing outside the two communities upon which the current draft exclusively relies.

We respectfully request that the County’s Housing Element site inventory be revised to affirmatively further fair housing by promoting “housing throughout the community,” including

¹ County of Santa Clara Housing Element Update 2023-2031, Public Review Draft (“Housing Element Update”), (March, 2023), at 21, https://stgenpln.blob.core.windows.net/document/HousingElementUpdate_Draft.pdf.

² Housing Element Update, at 15.

³ Gov. Code § 65583(a)(3) (emphasis added).

⁴ Housing Element Update, at 21; Gov. Code § 65583(a)(3).

⁵ Gov. Code § 65583(c)(5) (emphasis added).

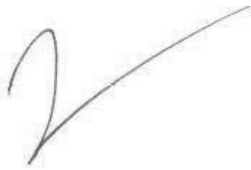
April 20, 2023

Page 3

within Morgan Hill, Gilroy, and other communities across the County, and to include 1320 Diana Avenue, Morgan Hill as a housing opportunity site.

Sincerely yours,

HOLLAND & KNIGHT LLP

A handwritten signature in black ink, appearing to be 'Tamsen Plume', written in a cursive style.

Tamsen Plume

TP

Cc: Scott Murray, North Diana, LLC
Deborah Brundy, Holland & Knight
William Sterling, Holland & Knight
Bill McClintock, MH Engineering
Gloria Ballard, MH Engineering
Bharat Singh, Planning, Principal Planner, County of Santa Clara
Elizabeth G. Pianca, Lead Deputy County Counsel, Office of the County Counsel, County of Santa Clara
Jamila Benkato, Deputy County Counsel, Office of the County Counsel, County of Santa Clara
Jennifer Carman, Development Services Director, City of Morgan Hill
Don Larkin, City Attorney, City of Morgan Hill
Melinda Coy, Proactive Housing Accountability Chief, California Department of Housing and Community Development

Letter 4 Response: Tamsen Plume, Holland & Knight, July 21, 2023

- 4-1 This comment conveys the commenter’s preference for which parcels to include or not to include on the HEU’s list of housing opportunity sites. Ultimately, the comment expresses the opinion of the commenter on how the HEU should be implemented. Please see Master Response 1, above.
- 4-2 Please see Master Response 1, above. The County notes that the EIR prepared by the City of Morgan Hill for its 2035 General Plan was a program EIR, not a project-level EIR, and expressly states that project-level environmental review may or may not be required depending on whether the subsequent activity would have effects that were not within the scope of the program EIR. (See Morgan Hill 2035 DEIR, pp. 1-3 through 1-4.) The 3 to six dwelling units per acre identified for the property in the City’s EIR would be substantially less than the densities identified for housing sites identified under the County’s HEU (as would the application recently filed with the County for the proposed project at this location). How the City might analyze a development project at this location, should the City annex that site, is not relevant to the County’s proposed HEU or this EIR.
- 4-3 As stated on page 5-1 of the Draft EIR, the selection of alternatives is also informed by the identified significant impacts of a project as proposed, with an aim towards identifying alternatives “which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project” (*CEQA Guidelines* Section 15126.6(a)-(c)). The identified significant effects of the project as proposed are listed in Section 5.1.2, *Elimination and/or Reduction of Identified Significant Impacts*, of the Draft EIR. These include impacts related to air quality emissions during construction and operation, impacts to cultural resources, construction noise, and VMT.
- To that end, the County considered several alternatives that would meet this dual requirement; that is: 1) providing for and incentivizing affordable housing *and*; 2) reducing the proposed project’s identified significant effects. One of those potential alternatives was the *Fewer Urban Sites Alternative*, which is described on page 5-4 of the Draft EIR. This alternative would have included sites on unincorporated County “islands” in and around the Cities of Morgan Hill and Gilroy. As stated on page 5-4 of the Draft EIR, the first NOP for the project circulated on August 8, 2022, included several opportunity sites in those locations. However, subsequent environmental analysis of those sites, together with public comments received on the NOP, prompted the County to drop those sites from the HEU’s opportunity site list. Public comments on the first NOP were included with the Draft EIR as Appendix A. Several of those comments concerned the sites that were listed for Morgan Hill and Gilroy. These comments raised concerns about the project’s effects related to

agricultural resources, biological resources, land use and planning, public services and recreation, utilities and service systems, and transportation.

Assuming, for the sake of argument, that the Fewer Urban Sites Alternative would have been comprised of the Morgan Hill and Gilroy sites identified in the first NOP, that alternative would have resulted in the conversion of 14 acres of designated Prime Farmland and 44 acres of Farmland of Local Importance, which would represent a significant impact.¹ Also, of note, more than half of the commenter's property on Diana Avenue is designated as Farmland of Local Importance, again, a significant impact. By comparison, the proposed project would convert zero acres of farmland to non-agricultural uses.

With respect to biological resources, comments received on the first NOP from the California Department of Fish and Wildlife, specific to the sites in and around Morgan Hill and Gilroy, noted that impacts could occur related to compliance with the Santa Clara Valley Habitat Plan, woodland habitat and grasslands, wetlands, and jurisdictional waters. This was largely a function of the fact that the Morgan Hill and Gilroy sites would have largely resulted in development of sites that are currently undeveloped space or in agricultural production. Many of these same impacts would also be relevant to the commenter's property on Diana Avenue, which is currently not urbanized and is largely comprised of active and apparently inactive agricultural properties or open space. In contrast, the proposed project's housing opportunity sites are largely comprised of infill or other under-utilized sites within long-established urban areas where these types of resources are not present or where similar impacts would not occur.

With respect to land use and planning, comments received on the first NOP noted that most of the identified Morgan Hill and Gilroy sites would be located outside of the designated urban services area, and that inclusion of these sites would be counter to the County's General Plan policies that disallow urban development in rural unincorporated areas. Such an action would require LAFCO approval, and LAFCO would be unlikely to allow the creation of urbanized unincorporated County islands within incorporated areas, particularly when annexation to an incorporated area would constitute a more logical development pathway. This would also be contrary to longstanding LAFCO policies. By comparison, the proposed project identifies housing opportunity sites within areas that are fully surrounded by urban development rather than being on the fringe of established urban areas.

With respect to public services, recreation, and utilities and service systems, comments provided on the first NOP noted that many of the same issues as noted above were applicable. Notably, the unincorporated Morgan Hill and Gilroy sites were outside of designated urban service areas and were not served by urban water

¹ California Farmland Mapping and Monitoring Program. 2018. Santa Clara County Important Farmland, 2018. Available online at: <https://www.conservation.ca.gov/dlrp/fmmp/Pages/SantaClara.aspx>. Accessed August 27, 2023.

and sewer systems. This is not the case with the sites that make up the proposed project.

Finally, the Fewer Urban Sites Alternative would result in transportation impacts that would be substantially greater than those realized by the proposed project. Particularly with respect to VMT, the alternative would locate housing in areas that would be far removed from transit and other urban services, and thus would require greater trip distances and resultant increases to VMT. For example, the Transportation Analysis Zone (TAZ) within which the commenter's property on Diana Avenue is located returns an estimated VMT of between 31.4 and 32.8 per capita, which would be more than twice the VMT estimated for the proposed project's sites as reported in Table 4.14-2 on page 4.14-20 of the Draft EIR. Such would be the case with the other housing opportunity sites in the Morgan Hill and Gilroy areas and would largely be a function of those sites' lack of proximity to quality transit (1.7 miles in the case of the commenter's Diana Avenue properties), places of employment, and urban services.²

In general, the first NOP accomplished what NOPs are intended to accomplish: the public and relevant agencies provided input to the County on the potential effects of the proposed project, which caused the County to reconsider aspects of the project that would result in substantially more severe environmental impacts than the proposed project evaluated in the Draft EIR, while accomplishing fewer project objectives.

Moreover, the 3 to six dwelling units per acre identified in the City's EIR for the commenter's Diana Avenue site (as stated in comment 4-2) would be substantially less than the densities identified for the housing sites in the County's proposed HEU. At that density, the Diane Avenue site would be highly unlikely to yield the number of units or densities required to ensure affordability for very low income, low income, and moderate-income households, which is a key objective of the HEU. Even the lowest densities proposed for the proposed project's housing opportunity sites are greater than that suggested by the commenter, and most are several orders of magnitude greater (between 40 and 100 units per acre for the bulk of the identified sites). Thus, in light of the greater environmental impacts of the rural sites and the substantially lower development densities, there would have been no purpose for evaluating the inclusion of these sites as a project alternative. Such an alternative would not advance the objectives of the HEU, and development of the site would present substantial environmental challenges (please see the response to comment 4-3 above for an overview of these issues) and would likely present constraints to the development of housing on the site, would be contrary to longstanding County and LAFCO land use policies, and would run counter to State planning law and regulation.

² Values derived from the VTA model using the baseline + HEU scenario, identical to the methodology utilized in the Draft EIR.

Finally, there is no “magic number” of alternatives that must be analyzed in an EIR. The CEQA Guidelines explicitly state that “An EIR need not consider every conceivable alternative to the project” [CEQA Guidelines 15126.6(a)]. The Guidelines go on to say that “There is no ironclad rule governing the nature and scope of project alternatives to be discussed other than the rule of reason” [CEQA Guidelines 15126.6(a); see also *Citizens of Goleta Valley v. Board of Supervisors* (1990) 52 Cal.3d 553, and *Laurel Heights Improvement Association v. Regents of the University of California* (1988) 47 Cal.3d 376].

The rule of reason that governed the County’s decision not to advance the Fewer Urban Sites Alternative was the fact that the alternative would not meet the project objectives and would result in more severe environmental effects; in many cases substantially so. The commenter has offered no evidence to indicate that the Fewer Urban Sites Alternative would meet the project’s objectives, lessen the identified environmental effects of the project as proposed, or be environmentally superior to the proposed project. In fact, just the opposite would be true: The Fewer Urban Sites Alternative would result in substantially more severe impacts related agricultural resources, biological resources, greenhouse gas emissions, land use and planning, public services and recreation, transportation, and utilities and service systems. Even a cursory analysis of these issues demonstrates this to be true, and that is precisely why the County elected to not analyze the alternative any further. This determination was articulated in the Draft EIR, and the commenter has provided no substantial evidence or information to indicate that the County’s rejection of the alternative was in error.

- 4-4 As stated on page 4.0-5 of the Draft EIR, the Draft EIR’s cumulative analysis identified reasonable and foreseeable projects in the vicinity of the County’s HEU sites alongside the background growth assumed in ABAG’s 2040 growth projections. ABAG’s 2040 growth projections are based on documented growth trends and well-reasoned future predictions for growth and form the basis for the region’s transportation and infrastructure planning. To assume that all the City of San Jose’s 6th Cycle HEU would be constructed and become operational during the cumulative analysis period is not supported by historic or predicted rates of housing production in the City, even under the most optimistic assumptions. Future development of the City’s identified HEU sites will be up to the site’s property owners and will be largely dependent on market forces and (in the case of affordable housing) available subsidies and other incentives. In other words, just because the City has identified sites that could accommodate its RHNA allocation of 62,200 units (plus a buffer) doesn’t mean that development of all those sites at the densities indicated will actually occur within the period indicated, and it would thus be unreasonable to assume such an unprecedented rate of growth for the County’s cumulative analysis. Such an assumption would so greatly inflate the likely impacts of the City’s HEU that the resultant cumulative analysis would be essentially meaningless. The Draft EIR used an established and well-reasoned methodology for the project’s cumulative

impact analysis, and the commenter has offered no reasonable evidence to support a claim that those methods were in error. See also response to comment 2-12, above.

- 4-5 The lessening of VMT through the development of higher density housing in proximity to existing urban services and quality transit is well established and forms the basis for recent changes to State laws and regulations related to housing and transportation. Housing developed in this manner results in reductions to VMT, air quality emissions, and GHG emissions. As an example, the commenter is referred to the California Air Pollution Control Officers Association's (CAPCOA) *Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity* (2021). That study documented a 30 percent reduction in VMT from higher density developments in existing urban areas. Increased densities were found to affect the distance people travel and provide greater options for the mode of travel they chose. The study determined that increasing residential density results in shorter and fewer trips by single-occupancy vehicles and thus a reduction in GHG emissions. This finding is evidenced by the findings in the Draft EIR, which found that the urbanized sites proposed under the HEU would result in an average VMT of 13.1 home-based VMT per capita, with many sites returning a VMT that would be substantially less than that amount. In comparison, the TAZ within which the commenter's property on Diana Avenue is located returns an estimated VMT of between 31.4 and 32.8 per capita, which would be more than twice the VMT estimated for the proposed project's sites as reported in Table 4.14-2 on page 4.14-20 of the Draft EIR. Dispersed housing sites like the commenter's property are further from transit options (1.7 miles in the case of the commenter's Diana Avenue properties), employment centers, and other urban services, thus resulting in substantially greater VMT than housing opportunity sites in urban areas of San José. See also the response to comment 4-3, above.

Proximity of housing to quality transit is a critical factor in reducing VMT (a 31 percent reduction according to the CAPCOA study). Nearly all the proposed project's housing opportunity sites are located within a half-mile of quality transit services or in a transit priority area as defined in CEQA. In contrast, the commenter's property on Diana Avenue is located at least 1.7 miles from the Morgan Hill Caltrain Station and the VTA 68 and 568 bus routes. Persons residing at the commenter's property would have few options to single-occupancy vehicles for their transport needs, with resultant effects on VMT. This is evidenced by the VMT generated for the TAZ in which the commenter's property is located, which is more than twice the Countywide VMT average.

These well-established facts are essentially intuitive; VMT is less in higher density areas where people have other options for transportation besides using single-occupancy vehicles to get to work, shopping, or school. In fact, most jurisdictions, including the County, exempt projects that are located within one-half-mile of a quality transit facility from VMT analysis, based wholly on the documented evidence that housing located in such an area will generate substantially less VMT than projects

located further afield. As such, this comment does not raise any new environmental issues that have not already been adequately described and evaluated in the Draft EIR, and no additional response is required.

- 4-6 Even assuming, arguendo, that development of rural sites would result in lower localized concentrations of PM, CO and TAC, that speculative assertion would not offset the factors explained in the response to comment 4-3, above.
- 4-7 Even assuming, arguendo, that development of rural sites would result in lower noise impacts than in urban settings, this speculative assertion would not offset the factors explained in the response to comment 4-3, above. Construction noise levels can exceed applicable noise standards in rural and urban settings and can be more noticeable in quieter rural settings.
- 4-8 The Valley Transportation Authority (VTA), which provides public transit throughout Santa Clara County, currently has a daily ridership of 72,200 on weekdays (Transit Ridership Report First Quarter 2023, American Public Transportation Association (May 30, 2023).) VTA's ridership rates are currently at only 72 percent of pre-pandemic numbers. (VTA, *VTA Sees Steady Ridership Increases*, 8/14/23, <https://www.vta.org/blog/vta-sees-steady-ridership-increases>.) Moreover, when VTA completes the final phase of its BART Extension Program, the four new BART stations will serve approximately 54,600 average weekday riders. (Ibid.) Thus, it is highly unlikely that VTA's transit systems would be unable to handle the relatively small and incremental amount of increased ridership from the additional housing units to be developed during the 2023-2031 housing element cycle.

Luke Evans

From: Luke Evans
Sent: Monday, July 24, 2023 1:40 PM
To: Luke Evans
Subject: FW: Borock, Herb 2023-07-23

From: herb <herb_borock@hotmail.com>
Sent: Sunday, July 23, 2023 5:50 PM
To: Planning <Planning2@pln.sccgov.org>
Subject: [EXTERNAL] Draft Environmental Impact Report for Housing Element and Stanford Community Plan Updates

Herb Borock
P. O. Box 632
Palo Alto, CA 94302

July 23, 2023

County of Santa Clara Planning Office
Attention: Michael Meehan, Principal Planner
County Government Center
70 West Hedding, 7ath Floor, East Wing
San Jose, CA 95110

DRAFT ENVIROMENTAL IMPACT REPORT (EIR) FOR HOUSING ELEMENT AND STANFORD COMMUNITY PLAN UPDATES

Dear Mr. Meehan:

The following comments on the Draft EIR refer to the Draft Stanford Community Plan Update.

The EIR should evaluate changing the area reviewed in the project definition from Stanford land in unincorporated Santa Clara County to both the County Stanford land and all Stanford land in the Palo Alto planning area.

The 1985 Land Use Policy Agreement contains a fundamental error that needs to be corrected, and the EIR needs to evaluate that correction.

The Policy Agreement says that all of Stanford lands "are held in perpetual trust for educational purposes and may not be sold".

In fact, according to the 1971 "Stanford Land Use Policy/Plan", Stanford owns 1,175 acres of alienable land in the Felt Lake - Interdale area in unincorporated Santa Clara County on both sides of Highway 280.

5-1

That land is contiguous with almost 77 acres of Stanford-owned alienable land along Arastradero Road in the City of Palo Alto known as the former D. C. Powers lab site.

There may be additional adjacent or nearby Stanford-owned alienable land in the City of Palo Alto. (The 1971 Land Use Policy/Plan at page 3 states that "A total of about 1,900 acres not included in the original grant from Senator and Mrs. Leland Stanford is not subject to the restriction against sale.")

Land acquired by Stanford as part of its Founding Grant cannot be sold.

However, other land owned by Stanford is alienable land that can be sold at any time by vote of Stanford Board of Trustees.

It is possible to propose compact urban development on currently undeveloped Stanford land, provided that the status of each Stanford-owned parcel is known during the EIR process.

Therefore, the EIR should show the location and status of all Stanford land in the jurisdictions of both Santa Clara County and the City of Palo Alto, identified by Assessor's Parcel Number and acreage, with an indication of which parts of each parcel are Founding Grant land or alienable land, and with a summary of existing and proposed academic-related development on each parcel.

As much of Stanford's alienable land as possible should be permanently protected from future development, because it can be sold any time a majority of Stanford's Board of Trustees decide to sell it.

The EIR should evaluate an alternative to having a four-fifths vote of the Board of Supervisors change the Academic Growth Boundary, because that vote can be obtained without the participation of a Palo Alto member of the Board of Supervisors either because that member votes "No", the member representing Palo Alto is from another city in Palo Alto's Supervisorial district, or the member is from Palo Alto but can't vote because of a conflict of interest due to source of income.

The EIR should evaluate the alternative to protecting that foothills land (both alienable land and founding grant land) by having Stanford identify clusters of foothills land for future development that equal ten percent of the acreage in the foothills, obtaining a vested right to develop in those clusters under current county zoning regulations, and annexing the remaining ninety percent of the alienable land to Palo Alto and having it dedicated for park purposes pursuant to Palo Alto's Charter, so that it can be removed from park dedication only by Palo Alto voters.

The EIR should evaluate the effect of Stanford increasing academic facilities in the City of Palo Alto after the adoption of Stanford's 2000 General Use Permit.



Stanford has increased its total academic facilities combined in Palo Alto and County land above the limits set in the 2000 General Use Permit, because the increases in academic space in the City of Palo Alto have not been covered by the General Use Permit and the EIR for that permit did not evaluate areas outside the County jurisdiction.

↑
5-4
cont.

Stanford has converted Stanford Research park land to academic facilities, built hospital and housing in the Sand Hill Road area of Palo Alto, and medical clinics at 2450 Watson Court in the East Bayshore Road area of Palo Alto.

An EIR project description that includes both Palo Alto and County land should be evaluated that sets limits on the total academic gross floor area for Palo Alto and County land combined.

↑
5-5

The EIR should show how much additional Stanford academic space (including teaching, research, academic support, and housing) has been added in Palo Alto's jurisdiction since the adoption of the 2000 General Use Permit, as well as showing the Assessor's Parcel Numbers for those locations and whether they are on Founding Grant land or alienable land.

The 1985 Land Use Policy Agreement says that Stanford "provides its own municipal services to its academic facilities, rather than seeking them from adjacent cities".

The EIR should evaluate amending the Land Use Policy Agreement to require Stanford to pay an in-lieu fee comparable to the fee paid any other occupier of the same land in Palo Alto that Stanford occupies.

For example, any other use in Stanford Research Park is required to pay property taxes in exchange for services from all levels of county and local government, but Stanford may believe that academic facilities are exempt from those taxes, which is why they have been moving all kinds of academic facilities to Palo Alto that are in addition to the limits set in the General Use Permit.

↑
5-6

Similarly, if Stanford faculty or staff purchase a home from a private party in Palo Alto, the faculty or staff member pays property taxes, but if Stanford develops land for housing in Palo Alto, or purchases existing homes as it has done in Palo Alto's College Terrace neighborhood, or buys an existing multi-family housing development such as the Oak Creek apartments on Sand Hill Road in Palo Alto, Stanford may claim that such housing constitutes academic facilities that are exempt from taxes.

The EIR for a combined project description for both Palo Alto and Stanford should evaluate all land developed or purchased by Stanford for housing in Palo Alto to determine whether Stanford is required to pay taxes or in the alternative pay an equivalent in-lieu fee, since Stanford would not be paying for those residences' services through payment of property taxes that other owners of the property would be paying.

Comment Letter 5

Stanford employees and students are a significant number of Caltrain passengers using the Palo Alto (University Avenue) and California Avenue Caltrain stops.

The EIR should provide the average daily number of Stanford-affiliated passengers leaving and boarding Caltrain at those stations, and estimate based on the percentage of Stanford-affiliated passengers compared to total passengers, the proportionate cost Stanford should pay for any required improvements needed for such things as grade separations.

5-7

Thank you for your consideration of these comments.

Sincerely,

Herb Borock

Letter 5 Response: Herb Borock, July 23, 2023

As an introduction to the County’s response to the commenter, the “proposed project” evaluated in the Draft EIR concerns adoption of the County’s proposed General Plan Housing Element Update (HEU), which would provide for increased levels of housing in various portions of the County, including three discrete locations on the Stanford campus. The Draft EIR also assessed the implementation of an update to the Stanford Community Plan (SCP), with an emphasis on housing and circulation on the campus and other contiguous Stanford land-grant lands. See Section 3.4.1 of the Draft EIR for an overview of the HEU, and Section 3.4.2 for an overview of the SCP update.

Notably, the proposed project does not propose any changes to the conditions within the existing 2000 General Use Permit (GUP) or the 1985 Land Use Policy Agreement between the County of Santa Clara, the City of Palo Alto, and Stanford University. These existing permits and agreements would remain in effect and would not be changed with implementation of the proposed project. This distinction is being made here because many of the comments provided by the commenter are directed towards the GUP and/or other policies that are not a part of the proposed project and are therefore not germane to the analysis presented in the Draft EIR. Per the requirements of CEQA, the Draft EIR was narrowly focused on the project as proposed (i.e., the HEU and SCP update), and did not consider many of the policy concerns raised by the commenter, nor did it evaluate existing campus activities with which the commenter takes issue. The responses provided below are structured accordingly.

- 5-1 As stated above, the proposed project evaluated in the Draft EIR is an update to the County’s General Plan Housing Element and an update to the SCP. It does not evaluate activities on lands that are outside the SCP boundary or not a part of the Founding Grant. As such, this comment is not relevant to the project under consideration or the Draft EIR. As such, this comment does not raise any new environmental issues that have not already been adequately described and evaluated in the Draft EIR, and no additional response is required.
- 5-2 As stated on page 5-1 of the Draft EIR, the selection of alternatives is informed by the identified significant impacts of a project as proposed, with an aim towards identifying alternatives “which would feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project” (*CEQA Guidelines* Section 15126.6(a)-(c)). The proposed alternative suggested by the commenter does not appear to be directed towards any of the significant effects identified in the Draft EIR. Rather, the comment refers to the commenter’s opinion of the political process by which decisions are made in the County. This is not an environmental issue, and therefore is not germane to the content or adequacy of the Draft EIR. No further response is required.

- 5-3 This comment advances an alternative to the project related to protection of the foothills, which does not appear to address any of the project’s environmental effects as identified in the Draft EIR. The alternative is not germane to the proposed project, particularly since the alternative appears to address lands that would not be affected in any way by the HEU or SCP update. No further response is required.
- 5-4 This comment pertains to the effects of Stanford increasing academic facilities in the City of Palo Alto and is therefore not germane to the proposed project. No further response is required.
- 5-5 The commenter is referred to the introduction above that precedes the response to comment 5-1. The proposed project evaluated in the Draft EIR proposes no changes to the 2000 GUP, academic space allowances, or any Stanford activities occurring on non-land grant lands. As such, the comment is not germane to the proposed project or the environmental analysis contained within the Draft EIR. No further response is required.
- 5-6 The commenter is referred to the introduction to this response to comments, and to the response to comment 5-2. Reconsideration of the 1985 Land Use Policy Agreement is not a part of the project, nor are activities occurring on non-land grant lands. Aspects of taxation and other issues presented in this comment are not environmental effects and are not germane to the analysis in the Draft EIR. (See Master Response 1, above.) These are not environmental issues and are not within the purview of CEQA. No further response is required.
- 5-7 This comment pertains to Stanford employees’ and students’ usage of Caltrain and is not germane to the proposed project, nor does it relate to any of the environmental effects analyzed in the Draft EIR. No further response is required.

Luke Evans

From: Luke Evans
Sent: Tuesday, July 25, 2023 1:02 PM
To: Luke Evans
Subject: Graves, Pria 2023-07-24

From: Pria Graves <priag@birketthouse.com>
Sent: Monday, July 24, 2023 1:56 PM
To: Planning <Planning2@pln.sccgov.org>
Subject: [EXTERNAL] Comments on the Stanford Community Plan DEIR

To: Michael Meehan, Principal Planner

I am a long-time resident of College Terrace and have a number of comments regarding the Community Plan Update.

1) Existing Roadway Network description of Stanford Avenue states that on-street parking is prohibited along the street. This is not accurate. It is prohibited along the **north** side of the street but is permitted along the south side adjacent to the College Terrace neighborhood.

6-1

2) Under "Other Issues of Concern" it is stated that the physical changes made within the College Terrace neighborhood have discouraged or prevented cut-through traffic and that the addition of the large number of additional housing units in close proximity to our neighborhood is unlikely to increase traffic in the neighborhood. While it is true that these changes have helped, there are still a significant number of vehicles that choose to cut through our neighborhood when traveling from Stanford Avenue to California Avenue (such as Stanford Ave. -> Oberlin St. -> College Ave. -> Princeton St. -> California Ave.). It seems highly likely that the majority of these trips originate on the Stanford Campus since there is no other major traffic source for which the route would make sense. These drivers are not dissuaded by the speed bump on College and there is no stop sign until they reach California Avenue.

6-2

This "rat-run" is of serious concern since there is a great deal of foot and bicycle traffic in that vicinity. The situation needs to be carefully evaluated and provision made for addressing any increase in traffic through this area as new housing is added.

In addition, while not proposed in the current update, it appears that in the future Stanford will be required to provide necessary housing on "contiguous Stanford land-grant lands". Since much of this land is located to the south of College Terrace, housing there would greatly increase the potential for trips across College Terrace as residents travel to the campus.

3) No mention is made of the restriction to the Hours of Construction to conform to Palo Alto's regulations for projects within 150' of our community. This was made part of the 2000 GUP (condition R.2) and should be continued especially as it seems likely that there will be significant construction in Escondido Village, immediately across the street from College Terrace.

6-3

4) The requirement for centralized delivery locations is a good thing but some have raised the concern that use of rideshare services such as Uber and Lyft may be increasing. These services would be dropping people off on campus and leaving, giving rise to increased traffic which would not be captured as part of the commute trip measurements. This needs to be addressed.

6-4

Thank you for your consideration.

Regards,

Pria Graves
2130 Yale Street
Palo Alto

650.493.2153.

Letter 6 Response: Pria Graves, July 24, 2023

- 6-1 The County appreciates the commenter's provision of this information. Page 4.14-6 of the Draft EIR have been updated to include this information. Please see Chapter 3 of this Final EIR, *Revisions to the Draft EIR*, for the full text of the revisions. The revisions incorporated into Chapter 3 of this Final EIR do not change the findings contained in the Draft EIR, do not identify any new environmental effects that were not previously identified, and have no bearing on the severity of the project's environmental effects as previously reported in the Draft EIR.
- 6-2 The Draft EIR (page 4.14-2) addresses the cut-through traffic issue. However, in response to this comment, the Draft EIR's text has been revised. Please see Chapter 3 of this Final EIR, *Revisions to the Draft EIR*, for the full text of the revisions. The revisions incorporated into Chapter 3 of this Final EIR do not change the findings contained in the Draft EIR, do not identify any new environmental effects that were not previously identified, and have no bearing on the severity of the project's environmental effects as previously reported in the Draft EIR.
- 6-3 The HEU and SCP update would not alter the conditions of approval or mitigation measures that are already in place under the existing 2000 General Use Permit. The condition referred to by the commenter would remain in effect.
- 6-4 A project's impact on traffic congestion and operational performance is no longer within the purview of CEQA. As required under Senate Bill 743 (see page 4.14-13 of the Draft EIR for an overview of this 2013 legislation), operational effects may no longer be considered a significant impact under CEQA. Instead, vehicle miles traveled (VMT) is the metric by which a project's effects must be assessed. The Draft EIR evaluated the project's VMT effects in Section 4.14 of the Draft EIR, *Transportation*. Nevertheless, the County's General Plan contains several policies aimed at reducing traffic congestion. The 2000 Stanford Community Plan (SCP) contains numerous traffic-related measures, and the proposed amendments to the SCP would include additional measures (e.g., reverse trips, 3-hour peak periods). The County appreciates the commenter's concerns regarding whether rideshare services are adequately accounted for with the current trip-monitoring methodologies.

CHAPTER 3

Revisions to the Draft EIR

3.1 Introduction

This section summarizes text changes made to the Draft EIR based comments received on the Draft EIR and initiated by County staff.

3.2 Text Changes to the Draft EIR

New text is indicated in underline and text to be deleted is reflected by a ~~strike through~~. Text revisions provide clarification, amplification, and corrections that have been identified since publication of the Draft EIR. The text changes do not result in a change in the analysis or conclusions of the EIR.

Chapter 2, Executive Summary

On page 2-7, the first complete sentence at the top of the page is revised to read:

This approach also expands the previous definition of Stanford-housed population from “students, ~~and~~ faculty, and senior staff” to “undergraduate students, graduate students, faculty, staff, postgraduate fellows, and other workers.”

On page 2-8, last paragraph, the third sentence is revised to read:

This approach also expands the previous definition of Stanford-housed population from “students, ~~and~~ faculty, and senior staff” to “undergraduate students, graduate students, faculty, staff, postgraduate fellows, and other workers.”

Chapter 3, Project Description

On page 3-5, the first complete sentence is revised to read:

This approach also expands the previous definition of Stanford-housed population from “students, ~~and~~ faculty, and senior staff” to “undergraduate students, graduate students, faculty, staff, postgraduate fellows, and other workers.”

On page 3-18, first paragraph, the third sentence is revised to read:

This approach also expands the previous definition of Stanford-housed population from “students, ~~and faculty, and senior staff~~” to “undergraduate students, graduate students, faculty, staff, postgraduate fellows, and other workers.”

Chapter 4.2, Air Quality

On page 4.2-21, last paragraph, the second sentence is revised to read:

This approach also expands the previous definition of Stanford-housed population from “students, ~~and faculty, and senior staff~~” to “undergraduate students, graduate students, faculty, staff, postgraduate fellows, and other workers.”

Section 4.3, Biological Resources

On page 4.3-2, in the third bullet point, make the following revision:

- Stanford University Habitat Conservation Plan (~~2013~~)(2016).

On page 4.3-22, after the first paragraph, insert the following text:

In May 2016, the California Department of Fish and Wildlife determined the incidental take permit is consistent with the California Endangered Species Act.

On page 4.3-40, revise text as follows:

Stanford University, ~~2013~~2016. *Stanford University Habitat Conservation Plan*. ~~March 2013~~May 2016.

Section 4.4, Cultural Resources

Table 4.4-1 and the following paragraphs on page 4.4-8, revise as follows:

**TABLE 4.4-1
HOUSING OPPORTUNITY SITES - STANFORD**

Address / APN	Description	Eligibility
Quarry Road / 142-04-036	Vacant lot	N/A – no historic-age buildings or structures are visible from the public right-of-way
Quarry Road / 142-04-036	Parking lot	N/A – no historic-age buildings or structures are visible from the public right-of-way
Escondido Village / 142-04-036 and 142-09-006	Graduate residential housing	Peter Coult Library/Ayshire Farm – Local Landmark (142-09-006). Additional p Potentially historic-age buildings/structures present (142-04-036)

The third housing opportunity site on the Stanford University campus is located in Escondido Village, a graduate residential community on Escondido Road between

Campus Drive and Stanford Avenue. ~~The Peter Couatts Library/Ayshire Farm, an eligible local Landmark, is located on this site.~~

A relocated potential future school location is in the West Campus Development District. The Palo Alto Stock Farm Horse Barn (a.k.a. Red Barn), a National Register listed building and local Landmark, and the golf course, ~~which has not previously been evaluated as a potential historical resource,~~ are in the West Campus Development District. The golf course was evaluated for the 2000 General Use Permit EIR and was determined to not be an historic resource. ~~However~~Regardless, the school site would not be located at either one of these locations.

Section 4.9, Hydrology and Water Quality

On page 4.9-10, bottom paragraph, make the following revisions:

Felt Lake (CA00670) owned by Stanford University, is a 900 acre-feet (AF) capacity reservoir with an earthen embankment constructed in 1930. ~~The assessed condition for this structure is satisfactory, meaning that no existing or potential dam safety deficiencies are recognized, and acceptable performance is expected under all loading conditions (static, hydrologic, seismic) in accordance with the minimum applicable state or federal regulatory criteria or tolerable risk guidelines. The downstream hazard rating for this structure is categorized as extremely high. In 2020, Stanford conducted a seismic evaluation of the dam. The evaluation found that Felt Dam complies with safety requirements based on the California Department of Water Resources, Division of Safety of Dams' *Inspection and Reevaluation Protocols* (2018) (as required by California Water Code division 3, part 1, chapter 4, article 2, section 6103) for existing dams, but that when Felt Reservoir is at full capacity, the dam's failure risk is considered by Stanford to be unacceptably high compared to the design requirements for new dams and Stanford's tolerance for risk. Stanford is voluntarily restricting the maximum water depth in Felt Reservoir to no more than 25 feet below full, reducing the risk of downstream flooding. Consequently, the amount of water stored in Felt Reservoir is presently limited to approximately 200 AF, or about 20 percent of the reservoir's existing design capacity.~~

On page 4.9-12, first paragraph, make the following revisions:

Searsville Dam and Reservoir, also owned by Stanford University, was constructed in 1892 ~~as an 1,840 AF capacity reservoir~~. Over the intervening years, ~~sedimentation has greatly reduced the reservoir to less than 10 percent of its original capacity~~Searsville Dam has trapped approximately 2,700,000 cubic yards (cy) of sediment in the reservoir, reducing its storage capacity from approximately 1,000 acre-feet (AF) (upon original completion of the dam in 1892) to approximately 130 AF.¹ Water stored at Searsville Reservoir provides one of several sources of non-potable water used at Stanford for landscape irrigation, agriculture, and fire protection. Due to drought, limited use of the

¹ McMillen Jacobs Associates, Balance Hydrologics, Stillwater Sciences, 2021. *Draft Searsville Watershed Restoration Project Modeling Report*.

impounded water has occurred in recent years (Stanford University, 2015). The assessed condition of the dam is satisfactory and downstream hazard rating is categorized as extremely high (DSOD, 2021).

On page 4.9-29, bottom paragraph, insert text as follows:

As described in Section 4.8, *Hazards and Hazardous Materials*, construction and land uses (i.e., residences) allowed by the HEU or SCP are anticipated to introduce urban contaminants (such as heavy metals, oils, grease, pesticide residues, etc.) to the areas. There are no potential project development sites that would be affected by or contribute contaminants in the event of dam failure. However, as depicted in Figure 4.9-2, the inundation zone for a hypothetical sunny day failure of the dams at Felt Lake and Searsville Reservoir could impact the SCP update area. Groundwater could also be impacted by such an event. However, in consideration of the noted positive structural condition assessments and current management protocols for the two dams whose inundation zones are mapped to cross the SCP update area, it is highly unlikely that the structures present risks to the project. Furthermore, extensive flooding associated with a hypothetical sunny day failure of Searsville Dam is also highly unlikely to occur given that the water capacity of the reservoir has been reduced to 10 percent of its original capacity due to drought and sedimentation. Therefore, due to the low level of risk for dam failure inundation, impacts associated with release of contaminants would be **less than significant**.

Section 4.14, Transportation

On page 4.14-2, the final paragraph is revised as follows:

Historically, traffic associated with Stanford University has caused concern for surrounding communities when traffic backs up on major roads, typically during peak traffic times, and drivers seek alternative routes, creating “cut-through” traffic in some neighborhoods. Since the mid-1970s this issue has been addressed in the College Terrace neighborhood through a series of road modifications that effectively prevent cut-through traffic. Over time, all the streets within College Terrace have received physical changes to discourage or prevent cut-through traffic. These include roundabouts, stop sign-controlled intersections, and road barricades that ~~effectively discourage~~ substantially reduce cut-through traffic. For example, every street that runs from Stanford Avenue to California Avenue has been blocked at one end or the other to discourage cut-through traffic. There are also numerous stop signs and speed bumps to discourage through traffic.

On page 4.14-6, the second paragraph is revised as follows:

Stanford Avenue is an east-west, two-lane collector street in Palo Alto near the proposed housing sites on the Stanford campus, extending from Junipero Serra Boulevard in the west to Park Boulevard in the east. Within the vicinity of the proposed housing sites,

there are sidewalks along both sides of the street. Bicycle facilities are present along Stanford Avenue and are striped as Class III bicycle routes. On-street parking is prohibited along the north side of the street, but is permitted along the south side of the street adjacent to the College Terrace neighborhood.

On page 4.3-14, after the first paragraph, insert the following text:

California Transportation Plan

CTP 2050 envisions that the majority of new housing located near existing housing, jobs, and transit, and in close proximity to one another will reduce vehicle travel and GHG emissions, and be accessible and affordable for all Californians, including disadvantaged and low-income communities. The plan asserts that the location, density, and affordability of future housing will dictate future travel patterns, and the ability to achieve the vision outlined in CTP 2050.

On page 4.14-15, following the text for “Santa Clara County Congestion Management Program,” insert the following text:

Caltrans District 4 Pedestrian Plan and Caltrans District 4 Bike Plan

These two multi-modal plans studied existing conditions for walking and biking along and across the State Transportation Network (STN) in the nine-county Bay Area and developed a list of location-based and prioritized needs.

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CHAPTER 4

Mitigation Monitoring and Reporting Program

4.1 Purpose of this Document

This chapter contains the Mitigation Monitoring and Reporting Program (MMRP) prepared in compliance with Public Resources Code Section 21081.6(a). The MMRP will be considered for adoption by the Planning Commission and/or the Board of Supervisors and will aid the County in its implementation and monitoring of measures included in the Draft EIR and adopted by the Commission and/or Board of Supervisors.

**SANTA CLARA COUNTY HOUSING ELEMENT UPDATE AND STANFORD COMMUNITY PLAN UPDATE
MITIGATION MONITORING AND REPORTING PROGRAM**

	Implemented By	When implemented	Monitored By	Verified By
Air Quality				
<p>Mitigation Measure AQ-3a: Best Management Practices.</p> <p>All projects, regardless of size, shall implement best management practices to reduce construction impacts, particularly fugitive dust, to a less-than-significant level. Specifically, the project sponsor shall require all construction plans to specify implementation of the following best management practices:</p> <ul style="list-style-type: none"> • All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered two times per day. • All haul trucks transporting soil, sand, or other loose material off-site shall be covered. • All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited. • All vehicle speeds on unpaved roads shall be limited to 15 mph. • All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. • Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points. • All construction equipment shall be maintained and properly tuned in accordance with the manufacturer’s specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation. • Post a publicly visible sign with the telephone number and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District’s phone number shall also be visible to ensure compliance with applicable regulations. 	Project sponsor	Prior to issuance of any grading and/or building permits, and during construction	Building Division and/or Planning Division	Building Division and/or Planning Division
<p>Mitigation Measure AQ-3b: Emission Reduction Measures for Subsequent Projects Exceeding the Significance Thresholds for Criteria Pollutants.</p> <p>Project sponsors proposing projects that exceed BAAQMD screening levels shall prepare a project-level criteria air pollutant assessment of construction and operational emissions at the time the project is proposed. The project-level assessment could include a comparison of the project with other similar projects where a quantitative analysis has been conducted, or a project-specific criteria air pollutant analysis to determine whether the project exceeds the air district’s criteria air pollutant thresholds.</p> <p>In the event that a project-specific analysis finds that the project could result in significant construction and/or operational criteria air pollutant emissions that exceed significance thresholds, the project sponsor shall implement the following emission reduction measures to the degree necessary to reduce the impact to less than significance thresholds and shall</p>	Project sponsor	Prior to issuance of any grading or building permits, and during construction	Building Division and/or Planning Division	Building Division and/or Planning Division

**SANTA CLARA COUNTY HOUSING ELEMENT UPDATE AND STANFORD COMMUNITY PLAN UPDATE
MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)**

	Implemented By	When implemented	Monitored By	Verified By												
<p>implement other feasible measures as needed to reduce the impact to less than the significance thresholds.</p> <p>Clean Construction Equipment.</p> <p>1) Diesel off-road equipment shall have engines that meet the Tier 4 Final off-road emission standards, as certified by CARB, as required to reduce the emissions to less than the thresholds of significance shown in Table 2-1 of the BAAQMD CEQA Guidelines (BAAQMD 2017b). This requirement shall be verified through submittal of an equipment inventory that includes the following information: (1) Type of Equipment, (2) Engine Year and Age, (3) Number of Years Since Rebuild of Engine (if applicable), (4) Type of Fuel Used, (5) Engine HP, (6) Verified Diesel Emission Control Strategy (VDECS) information if applicable and other related equipment data. A Certification Statement is also required to be made by the Contractor for documentation of compliance and for future review by the air district as necessary. The Certification Statement must state that the Contractor agrees to compliance and acknowledges that a violation of this requirement shall constitute a material breach of contract.</p> <p>2) The County may waive the equipment requirement above only under the following unusual circumstances: if a particular piece of off-road equipment with Tier 4 Final standards is technically not feasible or not commercially available; the equipment would not produce desired emissions reduction due to expected operating modes; installation of the equipment would create a safety hazard or impaired visibility for the operator; or there is a compelling emergency need to use other alternate off-road equipment. If the County grants the waiver, the contractor shall use the next cleanest piece of off-road equipment available, as detailed in Table 4.2-8, below.</p> <p align="center">Table 4.2-8. Off Road Equipment Compliance Step Down Approach</p> <table border="1"> <thead> <tr> <th align="center">Compliance Alternative</th> <th align="center">Engine Emissions Standard</th> <th align="center">Emissions Control</th> </tr> </thead> <tbody> <tr> <td align="center">1</td> <td align="center">Tier 4 Interim</td> <td align="center">N/A</td> </tr> <tr> <td align="center">2</td> <td align="center">Tier 3</td> <td align="center">ARB Level 3 VDECS</td> </tr> <tr> <td align="center">3</td> <td align="center">Tier 2</td> <td align="center">ARB Level 3 VDCES</td> </tr> </tbody> </table> <p>3) For purposes of this mitigation measure, "commercially available" shall mean the availability of Tier 4 Final engines similar to the availability for other large-scale construction projects in the region occurring at the same time and taking into consideration factors such as (i) potential significant delays to critical-path timing of construction for the project and (ii) geographic proximity to the project site of Tier 4 Final equipment.</p> <p>4) Table 4.2-8 describes the Off Road Compliance Step Down approach. If engines that comply with Tier 4 Final off-road emission standards are not commercially available, then the Contractor shall meet Compliance Alternative 1. If off-road equipment meeting Compliance Alternative 1 are not commercially available, then the Project sponsor shall meet Compliance Alternative 2. If off-road equipment meeting Compliance Alternative 2 are not commercially available, then the Project sponsor shall meet Compliance Alternative 3 as demonstrated below.</p>	Compliance Alternative	Engine Emissions Standard	Emissions Control	1	Tier 4 Interim	N/A	2	Tier 3	ARB Level 3 VDECS	3	Tier 2	ARB Level 3 VDCES				
Compliance Alternative	Engine Emissions Standard	Emissions Control														
1	Tier 4 Interim	N/A														
2	Tier 3	ARB Level 3 VDECS														
3	Tier 2	ARB Level 3 VDCES														

**SANTA CLARA COUNTY HOUSING ELEMENT UPDATE AND STANFORD COMMUNITY PLAN UPDATE
MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)**

	Implemented By	When implemented	Monitored By	Verified By
<p>5) The project sponsor shall require the idling time for off-road and on-road equipment be limited to no more than 2 minutes, except as provided in exceptions to the applicable state regulations regarding idling for off-road and on-road equipment. Legible and visible signs shall be posted in multiple languages (English, Spanish, Chinese) in designated queuing areas and at the construction site to remind operators of the 2-minute idling limit.</p> <p>Electric Vehicle Charging – Operational Emissions. The project sponsor shall demonstrate compliance with EV charging requirements in Tier 2 CalGreen standards in effect at the time of project review (consistent with GHG mitigation measure 4.71b). The installation of all EV charging equipment shall be included on the project drawings submitted for the construction-related permits or on other documentation submitted to the County.</p>				
<p>Mitigation Measure AQ-5a: Emission Reduction Measures for Subsequent Projects Exceeding the Significance Thresholds for Health Risks associated with TAC Emissions.</p> <p>Project sponsors proposing projects within 1,000 feet of sensitive receptors, including residences, schools, day care centers, and hospitals, shall prepare a project-level health risk assessment at the time the project is proposed. The project-level assessment could include a comparison of the project with other similar sized projects located a similar distance from receptors where a quantitative analysis has been conducted, or a project-specific analysis to determine whether the project exceeds the air district's health risk thresholds.</p> <p>If a project-specific analysis finds that the project could result in health risks that exceed significance thresholds, the project sponsor shall implement the clean construction equipment requirement of Mitigation Measure AQ-3b to the degree necessary to reduce the impact to less than significance thresholds and shall implement other feasible measures as needed to reduce the impact to less than the significant thresholds.</p>	Project sponsor	Prior to issuance of any grading and/or building permits, and during construction	Building Division and/or Planning Division	Building Division and/or Planning Division
Biological Resources				
<p>Mitigation Measure BIO-1a: Avoid and Minimize Impacts on Nesting Birds.</p> <p>Adequate measures will be implemented to avoid inadvertent take of raptor nests and other nesting birds protected under the Migratory Bird Treaty Act when in active use. This will be accomplished by taking the following steps prior to demolition, site preparation (including clearing of vegetation), and construction work within the project sites:</p> <p>a) If construction is proposed during the nesting season (February 15 to August 31), a pre-construction survey for nesting raptors and other migratory birds will be conducted by a qualified biologist within 7 days prior to the onset of vegetation removal or construction to identify any active nests on the project site and in the vicinity of proposed construction. Surveys will be performed for the project area and vehicle and equipment staging areas, and suitable habitat within 150 feet of these areas, to locate any active passerine (e.g., songbird) nests and within 250 feet to locate any active raptor (bird of prey) nests.</p> <p>b) If no active nests are identified during the survey period, or if construction activities are initiated during the non-breeding season (September 1 to February 14), construction may proceed with no restrictions.</p> <p>c) If bird nests are found, an adequate no-disturbance buffer will be established around the nest location and construction activities restricted within the buffer until the qualified biologist has confirmed that any young birds have fledged and are able to leave the construction area.</p>	Project sponsor	Prior to issuance of any grading and/or building permits, and during construction	Building Division and/or Planning Division	Building Division and/or Planning Division

**SANTA CLARA COUNTY HOUSING ELEMENT UPDATE AND STANFORD COMMUNITY PLAN UPDATE
MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)**

	Implemented By	When implemented	Monitored By	Verified By
<p>Required setback distances for the no-disturbance zone will be established by the qualified biologist and may vary depending on species, line-of-sight between the nest and the construction activity, and the birds' sensitivity to disturbance. As necessary, the no-disturbance zone will be fenced with temporary orange construction fencing if construction is to be initiated on the remainder of the development site.</p> <p>d) Any birds that begin nesting within the project area and survey buffers amid construction activities will be assumed to be habituated to construction-related or similar noise and disturbance levels and no-disturbance zones will not be established around active nests in these cases; however, should birds nesting within the project area and survey buffers amid construction activities begin to show disturbance associated with construction activities, no-disturbance buffers will be established as determined by the qualified wildlife biologist.</p> <p>e) Any work that must occur within established no-disturbance buffers around active nests will be monitored by a qualified biologist. If adverse effects in response to project work within the buffer are observed and could compromise the nest's success, work within the no-disturbance buffer will halt until the nest occupants have fledged.</p> <p>f) A pre-construction survey report of findings will be prepared by the qualified biologist and submitted to the Director of Planning and Development, or the Director's designee for review and approval prior to initiation of construction within the no-disturbance zone during the nesting season. The report will either confirm absence of any active nests or will confirm that any young within a designated no-disturbance zone and construction can proceed.</p>				
<p>Mitigation Measure BIO-1b: Avoid and Minimize Impacts on Roosting Bats.</p> <p>A qualified biologist who is experienced with bat surveying techniques (including auditory sampling methods), behavior, roosting habitat, and identification of local bat species will be consulted prior to tree removal or building demolition activities to conduct a pre-construction habitat assessment of the HEU (parcels 649-24-013 and 649-23-001) and SCP update (all parcels) to characterize potential bat habitat and identify potentially active roost sites. No further action is required should the pre-construction habitat assessment not identify potential bat roosting habitat or signs of potentially active bat roosts within the Project area (e.g., guano, urine staining, dead bats, etc.).</p> <p>The following measures will be implemented should potential bat roosting habitat or potentially active bat roosts be identified during the habitat assessment in buildings to be demolished:</p> <p>a) In areas identified as potential roosting habitat during the habitat assessment, initial building demolition will occur when bats are active, approximately between the periods of March 1 to April 15 and August 15 to October 15, to the extent feasible. These periods avoid the bat maternity roosting season and period of winter torpor.</p> <p>b) Buildings with potential bat roosting habitat or active (outside of maternity and winter torpor seasons) roosts will be disturbed only under clear weather conditions when precipitation is not forecast for three days and when daytime temperatures are at least 50 degrees Fahrenheit.</p> <p>c) The demolition or relocation of buildings containing or suspected of containing potential bat roosting habitat or active bat roosts will be done under the supervision of a qualified biologist. When appropriate, buildings will be partially dismantled to significantly change the roost conditions, causing bats to abandon and not return to the roost, likely in the evening</p>	Project sponsor	Prior to issuance of any grading and/or building permits, and during construction	Building Division and/or Planning Division	Building Division and/or Planning Division

**SANTA CLARA COUNTY HOUSING ELEMENT UPDATE AND STANFORD COMMUNITY PLAN UPDATE
MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)**

	Implemented By	When implemented	Monitored By	Verified By
<p>and after bats have emerged from the roost to forage. Under no circumstances will active maternity roosts be disturbed until the roost disbands at the completion of the maternity roosting season or otherwise becomes inactive, as determined by the qualified biologist.</p> <p>d) If avoidance of the bat maternity roosting season and period of winter torpor, defined under a), above, is infeasible, the qualified biologist will conduct pre- construction surveys of potential bat roost sites identified during the initial habitat assessment no more than 14 days prior to building demolition.</p> <p>e) If active bat roosts or evidence of roosting is identified during pre-construction surveys for building demolition, the qualified biologist will determine, if possible, the type of roost and species. A no-disturbance buffer will be established around roost sites until the start of the seasonal windows identified above, or until the qualified biologist determines roost sites are no longer active. The size of the no-disturbance buffer would be determined by the qualified biologist and would depend on the species present, roost type, existing screening around the roost site (such as dense vegetation or a building), as well as the type of construction activity that would occur around the roost site.</p>				
<p>Mitigation Measure BIO-3a: Aquatic Resources Delineation</p> <p>The project applicant for the specific construction activity to be undertaken and its contractors will minimize impacts on waters of the United States and waters of the state, including wetlands, by implementing the following measures:</p> <ul style="list-style-type: none"> • A preliminary jurisdictional delineation of wetlands for the two aquatic features within parcels 649-24-013 and 649-23-001 and mapped by the U.S. Fish and Wildlife Service National Wetlands Inventory (USFWS NWI) will be prepared to confirm the presence and determine the extent of waters of the United States and/or waters of the state within that area. Per Section 6.8.4, Item 4, Map of Wetlands, Ponds, Streams, and Riparian Woodlands, of the Santa Clara Valley Habitat Plan, the preliminary jurisdictional delineation must map any waters of the state that are not also Waters of the United States. The results will be summarized in a wetland delineation report to be submitted to the Director of Planning and Development, or the Director's designee, for review and approval before the issuance of any demolition, grading, or building permit for construction activity, within 150 feet of the footprint of the two aquatic features within parcels 649-24-013 and 649-23-001 as mapped by the USFWS NWI. • Impacts to wetlands identified in the preliminary jurisdictional delineation report will be avoided and minimized by implementing Mitigation Measure BIO-3b. 	Project sponsor	Prior to issuance of any grading and/or building permits	Building Division and/or Planning Division	Building Division and/or Planning Division
<p>Mitigation Measure BIO-3b: Implement Condition 12, Wetland and Pond Avoidance and Minimization, of the Santa Clara Valley Habitat Plan.</p> <p>The purpose of this condition is to minimize direct and indirect impacts to wetlands and ponds and in some cases, avoid direct and indirect impacts to high quality wetlands and ponds. Direct impacts are those that directly affect a wetland or a pond within its mapped boundary (see Section 6.8.4 Item 4: Map of Wetlands and Waters for a description of mapping direct impacts to wetlands in the Santa Clara Valley Habitat Plan). Project proponents are required to pay a wetland fee for impacts to wetlands and ponds to cover the cost of restoration or creation of aquatic land cover types required by this Plan (see Chapter 9 of the Santa Clara Valley Habitat Plan for details on this wetland fee). Covered activities can avoid paying the wetland fee if they</p>	Project sponsor	Prior to issuance of any grading and/or building permits, and during construction	Building Division and/or Planning Division	Building Division and/or Planning Division

**SANTA CLARA COUNTY HOUSING ELEMENT UPDATE AND STANFORD COMMUNITY PLAN UPDATE
MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)**

	Implemented By	When implemented	Monitored By	Verified By
<p>avoid impacts to the wetland. All project proponents will implement the following actions to avoid and minimize impacts of covered activities on wetlands and ponds.</p> <p><u>Planning Actions</u></p> <ul style="list-style-type: none"> • Projects must be designed to avoid and minimize impacts to wetlands to the maximum extent practicable. • Applicants with streams on site must follow the stream setback requirements in Condition 11. • Applicants for coverage under the Plan must follow the requirements and guidelines in Condition 3 to minimize the effects of development on downstream hydrology, streams, and wetlands. <p><u>Design</u></p> <ul style="list-style-type: none"> • Locate septic facilities, if used, at least 100 feet from the edge of a wetland or pond if space allows. • If the runoff from the development will flow within 100 feet of a wetland or pond, install vegetated stormwater filtration features, such as rain gardens, grass swales, tree box filters, or infiltration basins, to capture and treat flows. • Plant native vegetation (shrubs and small trees) between the wetland or pond and the development such that the line of sight between the wetland or pond and the development is shielded. • If during the environmental review process, it is shown that a project has adverse indirect impacts to the wetland’s function (change in hydrological functions, etc.), the project will be required to avoid these indirect effects, as determined on a case-by-case approach by the local jurisdiction, in consultation with the project proponent. Santa Clara County will coordinate avoidance measures with the project proponent. Wetlands that are not completely avoided, including indirect effects, will be considered permanently impacted and will count towards the impact caps described in Table 4-2 of the Santa Clara Valley Habitat Plan and will be assessed fees as described in Chapter 9 of the Santa Clara Valley Habitat Plan. If, however, the local jurisdiction demonstrates to the Wildlife Agencies that the wetlands to be indirectly affected are highly degraded prior to project impacts, and the Wildlife Agencies agree, impacts will not be counted toward the impact caps described in Table 4-2 of the Santa Clara Valley Habitat Plan and fees will not be assessed. “Highly degraded” wetlands could include, but are not limited to, those that are indirectly affected by surrounding development or agriculture to the extent that hydrology, water quality, or habitat for covered species is adversely affected. <p><u>Construction Actions</u></p> <ul style="list-style-type: none"> • Personnel conducting ground-disturbing activities in or adjacent to wetlands and ponds will be trained by a qualified biologist in these avoidance and minimization measures and the permit obligations of project proponents working under this Plan. • All wetlands and ponds to be avoided by covered activities will be temporarily staked in the field by a qualified biologist to ensure that construction equipment and personnel avoid these features. 				

**SANTA CLARA COUNTY HOUSING ELEMENT UPDATE AND STANFORD COMMUNITY PLAN UPDATE
MITIGATION MONITORING AND REPORTING PROGRAM (CONTINUED)**

	Implemented By	When implemented	Monitored By	Verified By
<ul style="list-style-type: none"> • Fencing will be erected along the outer edge of the project area, between the project area and a wetland or pond. The type of fencing will match the activity and impact types. For example, projects that have the potential to cause erosion will require erosion control barriers (see below), and projects that may bring more household pets to a site will be fenced to exclude pets. The temporal requirements for fencing also depend on the activity and impact type. For example, fencing for permanent impacts will be permanent, and fencing for short-term impacts will be removed after the activity is completed. • Appropriate erosion control measures (e.g., fiber rolls, filter fences, vegetative buffer strips) will be used on site to reduce siltation and runoff of contaminants into wetlands, ponds, streams, or riparian woodland/scrub. Filter fences and mesh will be of material that will not entrap reptiles and amphibians. Erosion control blankets will be used as a last resort because of their tendency to biodegrade slowly and trap reptiles and amphibians. • Erosion-control measures will be placed between the wetland or pond and the outer edge of the project site. • Fiber rolls used for erosion control will be certified as free of noxious weed seed. • Seed mixtures applied for erosion control will not contain invasive nonnative species but will rather be composed of native species appropriate for the site or sterile nonnative species. If sterile nonnative species are used for temporary erosion control, native seed mixtures must be used in subsequent treatments to provide long-term erosion control and slow colonization by invasive nonnatives. • Vehicles and equipment will be parked on pavement, existing roads, and previously disturbed areas. • Trash generated by covered activities will be promptly and properly removed from the site. • No construction or maintenance vehicles will be refueled within 200 feet of avoided wetlands and ponds unless a bermed and lined refueling area is constructed and hazardous material absorbent pads are available in the event of a spill. • All management of pest species will be conducted in compliance with the County integrated pest management (IPM) ordinance. In addition, other requirements identified in this chapter that exceed the requirements of the IPM ordinance will be implemented. • Where appropriate to control serious invasive plants, herbicides that have been approved by EPA for use in or adjacent to aquatic habitats may be used as long as label instructions are followed and applications avoid or minimize impacts on covered species and their habitats. In wetland environments, appropriate herbicides may be applied during the dry season to control nonnative invasive species (e.g., yellow star-thistle). Herbicide drift will be minimized by applying the herbicide as close to the target area as possible. Herbicides will only be applied by certified personnel in accordance with label instructions. • All organic matter should be removed from nets, traps, boots, vehicle tires and all other surfaces that have come into contact with ponds, wetlands, or potentially contaminated sediments. Items should be rinsed with clean water before leaving each study site. • Implement measures to minimize the spread of disease and non-native species based on current Wildlife Agency protocols (e.g., USFWS Revised Guidance on Site Assessments and Field Surveys for the California Red-legged Frog: Appendix B, Recommended Equipment Decontamination Procedures and other best available science. 				

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<ul style="list-style-type: none"> Used cleaning materials (liquids, etc.) should be disposed of safely, and if necessary, taken off site for proper disposal. Used disposable gloves should be retained for safe disposal in sealed bags (U.S. Fish and Wildlife Service 2005). 				
Cultural Resources				
<p>Mitigation Measure CR-1A: Identify Historical Resources. Prior to any demolition work or significant alterations to any building or structure that is 50 years old or older, the County shall ensure that a qualified architectural historian who meets the Secretary of the Interior’s Professional Qualification Standards evaluate the building or structure for eligibility for listing on the National Register, California Register, and as a County Historic Landmark.</p>	Project applicant	Prior to issuance of building permits	Building Division and/or Planning Division	Building Division and/or Planning Division
<p>Mitigation Measure CR-1B: Identify Character-Defining Features. Prior to any demolition work or significant alterations initiated at a known historical resource or a resource identified via implementation of Mitigation Measure CR-1A, the County shall ensure that a qualified architectural historian who meets the Secretary of the Interior’s Professional Qualification Standards identifies character-defining features of each historical resource. Despite being presumed or having been previously determined eligible for listing in the National Register and/or California Register, character-defining features of the historical resources that would be demolished or may be significantly altered may not have been explicitly or adequately identified. According to guidance from the National Park Service, a historical resource “must retain... the essential physical features [i.e., character-defining features] that enable it to convey its historic identity. The essential physical features are those features that define both <i>why</i> a property is significant...and <i>when</i> it was significant” (National Park Service, 1997). The identification of character-defining features is necessary for complete documentation of each historical resource as well as appropriate public interpretation and salvage plans.</p>	Project applicant	Before project approval and during environmental analysis (if applicable)	Building Division and/or Planning Division	Building Division and/or Planning Division
<p>Mitigation Measure CR-1C: Document Historical Resources Prior to Demolition or Alteration. Prior to any demolition work or significant alterations initiated of a known historical resource or a resource identified via implementation of CR-1A the County shall ensure that a qualified architectural historian who meets the Secretary of the Interior’s Professional Qualification Standards thoroughly documents each building and associated landscaping and setting. Documentation shall include still photography and a written documentary record of the building to the National Park Service’s standards of the Historic American Buildings Survey (HABS) or the Historic American Engineering Record (HAER), including accurate scaled drawings and architectural descriptions. If available, scaled architectural plans will also be included. Photos include large-format (4"x5") black-and-white negatives and 8"x10" enlargements. Digital photography may be substituted for large-format negative photography if archived locally. The record shall be accompanied by a report containing site-specific history and appropriate contextual information. This information shall be gathered through site-specific and comparative archival research and oral history collection as appropriate. Copies of the records shall be submitted to the Northwest Information Center at Sonoma State University.</p>	Project applicant	Prior to issuance of demolition permits	Building Division and/or Planning Division	Building Division and/or Planning Division

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<p>Mitigation Measure CR-2A: Cultural Resources Study Requirements.</p> <p>The County shall ensure that a cultural resources records search is performed at the Northwest Information Center (NWIC) of the California Historical Resources Information System for the project area of all discretionary housing development projects arising from the HEU that require ground disturbance (i.e., excavation, trenching, grading, etc.). To receive project approval, an archaeologist meeting the U.S. Secretary of the Interior’s Standards (SOIS) for Archeology must review the results and identify if the project would potentially impact cultural resources. Additionally, the County shall consult with California Native American tribes identified by the Native American Heritage Commission (NAHC) to be affiliated with Santa Clara County to determine if there are tribal cultural resources that may be impacted by development of housing opportunity sites or the possible future elementary school site on Stanford’s campus and allow tribes to request additional project- and site-specific mitigation.</p> <p>If the archaeologist determines that known cultural resources or potential archaeologically sensitive areas may be impacted by the project, a pedestrian survey must be conducted under the supervision of a SOIS-qualified archaeologist of all accessible portions of the project area, if one has not been completed within the previous five years. Additional research, including subsurface testing, monitoring during construction, and/or a cultural resources awareness training may be required to identify, evaluate, and mitigate impacts to cultural resources, as recommended by the SOIS-qualified archaeologist. If avoidance is not feasible, the County shall consult with California Native American tribes identified by the Native American Heritage Commission (NAHC) to be affiliated with Santa Clara County for the purposes of tribal consultation under Chapter 905, California Statutes of 2004 (if the resource is pre-contact or indigenous) to determine treatment measures to avoid, minimize, or mitigate any potential impacts to the resource pursuant to PRC Section 21083.2 and CEQA Guidelines Section 15126.4. This shall include documentation of the resource and may include data recovery (according to PRC Section 21083.2), if deemed appropriate, or other actions such as treating the resource with culturally appropriate dignity and protecting the cultural character and integrity of the resource (according to PRC Section 21084.3). A cultural report detailing the results of the research shall be prepared and submitted for review by the County and a final draft shall be submitted to the NWIC. Once the report has been approved by the County, the County may issue appropriate permits.</p>	Project applicant	Prior to issuance of any grading or building permits and during construction	Building Division and/or Planning Division	Building Division and/or Planning Division
<p>Mitigation Measure CR-2B: Inadvertent Discovery of Cultural Resources.</p> <p>If pre-contact or historic-era archaeological resources are encountered during project construction and implementation, all construction activities within 100 feet shall halt and the County shall be notified. Pre-contact archaeological materials might include obsidian and chert flaked-stone tools (e.g., projectile points, knives, scrapers) or toolmaking debris; culturally darkened soil (“midden”) containing heat-affected rocks, artifacts, or shellfish remains; and stone milling equipment (e.g., mortars, pestles, handstones, or milling slabs); and battered stone tools, such as hammerstones and pitted stones. Historic-age materials might include stone, concrete, or adobe footings and walls; filled wells or privies; and deposits of metal, glass, and/or ceramic refuse. An archaeologist meeting the U.S. Secretary of the Interior’s Standards (SOIS) for Archeology shall inspect the findings within 24 hours of discovery.</p> <p>If the County determines that the resource qualifies as a historical resource or a unique archaeological resource (as defined pursuant to the CEQA Guidelines) and that the project has potential to damage or destroy the resource, mitigation shall be implemented in accordance with</p>	Project applicant	During construction	Building Division and/or Planning Division	Building Division and/or Planning Division

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<p>PRC Section 21083.2 and CEQA Guidelines Section 15126.4, with a preference for preservation in place. If preservation in place is feasible, this may be accomplished through one of the following means as per Program LU-22.1.6 of the General Plan: (1) siting improvements to completely avoid the archaeological resource; (2) incorporating the resource into a park or dedicated open space, or by deeding the resource into a permanent conservation easement; (3) capping and covering the resource before building the project on the resource site after the resource has been thoroughly studied by a SOIS qualified archaeologist and a report written on the findings.</p> <p>If avoidance is not feasible, the County shall consult with appropriate Native American tribes (if the resource is pre-contact), and other appropriate interested parties to determine treatment measures to avoid, minimize, or mitigate any potential impacts to the resource pursuant to PRC Section 21083.2, and CEQA Guidelines Section 15126.4. This shall include documentation of the resource and may include data recovery (according to PRC Section 21083.2), if deemed appropriate, or other actions such as treating the resource with culturally appropriate dignity and protecting the cultural character and integrity of the resource (according to PRC Section 21084.3).</p>				
<p>Mitigation Measure CR-3: Inadvertent Discovery of Human Remains.</p> <p>Procedures of conduct following the discovery of human remains have been mandated by Health and Safety Code Section 7050.5, Public Resources Code Section 5097.98 and the California Code of Regulations Section 15064.5 (CEQA). According to the provisions in CEQA, if human remains are encountered, the Project applicant shall ensure that all work in the immediate vicinity of the discovery shall cease and necessary steps are taken to ensure the integrity of the immediate area. The Santa Clara County Coroner shall be notified immediately. The Coroner shall then determine whether the remains are Native American. If the Coroner determines the remains are Native American, the Coroner shall notify the NAHC within 24 hours, who will, in turn, notify the person the NAHC identifies as the Most Likely Descendant (MLD) of any human remains. Further actions shall be determined, in part, by the desires of the MLD. The MLD has 48 hours to make recommendations regarding the disposition of the remains following notification from the NAHC of the discovery. If the MLD does not make recommendations within 48 hours, the landowner shall, with appropriate dignity, reinter the remains in an area of the property secure from further disturbance.</p>	Project applicant	During construction	Building Division and/or Planning Division	Building Division and/or Planning Division
Geology, Soils, and Paleontological Resources				
<p>Mitigation Measure GEO-1: Determination of Paleontological Potential.</p> <p>Prior to issuance of a grading permit for any project that requires ground disturbance (i.e., excavation, grading, trenching, etc.) in previously undisturbed deposits of Holocene-age alluvium and Pleistocene-age alluvium below a depth of six feet, the project will undergo a CEQA-level analysis to determine the potential for a project to encounter significant paleontological resources, based on a review of site-specific geology and the extent of ground disturbance associated with each project. The analysis shall include but would not be limited to: 1) a paleontological records search, 2) geologic map review, and 3) peer-reviewed scientific literature review.</p> <p>If it is determined that a site has the potential to disturb or destroy significant paleontological resources, a professional paleontologist (meeting the Society of Vertebrate Paleontology [SVP]</p>	Project applicant	Prior to issuance of any grading or building permits, and during construction	Building Division and/or Planning Division	Building Division and/or Planning Division

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standards), will be retained to recommend appropriate mitigation to reduce or avoid significant impacts to paleontological resources, based on project-specific information. Such measures could include but would not be limited to: 1) preconstruction worker awareness training, 2) paleontological resource monitoring, and 3) salvage of significant paleontological resources.				
Greenhouse Gas Emissions				
<p>Mitigation Measure GHG-1: Require implementation of most recent CALGreen Tier 2 standards for EV infrastructure.</p> <p>Subsequent housing development projects facilitated by the project shall comply with EV charging requirements in the most recently adopted version of CALGreen Tier 2 at the time that a building permit application is filed.</p>	Project applicant	When the first grading or building permit application is filed	Building Division and/or Planning Division	Building Division and/or Planning Division
Hazards and Hazardous Materials				
<p>Mitigation Measure HAZ-1, Conduct Phase I Environmental Site Assessment</p> <p>Prior to development on any project site, the project applicant shall conduct a Phase I Environmental Site Assessment in general accordance with the current version of ASTM 1527 <i>Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process</i>. This Standard requires checking regulatory agency databases such as the SWRCB GeoTracker and DTSC EnviroStor websites for the status of hazardous waste sites and landfill investigations and cleanups at the time of the proposed development, visually inspecting sites for hazardous materials, and interviewing persons knowledgeable about the site regarding hazardous materials use. The results of the Phase I assessment may indicate the potential or actual presence of hazardous materials, which would require subsequent investigations and cleanups. These investigations and cleanups would be required to comply with the regulatory requirements summarized in the Regulatory Setting.</p>	Project applicant	Prior to issuance of any grading or building permits	Building Division and/or Planning Division	Building Division and/or Planning Division
<p>Mitigation Measure HAZ-2: Health and Safety Plan</p> <p>Before the start of ground-disturbing activities, including grading, trenching, or excavation, or structure demolition on any project site, the project applicant shall require that construction contractor(s) retain a qualified professional to prepare a site-specific health and safety plan (HASP) in accordance with federal Occupational Safety and Health Administration regulations (29 CFR 1910.120) and California Occupational Safety and Health Administration regulations (8 CCR Section 5192).</p> <p>The HASP shall be implemented by the construction contractor(s) to protect construction workers, the public, and the environment during all ground-disturbing and construction activities. HASPs shall be submitted to the County of Santa Clara Department of Environmental Health for review before the start of demolition and construction activities and as a condition of the grading, construction, and/or demolition permit(s). The HASP shall include, but not be limited to, the following elements:</p> <p>Designation of a trained, experienced site safety and health supervisor who has the responsibility and authority to develop and implement the site HASP.</p> <ul style="list-style-type: none"> • A summary of all potential risks to demolition and construction workers and maximum exposure limits for all known and reasonably foreseeable site chemicals. • Specified personal protective equipment and decontamination procedures, if needed. 	Project applicant	Prior to issuance of any grading or building permits	Building Division and/or Planning Division	Building Division and/or Planning Division

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<ul style="list-style-type: none"> The requirement to prepare documentation showing that HASP measures have been implemented during construction (e.g., tailgate safety meeting notes with sign-up sheet for attendees). A requirement specifying that any site worker who identifies hazardous materials has the authority to stop work and notify the site safety and health supervisor. Emergency procedures, including the route to the nearest hospital. Procedures to follow if evidence of potential soil or groundwater contamination is encountered (such as soil staining, noxious odors, debris or buried storage containers). These procedures shall be followed in accordance with hazardous waste operations regulations and specifically include, but not be limited to, immediately stopping work in the vicinity of the unknown hazardous materials release; notifying the County and retaining a qualified environmental firm to perform sampling and remediation. 				
<p>Mitigation Measure HAZ-3: Site Management Plan</p> <p>In support of the HASP described in Mitigation Measure HAZ-2, the project applicant for the specific work proposed shall require that contractor(s) develops and implements a site management plan (SMP) for the management of soil, soil gas, and groundwater before any ground-disturbing activity for properties with known or suspected contamination. The SMP shall include the following, at a minimum:</p> <ul style="list-style-type: none"> Site description, including the hazardous materials that may be encountered. Roles and responsibilities of onsite workers, supervisors, and the regulatory agency. Training for site workers focused on the recognition of and response to encountering hazardous materials. Protocols for the materials (soil and dewatering effluent) testing, handling, removing, transporting, and disposing of all excavated materials and dewatering effluent in a safe, appropriate, and lawful manner. Reporting requirement to the County of Santa Clara Department of Environmental Health, documenting that site activities were conducted in accordance with the SMP. The SMP shall be submitted to the County of Santa Clara Department of Environmental Health for review before the start of demolition and construction activities and as a condition of the grading, construction, and/or demolition permit(s). The contract specifications shall mandate full compliance with all applicable federal, state, and local regulations. 	Project sponsor	Prior to issuance of any grading or building permits, and during construction	Building Division and/or Planning Division & Dept. of Environmental Health	Building Division and/or Planning Division & Dept. of Environmental Health
Hydrology and Water Quality				
<p>Mitigation Measure 4.9-1, Stanford Well Review:</p> <p>Prior to issuance of a demolition or building permit, Stanford shall review its historic wells survey to determine the potential for encountering any groundwater wells within the area of proposed improvements and confirm that no historic wells not properly closed are located at the location of the proposed development. If discovered, and the well is no longer part of operations and was not abandoned in accordance with applicable requirements, Stanford shall fulfill the applicable well abandonment/destruction permit requirements. Stanford shall contact the applicable regulatory agency to locate existing inactive wells and confirm adherence to well abandonment/destruction requirements.</p>	Project applicant	Prior to issuance of any building or grading permits	Planning Division	Planning Division

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Noise and Vibration				
<p>Mitigation Measure NOI-1: Best Management Practices for Construction Noise Control. Noise Control. Require contractors to implement noise controls for on-site activities and describe measures that shall be implemented to reduce the potential for noise disturbance at adjacent or nearby residences. Noise control measures required by the specification include:</p> <ul style="list-style-type: none"> • Contractor is responsible for taking appropriate measures, including muffling of equipment, selecting quieter equipment, erecting noise barriers, modifying work operations, and other measures to bring construction noise into compliance. • Each internal combustion engine used for any purpose on the job or related to the job, shall be equipped with a muffler of a type recommended by the manufacturer. No internal combustion engine shall be operated on the project without said muffler. • Best available noise control techniques (including mufflers, intake silencers, ducts, engine enclosures, and acoustically attenuating shields or shrouds) shall be used for all equipment and trucks. • Stationary noise sources (e.g., chippers, grinders, compressors) shall be located as far from sensitive receptors as possible. If they must be located near receptors, adequate muffling (with enclosures) shall be used. Enclosure opening or venting shall face away from sensitive receptors. Enclosures shall be designed by a registered engineer regularly involved in noise control analysis and design. • Material stockpiles as well as maintenance/equipment staging and parking areas (all on site) shall be located as far as practicable from residential receptors. • If impact equipment (e.g., jack hammers, pavement breakers, and rock drills) is used, the contractor is responsible for taking appropriate measures, including but not limited to the following: <ul style="list-style-type: none"> – Hydraulically or electric-powered equipment shall be used wherever feasible to avoid the noise associated with compressed-air exhaust from pneumatically powered tools. However, where the use of pneumatically powered tools is unavoidable, an exhaust muffler on the compressed-air exhaust shall be used (a muffler can lower noise levels from the exhaust by up to about 10 dB). External jackets on the tools themselves shall be used, where feasible, which could achieve a reduction of 5 dB. Quieter procedures, such as drilling rather than impact equipment, will be used whenever feasible. It is the contractor's responsibility to implement any mitigations necessary to meet applicable noise requirements. – Impact construction including jackhammers, hydraulic backhoe, concrete crushing/ recycling activities, and vibratory pile drivers will be limited to between 8:00 a.m. and 4:00 p.m., Monday through Friday, within residential communities, and will be limited in duration to the maximum extent feasible. 	Project applicant	Prior to issuance of any building or grading permits, and during construction	Building Division and/or Planning Division	Building Division and/or Planning Division
<p>NOI-2: Noise Control for Pile Installation Activities. When pile driving would occur within 300 feet of a noise-sensitive receptor, implement "quiet" pile-driving technology (such as pre-drilling of piles, sonic pile drivers, auger cast-in-place, or drilled-displacement), where feasible, in consideration of geotechnical and structural requirements and conditions.</p>	Project applicant	Prior to issuance of any building or grading permits, and during construction	Building Division and/or Planning Division	Building Division and/or Planning Division

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<ul style="list-style-type: none"> Where the use of driven impact piles cannot be avoided, properly fit impact pile driving equipment with an intake and exhaust muffler and a sound-attenuating shroud, as specified by the manufacturer. Limit pile driving activities to weekdays from 9:00 a.m. to 4:00 p.m. if occurring within 500 feet of a noise-sensitive receptor. Notify neighboring noise-sensitive receptors within 500 feet of a PMA construction area at least 30 days in advance of high-intensity noise-generating activities (e.g., well drilling, pile driving, and other activities that may generate noise levels greater than 90 dBA at noise sensitive receptors) about the estimated duration of the activity. 				
Transportation				
<p>Mitigation Measure TRANS: Implement VMT Reduction Measures.</p> <p>Individual multifamily housing development proposals that are not exempt from CEQA or VMT impact analysis shall be required to provide a quantitative VMT analysis using the methodology specified by the County (or annexing city). Projects that would result in a significant VMT impact shall include travel demand management measures and/or physical measures (i.e. improving multimodal transportation network, improving street connectivity) to reduce VMT, including but not limited to the measures below, which have been identified as potentially VMT reducing in the California Air Pollution Control Officers Association (CAPCOA) Handbook for Analyzing Greenhouse Gas Emission Reductions, Assessing Climate Vulnerabilities, and Advancing Health and Equity (December 2021). Potential VMT reduction estimates are included below, but detailed requirements, calculation steps, and limitations are described in the CAPCOA Handbook.</p> <ul style="list-style-type: none"> Unbundle parking costs (i.e., sell or lease parking separately from the housing unit). Effectiveness: up to 15.7 percent reduction in GHG from VMT per the CAPCOA Handbook. Provide car-sharing, bike-sharing, or scooter-sharing programs. Effectiveness: 0.15 – 0.18 percent reduction in GHG from VMT for car share, 0.02 – 0.06 percent for bike-share, and 0.07 percent for scooter-share, per the CAPCOA Handbook. The higher car-share and bike-share values are for electric car and bike-share programs. Subsidize transit passes for residents of affordable housing. Effectiveness: up to 5.5 percent reduction in GHG from VMT per the CAPCOA Handbook. 	Project applicant	Prior to project approval	Planning Division	Planning Division

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