

CHAPTER 4 COMMENTS RECEIVED ON THE DRAFT SEIR-2

4.1 PUBLIC REVIEW OF THE DRAFT SEIR-2

The Santa Clara Valley Transportation Authority (VTA) received comments from the public and agencies on the Draft 2nd Supplemental Environmental Impact Report (SEIR-2) in a variety of ways including:

- Written (i.e., post mail, facsimile, or e-mail) comment letters from public agencies received during the public comment period
- Written public comment letters from individuals, including, but not limited to, local residents and property owners, during the public comment period
- Oral comments recorded during the Public Hearing on December 9, 2010

This section presents all written and oral comments received on the Draft SEIR-2 and VTA's response to each substantive comment on environmental issues.

Table 4-1 on the following page lists all commenters who provided comments on the Draft SEIR-2. The comments are organized by state, regional, and local agency comments; public comments; and oral comments recorded on the transcript from the public hearing.

Each comment letter is reproduced in its entirety, including any supplemental material, and followed by VTA's response to each comment in the letter.

Table 4-1 List of Commenters

Number	Date of Comment	Commenter
State Agencies		
S-1	November 30, 2010	Caltrans – District 4
S-2	December 7, 2010	California Transportation Commission
S-3	December 17, 2010	Department of Transportation – Federal Grants/Rail Coordination
S-4	December 17, 2010	Governor’s Office of Planning and Research
S-5	December 21, 2010	Governor’s Office of Planning and Research
Regional Agencies		
R-1	November 9, 2010	County of Santa Clara
R-2	November 29, 2010	Stanislaus County
R-3	December 14, 2010	Santa Clara County Roads and Airports Department
Local Agencies		
L-1	December 17, 2010	City of Santa Clara
L-2	December 17, 2010	City of Milpitas
L-3	December 16, 2010	City of Sunnyvale
Public		
P-1	November 5, 2010	Coby Zeifman
P-2	November 5, 2010	Coby Zeifman
P-3	November 7, 2010	Saiyanna Charitou
P-4	November 30, 2010	Fredrick Schermer
P-5	December 8, 2010	Albert Reavis
P-6	December 8, 2010	Nancy M. Ashman
P-7	December 17, 2010	Stan Herzstein
P-8	December 17, 2010	Frank J. De Smidt
P-9	December 17, 2010	J. Michelle Hickey
Transcript		
T1	December 9, 2010	Public Hearing

Source: CirclePoint, 2011.

LETTER S-1

Swan, Samantha

From: Swan, Samantha
Sent: Tuesday, November 30, 2010 1:53 PM
To: BARTSV-SEIR2
Subject: FW: BART at Milpitas

Spam: 0

From: Fredrick Schermer [mailto:fredrick_schermer@dot.ca.gov]
Sent: Tuesday, November 30, 2010 9:11 AM
To: Fitzwater, Tom
Cc: Katie Benouar; Paul Svedersky
Subject: RE: BART at Milpitas

Tom,

Thank you very much for that clarification. Here is the Caltrans System Planning comment for the CEQA Draft 2nd Supplemental EIR for the Bart Extension.

The lack of escalators between BART and VTA light rail at Milpitas (or the lack of escalators between at-grade level and the VTA light rail station) will attract fewer people out of their cars than potentially possible with this expensive BART extension. System Planning expects larger number of car users to remain on its freeways and on local roads because of the not-optimal transfer situation at the BART/VTA Milpitas stations. AB 32, SB 375, and Sustainable Community Strategy policies support a more integrated society, and this is one of the most important transportation nodes to be built in the next few years.

S-1.1

S-1.2

VTA in particular appears not aware of the opportunity it is presented with. Also, VTA has not yet investigated adding a light-rail line service from Milpitas to Mountain View (providing service to the Golden Triangle), an omission. It appears that VTA followed a single path of a nonlinear kind instead of investigating all possible paths and choosing the one with the best economic outcomes. Yet BART should have demanded standard transfer facilities from VTA as well, since this will undermine their revenue stream, making it perform less than expected.

S-1.3

Best regards,

Fredrick Schermer
Office of System Planning
Caltrans - District 4
Phone: 1(510)286-5557
Fax: 1(510)286-5513

RESPONSE TO COMMENT LETTER S-1

Caltrans – District 4

- S-1.1 BART Silicon Valley facilities are being designed to accommodate 2030 ridership projections that are based on the Association of Bay Area Governments (ABAG) land use projections, meet BART Facilities Standards, and have been reviewed extensively, and accepted by the Federal Transit Administration (FTA). However, the feasibility of providing an escalator connection from BART to the light rail connection may be considered through the final design phase of the design-build contract.
- S-1.2 New linked transit trips of more than 27,000 will be diverted from non-transit modes (primarily auto) as a result of Phase 1 of BART Silicon Valley. The Milpitas Station location was chosen to facilitate transfer to VTA's light rail system. Additionally, the planned Milpitas BART Station is the center of the City of Milpitas' Transit Area Specific Plan, which is anticipated to transform formerly zoned industrial lands into a high-density transit oriented development district.

Subsection 4.2.4.1 under the headings “Intercounty Movements: Santa Clara County-Alameda County Screenline Volumes” and “New Linked Transit Trips (“New Riders”)” on pages 4.2-16 and 4.2-17 of the Draft SEIR-2 has been revised as follows to provide clarifying text regarding new linked transit trips. A new **Table 4.2-12** has also been added.

Intercounty Movements: Santa Clara County-Alameda County Screenline Volumes

An important movement in the SVRTC is intercounty travel, primarily between Santa Clara and Alameda counties. Santa Clara County, being job-rich, tends to draw commuters from adjacent counties, with the highest volumes coming from Alameda County. Phase 1 would make intercounty commuting on transit more attractive.

~~New Linked Transit Trips (“New Riders”)~~

Table 4.2-11 summarizes estimated transit ridership in 2030 on transit services offering connections between Santa Clara County and southern Alameda County under both the 2030 No Project conditions and Phase 1. Transit services used for this comparison include “Valley” express buses destined to/from Santa Clara County, VTA express buses, VTA light

rail, ACE, and BART. Approximately 25,000 riders would cross the county line on intercity transit services on the typical weekday in 2030 in order to access work, home or other locations in Santa Clara County under the 2030 No Project conditions. The number would increase to over 53,000 following implementation of BART service provided by Phase 1, which represents more than a 100 percent increase in intercounty trips made on transit. Many of these trips represent auto trips on congested I-880 and I-680 that are diverted to BART.

Table 4.2-11: Total Weekday Transit Trips Crossing Santa Clara County-Alameda County Line in 2030

Performance Measure	2030 No Project Conditions	Phase 1
Weekday Transit Trips Across Screenline	24,727	53,383
Change from 2030 No Project Conditions	NA	28,656

Source: Travel Demand Forecasts, Hexagon Transportation Consultants, Inc., February 2008.

New Linked Transit Trips (“New Riders”)

Table 4.2-12 compares the year 2030 transit ridership forecasts for the No Project condition and Phase 1 in terms of new linked transit trips. Linked transit trips exclude transfer boardings so that a transit rider who uses more than one transit line or mode is counted only as one trip. New linked transit trips are primarily trips that are diverted from the automobile, but can include trips previously made on other non-transit modes (pedestrian and bicycle) or trips that are entirely new.

Phase 1 would generate a considerable number of new linked transit trips, approximately 27,135 on the average weekday. The row labeled “Weekday Boardings: All Operators in Area” represents total daily linked transit ridership for all the transit operators within the modeled area, including transit users coming over the Altamont Pass on either ACE trains or express buses.

Table 4.2-12: Total Weekday Boardings and New Linked Transit Trips in 2030

<u>Performance Measure</u>	<u>No Project Condition</u>	<u>Phase 1</u>
<u>Weekday Boardings: All Operators in Area^a</u>	<u>2,116,784</u>	<u>2,143,919</u>
<u>New Linked Transit Trips^b</u>	<u>NA</u>	<u>27,135</u>

^a Includes total daily transit boardings for the all transit operators within the modeled area, including transit users coming over the Altamont Pass on either ACE or express buses.

^b Linked transit trips exclude transfer boardings, they are diverted almost entirely from auto trips and represent new riders on transit.

Source: Travel Demand Forecasts, Hexagon Transportation Consultants, Inc., February 2008.

This text revision is also shown in **Chapter 5, Draft SEIR-2 Errata**, of this Final SEIR-2.

S-1.3

In May 2010, VTA completed the Light Rail System Analysis, a two-year study that provided a comprehensive evaluation of the light rail system’s effectiveness in meeting present and future market needs. The analysis identified recommended improvements for the system over the next 20 years in two-phases. Phase 2 is designed to complement the introduction of BART service to East San Jose in 2018, introducing a new line operating from Mountain View to Alum Rock along the Tasman/Capitol corridor.

LETTER S-2

JAMES EARP, Chair
DARIO FROMMER, Vice Chair
BOB ALVARADO
DARIUS ASSEMI
JOHN CHALKER
LUCETTA DUNN
JAMES C. GHIEMMETTI
CARL GUARDINO
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STATE OF CALIFORNIA

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GOVERNOR



SENATOR ALAN LOWENTHAL, Ex Officio
ASSEMBLY MEMBER BONNIE LOWENTHAL, Ex Officio

BIMLA G. RHINEHART, Executive Director

CALIFORNIA TRANSPORTATION COMMISSION

1120 N STREET, MS-52
P. O. BOX 942873
SACRAMENTO, 94273-0001
FAX (916) 653-2134
(916) 654-4245
<http://www.catc.ca.gov>

December 7, 2010

Mr. Thomas W. Fitzwater
Manager, Environmental Programs and Resources Management
Santa Clara Valley Transportation Authority
3331 North First Street
San Jose, CA 95134-1927

RE: Draft 2nd Supplemental Environmental Impact Report – BART Silicon Valley- Phase 1,
Berryessa Extension

Dear Mr. Fitzwater,

The California Transportation Commission (Commission) received the Draft 2nd Supplemental Environmental Impact Report (SEIR) prepared by the Santa Clara Valley Transportation Authority (VTA) for the BART Silicon Valley- Phase 1 Berryessa Extension Project (Phase 1) in Santa Clara County. It is our understanding that the 2nd Draft SEIR was prepared as a result of project design, regulatory and environmental changes that have occurred since the June 2007 certification of the 1st Final SEIR.

S-2.1

As you are aware, at the July 2009 Commission meeting, the Commission took action to consider the environmental impacts of the BART Silicon Valley Rapid Transit Corridor Project (SVRT) and approved the SVRT for future consideration of funding. While action was taken to approve the SVRT for future consideration of funding, given that the 1st Final SEIR is no longer valid for Phases 1 and 2 of the SVRT, the Commission should be notified as soon as the environmental process is complete for each SVRT Phase since the Commission cannot allocate funds to a project for design, right of way or construction until the final environmental document is complete and the Commission has considered the environmental impacts of the project and approved the environmentally cleared project for future consideration of funding.

S-2.2

The Commission has no comments with respect to the purpose and need for Phase 1, the alternatives to be studied, the impacts to be evaluated and the evaluation methods to be used. However, to date the Commission has allocated more than \$489 million for environmental and

S-2.3

Mr. Fitzwater
December 7, 2010
Page 2 of 2

- S-2.3, cont. | design work for the SVRT. Since the SVRT is now proposed to be constructed in two phases and additional environmental work is required for Phases I and II, VTA should:
- Provide a summary for the Commission of the environmental and design costs incurred to date and projected for each Phase as well as the nature of secured/unsecured funding.
 - Work with Caltrans to bring forward a TCRP program amendment for Commission approval that separately identifies the funding and schedule for programming Phases 1 and 2.
 - Notify the Commission upon completion of the Final SEIRs for Phases 1 and 2 in order for the Commission to consider the environmental impacts and approve each Phase for future consideration of funding.

S-2.6 | Please be aware that upon completion of the CEQA process, prior to the Commission's action to approve the project for future consideration of funding, the Commission expects the lead and/or implementing agency to provide written assurance whether the selected alternative identified in the final environmental document is or is not consistent with the project programmed by the Commission and included in the Regional Transportation Plan. In the absence of such assurance of consistency, it may be assumed that the project is not consistent and Commission staff will base its recommendations to the Commission on that fact. The Commission may deny funding to a project which is no longer eligible for funding due to scope modifications or other reasons.

If you have any questions, please contact Susan Bransen, Associate Deputy Director, at (916) 653-2082.

Sincerely,


BIMLA G. RHINEHART
Executive Director

c: Michael T. Burns, General Manager, VTA
Carolyn Gonot, SVRT Program Manager, VTA
Pedro Guzman, Principal Transportation Planner, VTA
Bijan Sartipi, District 4 Director, Caltrans
Rachel Falsetti, Chief, Transportation Programming, Caltrans
Jay Norvell, Chief, Environmental Analysis Division, Caltrans

RESPONSE TO COMMENT LETTER S-2

California Transportation Commission

- S-2.1 The commenter is correct in their understanding of the SEIR-2. This SEIR-2 updates information presented in the *2004 BART Extension to Milpitas, San Jose, and Santa Clara Final Environmental Impact Report* (FEIR), the *2007 BART Extension to Milpitas, San Jose, and Santa Clara Draft and Final Supplemental Environmental Impact Reports* (SEIR-1). Information presented in the FEIR was based on approximately 10 percent design plans and information presented in the SEIR-1 was based on approximately 35 percent design plans. The information presented in this SEIR-2 incorporates approximately 65 percent design plans and associated design changes and provides updates to the existing conditions and regulatory environment since preparation of the previous BART Silicon Valley California Environmental Quality Act (CEQA) documents.
- S-2.2 The FEIR and SEIR-1 are still valid for the full BART extension to Santa Clara. The Draft SEIR-2 identified the changes to the project since certification of the SEIR-1 in 2007 and disclosed the environmental impacts associated with these changes for Phase 1 only. The California Transportation Commission will be notified of all supplemental environmental documents related to BART Silicon Valley.
- S-2.3 VTA sincerely appreciates the California Transportation Commission's support of the Silicon Valley Rapid Transit (SVRT) program. VTA is in the process of preparing financial material in response to this request and will be providing this to California Transportation Commission staff as required.
- S-2.4 VTA is working with Caltrans and California Transportation Commission staff to bring forward a Traffic Congestion Relief Program (TCRP) amendment separately identifying funding and scheduling for Phase 1 and Phase 2. The amendment process will be completed by mid-2011.
- S-2.5 This Final SEIR-2 is scheduled to go to the VTA Board of Directors (VTA Board) for their consideration on March 3, 2011. A 3rd Supplemental EIR to address project changes as a result of future phasing is planned to begin in 2012.

S-2.6 VTA will provide assurance that the selected alternative is consistent with the project programmed by the Commission and is included in the Regional Transportation Plan (RTP).

LETTER S-3

Sent By: CALTRANS TRANSPORTATIO PLANNING; 510 286 5560;

Dec-17-10 3:59PM

Page 1/2

STATE OF CALIFORNIA — BUSINESS, TRANSPORTATION AND HOUSING AGENCY
VTA ENV. PROGRAMS & RESOURCES

ARNOLD R. SCHWARZENEGGER, Governor

DEPARTMENT OF TRANSPORTATION MGMT.

111 GRAND AVENUE
P. O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 286-6536
FAX (510) 286-6559
TTY 711

2010 DEC 17 PM 4 48



Flux your power!
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December 17, 2010

SCL000147
SCH#2002022004

Mr. Tom Fitzwater
VTA Environmental Planning, Building B
3331 North First Street
San Jose, CA 95134-1927

Dear Mr. Fitzwater:

Draft 2nd Supplemental Environmental Impact Report for Bart Silicon Valley Phase 1-Berryessa Extension

Thank you for including the California Department of Transportation (Department) in the environmental review process for the BART Silicon Valley Phase 1-Berryessa Extension. The following comments are based on the Draft 2nd Supplemental Environmental Impact Report. As lead agency, the Santa Clara Valley Transportation Authority is responsible for all project mitigation, including any needed improvements to State highways. The project's fair share contribution, financing, scheduling, and implementation responsibilities as well as lead agency monitoring should be fully discussed for all proposed mitigation measures and the project's traffic mitigation fees should be specifically identified in the environmental document. Any required roadway improvements should be completed prior to issuance of project occupancy permits. An encroachment permit is required when the project involves work in the state's right of way (ROW). The Department will not issue an encroachment permit until our concerns are adequately addressed. Therefore, we strongly recommend that the lead agency ensure resolution of the Department's California Environmental Quality Act (CEQA) concerns prior to submittal of the encroachment permit application.

S-3.1

Highway Operation:

In section 4.2, please show the level of service (LOS) in table format for all studied intersections and freeways for the existing, projected, future 2030, and mitigated conditions for the Berryessa and Milpitas Stations. Please provide existing traffic volumes and turning movements for all studied intersections. Include the proposed mitigation measures to address the LOS issues. Please conduct a station area operational analysis to determine the effect of vehicular traffic access to the proposed BART stations.

S-3.2

Page 4.2-36, paragraph 4 indicates that three of the 48 study intersections currently operate at an unacceptable LOS. However, Table 4.2-18 only refers to two intersections. Please clarify.

S-3.3

Please identify Mission Boulevard as State Route 262.

S-3.4

"Caltrans improves mobility across California"

Sent By: CALTRANS TRANSPORTATIO PLANNING; 510 286 5500;

Dec-17-10 3:59PM;

Page 2/2

Mr. Tom Fitzwater, VTA Environmental Planning
December 17, 2010
Page 2

S-3.5

Pedestrian and Bicycle Issues:

In order to improve pedestrian and bicycle access to the Berryessa Station and reduce vehicle trips on U.S. 101 and Interstate 880, BART should work with the City of San Jose to provide pathway connections to cul-de-sacs within housing developments in the vicinity of the station.

We look forward to continuing to work with you on this project. Should you have any questions regarding this letter please contact me at 510-286-5536.

Sincerely,



for BECKY FRANK
District Branch Chief
Federal Grants / Rail Coordination

c: State Clearinghouse

"Caltrans improves mobility across California"

RESPONSE TO COMMENT LETTER S-3

Caltrans – Federal Grants/Rail Coordination

S-3.1 **Section 4.2, Transportation**, of the Draft SEIR-2 includes mitigation measures that require the payment of a fair share amount toward the implementation of required roadway improvements. VTA will coordinate with the appropriate city or county agencies during the final design phase of Phase 1 to define the specific contribution, financing, and scheduling for the fair share contributions.

In regards to the encroachment permit, **Table 6-1** on page 6-14 of the Draft SEIR-2 documents that an encroachment permit would be required from the California Department of Transportation for construction activities or traffic control within the State right-of-way (ROW).

S-3.2 Two Transportation Impact Analysis (TIA) reports were prepared for BART Silicon Valley that included an evaluation of traffic conditions with Phase 1 on the surrounding transportation network. The Milpitas BART Station TIA (December 2008) evaluated the specific traffic impacts associated with the proposed Milpitas Station, while the San Jose BART Stations TIA (December 2008) considered the impacts of the proposed Berryessa Station. These TIAs are incorporated into the Draft SEIR-2 by reference and the citations are listed in **Chapter 10, Bibliography**, on page 10-1 of the Draft SEIR-2.

Both TIAs include tables that identify the existing 2030 Phase 1 and mitigated level of service (LOS) conditions. Traffic volumes and turning movements for all of the studied intersections and freeway segments are also identified. Table 14 on pages 64 and 65 of the Milpitas BART Station TIA shows the traffic conditions for the Milpitas Station under the 2030 Phase 1 With Improvements condition (formerly titled the Berryessa Extension Project (BEP) Alternative). Table 24 on pages 99 and 100 of the San Jose BART Stations TIA shows the traffic conditions for the Berryessa Station under the 2030 Phase 1 With Improvements condition. These TIAs are available for review upon request at the VTA Offices, located at 3331 North First Street, in San Jose.

Subsection 4.2.7 on pages 4.2-30 through 4.2-75 of the Draft SEIR-2 provides a summary of the conclusions from these TIAs that have been incorporated by reference. Specifically, pages 4.2-58 and 4.2-59 of the Draft SEIR-2 provide a summary of the TIAs

and consider the station access and circulation impacts at the proposed Milpitas and Berryessa stations. All roadways within each station would be constructed to accommodate the projected year 2030 traffic volumes and operate at acceptable LOS.

- S-3.3 The fourth paragraph on page 4.2-36 of the Draft SEIR-2 incorrectly states that 3 of the 48 study intersections currently operate at an unacceptable LOS during at least one of the peak hours. **Table 4.2-18** on page 4.2-36 of the Draft SEIR-2 correctly shows that only 2 of the 48 study intersections (near the Milpitas Station) currently operate at an unacceptable LOS. The text in the fourth paragraph on page 4.2-36 of the Draft SEIR-2 has been revised as follows:

The results of the intersection level of service analysis under existing conditions for the proposed BART Stations is summarized in **Table 4.2-18**. The results show that ~~3~~2 of the 48 study intersections currently operate at an unacceptable level of service (LOS E or F for local intersections and LOS F for CMP intersections) during at least one of the peak hours. CMP intersections are denoted with an asterisk (*). The results are described by proposed station area.

This text revision is also shown in **Chapter 5, Draft SEIR-2 Errata**, of this Final SEIR-2.

- S-3.4 This Final SEIR-2 amends **Section 4.2, Transportation**, of the Draft SEIR-2 to refer to Mission Boulevard as State Route 262.

The first paragraph in **subsection 4.2.2.2** on page 4.2-2 of the Draft SEIR-2 has been revised as follows:

Phase 1 does not include any changes to local streets or intersections that could create a design hazard. All roadway geometrics and BART alignment features have been designed to conform with applicable city, county, or Caltrans standards and would therefore meet the necessary design safety requirements. Further, any modifications to the existing Union Pacific Railroad (UPRR) freight crossings with local roadways have been designed in accordance with the California Public Utilities Commission (CPUC) standards and will be subject to CPUC approval prior to construction. There are three existing at grade UPRR crossings with local roadways along the Phase 1 alignment: Mission Boulevard (**State Route 262**), Kato Road, and Dixon Landing Road.

The Mission Boulevard (**State Route 262**) and Kato Road **UPRR** crossings will be grade separated by other agencies. Depending on the option selected for the Dixon Landing Road Alignment per Design Change 87, the existing UPRR crossing **at Dixon Landing Road** would either remain at grade or would be grade separated. **The Retained Cut Option has been selected as the preferred alignment where the UPRR crossing at Dixon Landing Road would remain at grade.** Therefore, Phase 1 would not substantially increase hazards due to a design feature. No mitigation is required.

The fourth paragraph in **subsection 4.2.4.1** on page 4.2-9 of the Draft SEIR-2 has been revised as follows:

AC Transit operates bus service in the eastern portions of Alameda and Contra Costa counties and transbay commuter bus service to downtown San Francisco. Various local routes provide weekday and weekend service in Fremont, Newark, and to a lesser extent, Union City. Line 217 provides bus service between Fremont and Milpitas from the Fremont BART Station to the Great Mall Transit Center in Milpitas, via Mission **Boulevard (State Route 262)** and Warm Springs **Boulevards** on 30-minute headway.

These text revisions are also shown in **Chapter 5, Draft SEIR-2 Errata**, of this Final SEIR-2.

S-3.5 **Subsection 4.2.5.2** on pages 4.2-21 and 4.2-22 of the Draft SEIR-2 describes the proposed pedestrian facilities at the Berryessa Station. Sidewalks would be developed leading to and from all station entrances and would be part of new roadways providing internal circulation at the station site. VTA will continue to work with city partners to encourage the development of pedestrian facilities that connect to the BART stations from surrounding areas.

In regards to bicycle access, **subsection 4.2.6.2** on pages 4.2-28 and 4.2-29 of the Draft SEIR-2 describes the proposed bicycle access at the Berryessa Station. **Figure 4.2-4** of the Draft SEIR-2 also shows the locations of existing bike lanes and paths within the vicinity of the Berryessa Station. New bike lanes would be provided on both sides of the proposed new roadway through the site, which would connect to existing bike lanes on Berryessa Road to the north and Mabury Road to the south. There are no existing bike lanes or paths along the cul-de-sacs within the housing developments in the vicinity of the Berryessa Station.

The Berryessa Station campus is directly adjacent to one residential neighborhood located to the east. A shared-use pathway to Salamoni Court has been planned to connect this neighborhood with the station campus. **Figure 2-2** in this Final SEIR-2 shows the revised Berryessa Station plan.

LETTER S-4



Arnold Schwarzenegger
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Cathleen Cox
Acting Director

December 17, 2010

Tom Fitzwater
Santa Clara Valley Transportation Authority
3331 N 1st Street, Building B-2
San Jose, CA 95134-1927

Subject: BART Silicon Valley-Phase I Berryessa Extension (formerly Silicon Valley Rapid Transit Corridor)
SCH#: 2002022004

Dear Tom Fitzwater:

The State Clearinghouse submitted the above named Supplemental EIR to selected state agencies for review. The review period closed on December 15, 2010, and no state agencies submitted comments by that date. This letter acknowledges that you have complied with the State Clearinghouse review requirements for draft environmental documents, pursuant to the California Environmental Quality Act.

Please call the State Clearinghouse at (916) 445-0613 if you have any questions regarding the environmental review process. If you have a question about the above-named project, please refer to the ten-digit State Clearinghouse number when contacting this office.

Sincerely,

Scott Morgan
Director, State Clearinghouse

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-8044
TEL (916) 445-0613 FAX (916) 923-3018 www.opr.ca.gov

S-4.1

**Document Details Report
State Clearinghouse Data Base**

SCH# 2002022004
Project Title BART Silicon Valley-Phase 1 Berryessa Extension (formerly Silicon Valley Rapid Transit Corridor)
Lead Agency Santa Clara Valley Transportation Authority

Type SIR Supplemental EIR
Description The BART Silicon Valley Project (formerly referred to as the Silicon Valley Rapid Transit Corridor or SVRTC Project) consists of a 16.1-mile extension of the Bay Area Rapid Transit (BART) system from the planned Warm Springs Station in Fremont through Milpitas and San Jose to Santa Clara. See Exhibit 1.

Several design changes have occurred since the project was approved in 2007. The most substantial change is that the project would be constructed in phases. Although VTA is committed to building the full 16.1 mile extension, the current state of the economy requires that the project be built with a phased-construction approach.

Lead Agency Contact

Name Tom Fitzwater
Agency Santa Clara Valley Transportation Authority
Phone 408-321-5789 **Fax** 408-321-5787
Address 3331 N 1st Street, Building B-2
City San Jose **State** CA **Zip** 95134-1927

Project Location

County Santa Clara, Alameda
City Milpitas, San Jose, Santa Clara, Fremont
Region
Lat / Long 37° 20' 15" N / 121° 53' 15" W
Cross Streets Multiple
Parcel No. multiple
Township 5,8S **Range** 1W **Section** 10-38 **Base** MDM&M

Proximity to:

Highways Hwy 237,87,890, 689, 91
Airports no
Railways UPRR
Waterways multiple
Schools multiple
Land Use Multiple

Project Issues Aesthetic/Visual; Air Quality; Archaeologic-Historic; Biological Resources; Drainage/Absorption; Economics/Jobs; Flood Plain/Flooding; Geologic/Seismic; Noise; Population/Housing Balance; Public Services; Recreation/Parks; Schools/Universities; Soil Erosion/Compaction/Grading; Toxic/Hazardous; Traffic/Circulation; Vegetation; Water Quality; Water Supply; Wetland/Riparian; Growth Inducing; Landuse; Cumulative Effects

Reviewing Agencies Caltrans, Division of Aeronautics; Department of Conservation; Department of Fish and Game, Region 3; Office of Historic Preservation; Department of Parks and Recreation; Department of Water Resources; Resources, Recycling and Recovery; California Highway Patrol; Caltrans, District 4; CA Department of Public Health; Air Resources Board, Transportation Projects; Regional Water Quality Control Board, Region 2; Native American Heritage Commission; Public Utilities Commission

Date Received 11/01/2010 **Start of Review** 11/01/2010 **End of Review** 12/15/2010

Note: Blanks in data fields result from insufficient information provided by lead agency.

RESPONSE TO COMMENT LETTER S-4

Governor's Office of Planning and Research

- S-4.1 The commenter indicates that they do not have any comments on the Draft SEIR-2 and therefore no response is required.

LETTER S-5



Arnold Schwarzenegger
Governor

STATE OF CALIFORNIA
Governor's Office of Planning and Research
State Clearinghouse and Planning Unit



Cathleen Cox
Acting Director

December 21, 2010

Tom Fitzwater
Santa Clara Valley Transportation Authority
3331 N 1st Street, Building B-2
San Jose, CA 95134-1927

Subject: BART Silicon Valley-Phase 1 Berryessa Extension (formerly Silicon Valley Rapid Transit Corridor)
SCH#: 2002022004

Dear Tom Fitzwater:

S-5.1

The enclosed comment (s) on your Supplemental EIR was (were) received by the State Clearinghouse after the end of the state review period, which closed on December 15, 2010. We are forwarding these comments to you because they provide information or raise issues that should be addressed in your final environmental document.

The California Environmental Quality Act does not require Lead Agencies to respond to late comments. However, we encourage you to incorporate these additional comments into your final environmental document and to consider them prior to taking final action on the proposed project.

Please contact the State Clearinghouse at (916) 445-0613 if you have any questions concerning the environmental review process. If you have a question regarding the above-named project, please refer to the ten-digit State Clearinghouse number (2002022004) when contacting this office.

Sincerely,

Scott Morgan
Director, State Clearinghouse

Enclosures
cc: Resources Agency

1400 TENTH STREET P.O. BOX 3044 SACRAMENTO, CALIFORNIA 95812-3044
TEL (916) 445-0613 FAX (916) 323-3018 www.opr.ca.gov

Sent By: CALTRANS TRANSPORTATION PLANNING; 510 286 5560;
To: STATECLEARINGHOUSE At: 819183233018

Dec-17-10 3:56PM;

Page 1/2

STATE OF CALIFORNIA—BUSINESS TRANSPORTATION AND HOUSING AGENCY

ARNOLD SCHWARZENEGGER Governor

DEPARTMENT OF TRANSPORTATION

111 GRAND AVENUE
P. O. BOX 23660
OAKLAND, CA 94623-0660
PHONE (510) 286-5536
FAX (510) 286-5559
TTY 711



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12/15/10
clear
2*



December 17, 2010

SCL000147
SCH#2002022004

Mr. Tom Fitzwater
VTA Environmental Planning, Building B
3331 North First Street
San Jose, CA 95134-1927

Dear Mr. Fitzwater:

Draft 2nd Supplemental Environmental Impact Report for Bart Silicon Valley Phase 1-Berryessa Extension

Thank you for including the California Department of Transportation (Department) in the environmental review process for the BART Silicon Valley Phase 1-Berryessa Extension. The following comments are based on the Draft 2nd Supplemental Environmental Impact Report. As lead agency, the Santa Clara Valley Transportation Authority is responsible for all project mitigation, including any needed improvements to State highways. The project's fair share contribution, financing, scheduling, and implementation responsibilities as well as lead agency monitoring should be fully discussed for all proposed mitigation measures and the project's traffic mitigation fees should be specifically identified in the environmental document. Any required roadway improvements should be completed prior to issuance of project occupancy permits. An encroachment permit is required when the project involves work in the state's right of way (ROW). The Department will not issue an encroachment permit until our concerns are adequately addressed. Therefore, we strongly recommend that the lead agency ensure resolution of the Department's California Environmental Quality Act (CEQA) concerns prior to submittal of the encroachment permit application.

Highway Operation:

In section 4.2, please show the level of service (LOS) in table format for all studied intersections and freeways for the existing, projected, future 2030, and mitigated conditions for the Berryessa and Milpitas Stations. Please provide existing traffic volumes and turning movements for all studied intersections. Include the proposed mitigation measures to address the LOS issues. Please conduct a station area operational analysis to determine the effect of vehicular traffic access to the proposed BART stations.

Page 4.2-36, paragraph 4 indicates that three of the 48 study intersections currently operate at an unacceptable LOS. However, Table 4.2-18 only refers to two intersections. Please clarify.

Please identify Mission Boulevard as State Route 262.

"Caltrans improves mobility across California"

Sent By: CALTRANS TRANSPORTATION PLANNING; 510 286 5560;

Dec-17-10 3:56PM;

Page 2/2

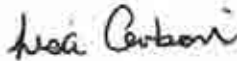
Mr. Tom Fitzwater, VTA Environmental Planning
December 17, 2010
Page 2

Pedestrian and Bicycle Issues:

In order to improve pedestrian and bicycle access to the Berryessa Station and reduce vehicle trips on U.S. 101 and Interstate 880, BART should work with the City of San Jose to provide pathway connections to cul-de-sacs within housing developments in the vicinity of the station.

We look forward to continuing to work with you on this project. Should you have any questions regarding this letter please contact me at 510-286-5536.

Sincerely,



for BECKY FRANK
District Branch Chief
Federal Grants / Rail Coordination

c: State Clearinghouse

"Caltrans improves mobility across California"

RESPONSE TO COMMENT LETTER S-5

Governor's Office of Planning and Research

- S-5.1 The commenter indicates that a letter from the Department of Transportation - Federal Grants/Rail Coordination was received by the State Clearinghouse subsequent to the close of the public review period (i.e., December 15, 2010). This letter is included in this Final SEIR-2 as Comment Letter S-3. See responses to Comment Letter S-3.

LETTER R-1

Swan, Samantha

From: Mark Connolly [mark.connolly@pln.sccgov.org]
Sent: Tuesday, November 09, 2010 3:51 PM
To: BARTSV-SEIR2
Cc: Rob Eastwood; Mike Lopez
Subject: NOA for Draft 2nd SEIR for Bart Silicon Valley Phase I

Tom-

R-1.1

Thank you, for the opportunity to review the SEIR. I staff the Santa Clara County ALUC and the only note I have is that in the Land Use section it notes that the nearest Airport is SJC. However, the proposed line will actually encroach into the western corner of the Airport Influence Area (AIA of Reid Hillview Airport, which is approximately one mile south east of the end of Phase one. Because this will be the commencement of the underground portion of Phase 2, I don't see any Phase 1 Aviation Safety impacts. However, the document should include the public-use general aviation Airport that is closer to the project than SJC.

Thank you,

Mark J Connolly
Planner III / Staff to the ALUC
County of Santa Clara
Planning Division
70 W. Hedding Street
San Jose, CA 95110
Direct: 408-299-5786
Fax: 408-288-9198
E-mail: mark.connolly@pln.sccgov.org

RESPONSE TO COMMENT LETTER R-1

Santa Clara County

R-1.1 The Reid Hillview Santa Clara County Airport is located approximately 3.3 miles southeast of the terminus of Phase 1 and according to the Reid Hillview Airport Comprehensive Land Use Plan, the Phase 1 alignment would not be located within the Airport Influence Area.

The discussion of Air Traffic Safety in **subsection 4.2.2.1** has been updated to include additional text about the Reid Hillview Santa Clara County Airport. The first paragraph under the heading “Air Traffic Safety” on page 4.2-2 of the Draft SEIR-2 has been revised as follows:

No airports are located within ¼-mile of the Phase 1 area. The closest airport is the San Jose International Airport located approximately 2.3 miles west of the proposed Berryessa Station site. **The Reid Hillview Santa Clara County Airport is located 3.3 miles southeast of the terminus of Phase 1 near the Berryessa Station site.**¹

This text revision is also shown in **Chapter 5, Draft SEIR-2 Errata**, of this Final SEIR-2.

¹ According to the Reid-Hillview Airport Comprehensive Land Use Plan, the Phase 1 alignment would not be within the Airport Influence Area.

LETTER R-2



VTA ENV.
PROGRAMS & RESOURCES
MGMT.

2010 DEC 3 PM 2 12

CHIEF EXECUTIVE OFFICE
Richard W. Robinson
Chief Executive Officer

Patricia Hill Thomas
Chief Operations Officer/
Assistant Executive Officer

Monica Nino-Reid
Assistant Executive Officer

Stan Risen
Assistant Executive Officer

1010 10th Street, Suite 6800, Modesto, CA 95354
P.O. Box 3404, Modesto, CA 95353-3404
Phone: 209.525.6333 Fax 209.544.6226

STANISLAUS COUNTY ENVIRONMENTAL REVIEW COMMITTEE

November 29, 2010

Tom Fitzwater
VTA Environmental Planning, Building B
3331 North First Street
San Jose, CA 95134-1927

SUBJECT: ENVIRONMENTAL REFERRAL – SANTA CLARA VALLEY
TRANSPORTATION AUTHORITY – BART SILICON VALLEY –
PHASE 1 BERRYESSA EXTENSION

Mr. Fitzwater:

R-2.1

The Stanislaus County Environmental Review Committee (ERC) has reviewed the subject project and has no comments at this time.

The ERC appreciates the opportunity to comment on this project.

Sincerely,

Christine Almen, Senior Management Consultant
Environmental Review Committee

cc: ERC Members

RESPONSE TO COMMENT LETTER R-2

Stanislaus County

R-2.1 The commenter indicates that they do not have any comments on the Draft SEIR-2 and therefore no response is required.

LETTER R-3

Swan, Samantha

From: Raluca Nitescu [Raluca.Nitescu@rda.sccgov.org]
Sent: Tuesday, December 14, 2010 6:32 AM
To: BARTSV-SEIR2
Subject: Public Notice , Draft 2nd Supplemental EIR for Bart Silicon Valley

The Notice for the subject project has been received and reviewed by our office. Our comments are as follows:

R-3.1

- Chapter 4.2 pages 4.2-63 through 4.2-75 indicate the impacts to Montague and Capitol Expressways due to the subject project. A number of intersections show Level of Service F with the proposed project. The only thing the DEIR mentions is that the proposed project will pay "fair share" of the future improvements for traffic mitigation. The DEIR needs to address how the "fair share" will be implemented and how it will be apportioned among the jurisdictions impacted by the proposed project (e.g. Bart construction across Montague Expressway).

Thank you for given us opportunity to comment on this project.

Raluca Nitescu, PE
Associate Civil Engineer
Land Development
Roads and Airports Department
Infrastructure Development
County of Santa Clara
ph. (408)573-2464
fax (408)441-0275

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RESPONSE TO COMMENT LETTER R-3

County of Santa Clara – Roads and Airports Department

- R-3.1 The Draft SEIR-2 discusses potential roadway improvements to reduce traffic impacts. However, since VTA does not have jurisdiction over these roadways, coordination and approval by Santa Clara County and the cities of Milpitas and San Jose are required. The future improvements and fair share contribution will be identified in conjunction with the jurisdictional agencies prior to occurrence of the impact.

LETTER L-1

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Planning Division

VTA ENV.
PROGRAMS & RESOURCES
MGT.

2010 DEC 20 PM 3 48

December 17, 2010

Tom Fitzwater
VTA Environmental Planning, Building B
3331 North First Street
San Jose, CA 95134-1927

RE: Draft 2nd Supplemental Environmental Impact Report for the BART Silicon Valley Project

Dear Mr. Fitzwater:

The City of Santa Clara has received and reviewed the Draft 2nd Supplemental Environmental Impact Report for the BART Silicon Valley Project and does not have any comments on the content or adequacy of the document. Thank you for the opportunity to review the environmental document.

Sincerely,


Carol Anne Painter, City Planner

cc: Kevin Riley, Director of Planning and Inspection
Rajeev Batra, Director of Public Works
Dennis Ng, Traffic Engineer

E:\PLANNING\subject\BART\Environmental\IR\2nd Supplemental Draft EIR comments.doc

The
Mission City

1852

1500 Warburton Avenue
Santa Clara, CA 95050
(408) 615-2450
FAX (408) 247-9857
www.santacalarca.gov

L-1.1

RESPONSE TO COMMENT LETTER L-1

City of Santa Clara

- L-1.1 The commenter indicates that they do not have any comments on the Draft SEIR-2 and therefore no response is required.

LETTER L-2



CITY OF MILPITAS

455 ERIC CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035

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2010 DEC 17 PM 3 54

December 17, 2010

Mr. Tom Fitzwater
VTA – Environmental Planning Department
3331 North First Street, Bldg B
San Jose, CA 95134

RE Draft Second Supplemental Environmental Impact Report
BART Extension to Milpitas, San Jose, and Santa Clara

Dear Mr. Fitzwater,

Thank you for the opportunity to comment on the Draft Second Supplemental Environmental Impact Report (DSSEIR) dated November 2010 for the Bay Area Rapid Transit (BART) Extension Project to Milpitas, San Jose, and Santa Clara. This letter focuses on the major concerns Milpitas has regarding the design changes described in the DSSEIR: Design Change Nos. 8 & 12, and Construction Staging.

1. Dixon Landing Road Alignment (Design Change # 8)

L-2.1

The City of Milpitas provided comments on the scope of the DSSEIR on September 13, 2010 requesting the DSSEIR be consistent with the conclusions contained within the March 2010 Record of Decision (ROD) from the Federal Transit Administration. The DSSEIR did address the unavoidable significant construction impacts resulting from the BART At Grade alignment discussed in the ROD. However, the DSSEIR did not address the safety impacts of the At Grade option including increased pedestrian – vehicle conflicts, Americans with Disability Act accessibility standards, and emergency vehicle access. In addition, the At Grade option may require displacement of several mobile homes to accommodate this utility relocation.

L-2.2

2. Curtis Avenue to Trade Zone Boulevard (Design Change #12)

L-2.3

Increasing the length of the retained cut option could alter the flood plain in this vicinity. The DSSEIR should include an analysis of this potential impact.

3. Construction Staging at Piper Drive (Section 4.19 Construction)

L-2.4

All of Piper Drive is now being shown as a Construction Staging Area (Figure 4.19-3). Several properties, including occupied industrial buildings, depend on Piper Drive as their only public access. The DSSEIR should include an analysis of the resulting traffic impacts and loss of emergency access that would result from this temporary loss of access.

General Information: 408.484.4000

General Comments

The following are general comments on specific changes to the DESSEIR the City is requesting:

Milpitas Station (Design Change #15)

Design and land reservations for the Future Transit Facility / Surface Parking for the Milpitas Station Plan (Figure 3-9) in the DSSEIR need to be updated.

Project design and architectural planning of the Future Transit Facility/Surface Parking area has advanced and changed significantly since the preparation of the original EIR. Notably, the last Milpitas Station Plan shown to the Milpitas City Council had very limited surface parking, which is consistent with VTA's Community Design & Transportation Guidelines and Milpitas' Transit Area Specific Plan. Nonetheless, the DSSEIR in Figure 3-9 currently shows a land reservation for the Future Transit Facility / Surface Parking for the Milpitas Station Plan that is unchanged from the original EIR analysis and is inconsistent with current design plans and planning documents. Therefore, the amount of land area reserved for the Future Transit Facility / Surface Parking in Figure 3-9 should be reduced and annotations updated appropriately.

L-2.5

115 kV Transmission Line Relocation (Design Change #16)

The DSSEIR should include an analysis of undergrounding the transmission lines crossing Montague Expressway as an option to relocation.

L-2.6

DSSEIR Figure 4.2-4

The City of Milpitas adopted a new Bikeway Master Plan in 2009. Figure 4.2-4 should be updated to include the planned bikeway improvements within the City.

L-2.7

If you have any questions or concerns regarding our comments, please contact James Lindsay at 408-586-3273 or Greg Armendariz at 408-586-3317.

Sincerely,



Thomas C. Williams
City Manager

RESPONSE TO COMMENT LETTER L-2

City of Milpitas

L-2.1 The California Public Utilities Commission (CPUC) has regulatory jurisdiction over railroad grade crossings and submitted a letter dated September 1, 2010 on the Draft SEIR-2. In the letter, the CPUC reiterated their support for the At Grade Option for the BART alignment at Dixon Landing Road. Attachment L-2 to this response includes the letters from the City of Milpitas (dated December 15, 2010) and VTA (dated December 27, 2010) supporting the Retained Cut Option. The content of these letters justifying the Retained Cut Option is summarized below. The Retained Cut Option has been selected as the preferred alignment.

Under the At Grade Option, the BART alignment would be constructed at grade and Dixon Landing Road would be reconstructed to cross under the existing at grade UPRR tracks and the proposed BART alignment, providing a fully grade separated crossing. Under the Retained Cut Option, the BART alignment would be constructed within a retained cut and would cross under Dixon Landing Road. The existing UPRR crossing at Dixon Landing Road would remain at grade.

Freight Train Movement History: There is no record of any train-related accident occurring at this location. Also, train speeds and freight traffic volume is low. Therefore, there is no existing safety issue that would require full grade separation.

Safety Considerations: Full grade separation may increase the risk of accidents due to the abrupt vertical curvature and limited sight distance.

Emergency Vehicle Access to Spinnaker Apartments: Full grade separation would require the reconfiguration of one of the two access driveways resulting in a driveway that would be either in direct violation with the California Fire Code, or would cause a substantial loss of parking.

Property Impacts: Full grade separation would require the lowering of Milmont Drive at Dixon Landing Road. This would cause impaired pedestrian access to and from all properties surrounding the intersection, the elimination of at least one other driveway serving an office development in the northwest quadrant of the intersection, and the previously mentioned reconfiguration of the access driveway to Spinnaker Apartments.

Pedestrian Crossing Impacts: Full grade separation would result in a barrier to free movement across the City of Milpitas. A level crossing facilitates movement of bicycles and pedestrians. The steep grades and relatively limited visibility of an undercrossing present a barrier to users. A grade separation would also present a barrier to disabled persons and not be compliant with the Americans with Disabilities Act (ADA) and California Title 24. A maximum two percent grade is permitted under ADA accessible route standards. The At Grade Option would require a five percent grade that would be in conflict with ADA standards.

In the existing condition, a crosswalk is provided only on the east leg of the Milmont Drive and Dixon Landing Road intersection. This is due to the very heavy volume of eastbound left turns at this location. To accommodate this heavy turning movement, the City of Milpitas has constructed dual eastbound left turn lanes and omitted the crosswalk on the west leg so that turning traffic is not interrupted by pedestrian crossings. In a fully grade-separated condition, ADA considerations would require eliminating the existing crosswalk on the east leg, and relocating it to the west leg. This could cause further delay for turning vehicles. In addition, because the major attractor of pedestrian traffic at this location is the shopping center on the southeast corner, there is concern that many pedestrians will continue to cross on the east side of the intersection, without the benefit of a protected crosswalk and in an area of reduced visibility.

Construction Period Impacts: Construction of a fully grade separated crossing would require additional environmental clearance, the purchase of additional ROW, and extensive detours during construction.

- L-2.2 **Subsection 4.15.4.1** on page 4.15-7 of the Draft SEIR-2 states that the Dixon Landing Road Alignment would not result in any permanent business or residential displacements during operation. **Table 4.19-5** on page 4.19-39 of the Draft SEIR-2 summarizes the temporary displacements associated with construction of Phase 1. **Appendix D** of this Final SEIR-2 also shows the locations of the temporary displacements specific to the construction of the Dixon Landing Road Alignment. Construction activities at this location would result in the temporary loss of parking spaces and landscaping for up to three years, but the sites would be restored to pre-construction conditions after construction activities are complete. The Dixon Landing Road Alignment would not result in any permanent or temporary displacements to mobile homes.

L-2.3 The retained cut BART alignment from Curtis Avenue to Trade Zone Boulevard was considered in the FEIR and SEIR-1. As part of this SEIR-2, Design Change 12, Curtis Avenue to Trade Zone Boulevard, would reduce the length of the retained cut configuration options compared to the retained cut options evaluated in the FEIR and SEIR-1. Section 4.18 of the FEIR included an evaluation of the retained cut BART alignment, including the portion defined as Design Change 12 between Curtis Avenue and Trade Zone Boulevard. As shown on Figure 4.18-2 of the FEIR, the retained cut alignment between Curtis Avenue and Trade Zone Boulevard would cross through areas of the Federal Emergency Management Agency's (FEMA) designated 100-year floodplain. Page 4.18-22 of the FEIR states that the retained cut BART alignment would be within the 100-year floodplain of Berryessa and Lower Penitencia creeks for a distance of about one mile.

Pages 4.18-21 and 4.18-22 of the FEIR and pages 4.19-44 and 4.20-11 of the Draft SEIR-2 also state that the Santa Clara Valley Water District (SCVWD) and US Army Corps of Engineers (ACOE) are planning a number of flood protection projects in Santa Clara County including the Upper and Lower Berryessa Creek flood protection projects. The Upper and Lower Berryessa Creek flood protection projects would eliminate the 100-year floodplain in the area that includes the retained cut portion from Curtis Avenue to Trade Zone Boulevard. In the event that the flood protection project is not implemented on schedule, additional hydrologic and hydraulic studies will be prepared during subsequent engineering phases. The design criteria would be incorporated into Phase 1 to ensure that the BART trackway and facilities are protected from the 100- or 500-year flood event, as required, and that Phase 1 does not exacerbate flooding or change local flooding conditions. For example, if the flood protection projects on Berryessa and Upper Penitencia creeks were not in place or under construction by the time Phase 1 was operational, the BART trackway would act as a barrier to the east-west flood flows, except where roads cross the tracks near Milpitas Station, including Montague Expressway, the extended East Milpitas Boulevard, North Capitol Avenue, and Trade Zone Boulevard. The limited road crossing widths (approximately 500 feet) would result in raising floodplain elevations. Therefore, drainage structures or siphons may be required under the BART tracks to minimize the rise in floodplain elevations, and the capacity of the drainage entering East Penitencia Channel may need to be enlarged. In addition, the increase in the base flood elevations would require parapets of the retained cut U-walls to be raised above the base floodplain elevation. Flood proofing may also be needed to the Milpitas

Station facilities and some nearby existing structures. Details of such design requirements would be determined with additional analysis, if required. VTA will continue to coordinate with the SCVWD and ACOE on the status of completion of these flood control projects.

The discussion of floodplain impacts relative to project construction, including construction of Design Change 12, Curtis Avenue to Trade Zone Boulevard, has been updated to include additional clarifying text. Paragraphs 2 and 3 under the heading “Floodplains” on page 4.19-44 of the Draft SEIR-2 have been revised as follows:

The Phase 1 alignment passes through 100-year floodplain mapped by FEMA at several locations. Flood protection projects are planned and/or programmed (funded) to address flooding conditions in the Phase 1 area by the local flood control agencies. **Refer to subsection 4.20.2.4 of this SEIR-2 for a discussion of the specific flood protection programs within the vicinity of Phase 1.**

The objective of the flood control projects is to upgrade the creek channels and cross-drainage facilities to contain the 100-year flows within the channel. Once completed, these projects will eliminate flooding in the areas of improvements, which include along the Phase 1 alignment. In the event these flood control projects are not completed by the time Phase 1 is under construction, or if these projects are under construction concurrently with Phase 1, the construction sites could be subject to flooding if a 100-year flood event were to occur. The option of scheduling construction during the non-rainy season will be evaluated in floodplain areas, and temporary flood control measures will be implemented during construction if necessary. If needed, construction in the flood prone areas will be completed in stages to minimize flooding impacts. **Scheduling of construction will consider wet weather constraints in the floodplain areas. VTA will coordinate with the local flood control agencies and cities on the design and implementation of the flood control measures during construction.**

If the flood control projects are significantly delayed until after the Phase 1 is complete and the system is operational, VTA will re-evaluate the floodplain conditions in this area and integrate flood mitigation measures in accordance with the local flood control agency requirements. VTA will coordinate with the local

flood control agencies and cities on the design and implementation of the flood control measures during or after Phase 1 construction if the flood control projects are not implemented on Berryessa Creek.

~~VTA will coordinate with appropriate agencies to obtain updated information on the progress of the flood control projects. Depending on the schedule of flood control project and the Phase 1 construction, additional hydrologic and hydraulic studies would be performed as necessary to address any floodplain control measures during construction.~~

This change is also shown in **Chapter 5, Draft SEIR-2 Errata**, of this Final SEIR-2.

Figure 4.18-2 has also been added to the Draft SEIR-2 to show the floodplains in the vicinity of Phase 1 in the City of Milpitas. The revised figure is shown in **Chapter 5, Draft SEIR-2 Errata**, of this Final SEIR-2.

L-2.4 The Piper Drive cul-de-sac north of Montague Expressway and east of the UPRR ROW would be used as a construction staging area (CSA) for the materials lay down associated with phased construction of the freight rail industrial lead track and extensive utility relocations. **Subsection 4.19.4.4** on page 4.19-25 of the Draft SEIR-2 evaluates construction impacts to emergency access. To address construction impacts to local businesses, Mitigation Measure CNST-1 on page 4.19-1 of the Draft SEIR-2 requires VTA to develop a Construction Education and Outreach Plan to coordinate construction activities with existing business operations and other development projects. The Construction Education and Outreach Plan would also establish a process that will address the concerns of businesses and their customers and property owners. As part of this Plan, VTA will coordinate with the property owners and businesses that are potentially affected by the Piper Drive CSA to ensure access is maintained as required. As noted in **subsection 4.19.4.1** on page 4.19-12 of the Draft SEIR-2, VTA will also work with police departments to monitor roadway closures and provide manual traffic control for detour routes as necessary. With these measures, construction impacts to vehicular traffic and emergency access would be considered less than significant.

L-2.5 The footprint of the Milpitas Station campus has been reduced based on refinements to campus engineering and design. The revised Milpitas Station site plan is shown as **Figure 2-1** of this Final SEIR-2. The new footprint reflects discussions with the City of Milpitas and other design modifications.

- L-2.6 The environmental analysis of the relocation of the 115 kilovolt (kV) transmission lines along Montague Expressway did not result in any significant impacts. Therefore, other options were not discussed in the Draft SEIR-2. However, earlier reviews concluded that undergrounding this line would substantially increase the costs and therefore this option was dropped from further consideration. Additionally, these transmission lines are exempt from designation as part of an underground utility district under Chapter 3 (Conversion of Overhead Utility Facilities) in the Milpitas Code of Ordinances. Chapter 3, Section 6, Ordinance 6.01-4 states, "Poles, overhead wires, and associated overhead structures used for the transmission of electric energy at nominal voltages in excess of 34,500 volts" are exceptions to underground installation.
- L-2.7 **Figure 4.2-4** on page 4.2-27 of the Draft SEIR-2 has been updated to include the existing and planned bikeway improvements within the City of Milpitas. The revised figure is shown in **Chapter 5, Draft SEIR-2 Errata**, of this Final SEIR-2.



L-2 ATTACHMENT

December 27, 2010

Mr. Daren Gilbert
Supervisor, Rail Crossings Engineering Section
Consumer Protection and Safety Division
California Public Utilities Commission
180 Promenade Circle, Suite 115
Sacramento, CA 95834

Dear Mr. Gilbert:

We have received your letter dated September 1, 2010, regarding the railway crossing on Dixon Landing Road in the City of Milpitas. Subsequently, a meeting was held on November 23, 2010 with CPUC, in which VTA and the City of Milpitas presented additional information regarding this location for your consideration. This letter summarizes the additional information, as you suggested in the meeting. In light of our meeting and the additional information, we would like CPUC to reconsider their position on the configuration of the future BART Silicon Valley extension crossing Dixon Landing Road.

As you know, VTA and the City of Milpitas both favor a design for the Dixon Landing Road crossing that would place BART in a grade-separated condition below the roadway, leaving the Union Pacific Railroad freight tracks in an at-grade configuration. In your letter, you outlined several reasons supporting the CPUC's view that a fully grade-separated condition is required at this location. However, VTA and the City believe that there are several other significant factors that should be considered before arriving at a conclusion:

I. Freight Train Movement History

- a. **Accident history** There is no record of any train-related accident occurring at this location.
- b. **Frequency of trains** The volume of freight traffic is low. In 2007, when VTA studied this crossing as a candidate for a grade crossing project, there were just seven trains a day. Since then, the closure of the NUMMI auto plant has likely reduced the number of trains. In addition, VTA's BART extension project may result in further decreases because existing freight service south of Montague Expressway will be discontinued.

Mr. Daren Gilbert
 December 27, 2010
 Page 2 of 4

- c. **Speed of trains** – Because the crossing Of Dixon Landing Road is located between two closely-spaced rail yards (Warm Springs and Milpitas), train speeds are low, with a speed limit of 15 mph.

2. **Safety considerations**

We understand that the CPUC's primary concern is public safety at rail crossings. The potential safety risks at this crossing are not limited to accidents involving trains. While a full grade separation would eliminate the risk of train-related accidents, it might actually *increase* other types of risks, including the following:

- a. **Traffic safety** – The crossing point is located approximately midway between Interstate 880 and Milpitas Blvd., the principal street of Milpitas. The distance between these arterial roadways is limited, resulting in a need for abrupt vertical curvature and limited sight distance to achieve the required grade change. This will require lowering the speed limit from 40 mph (existing) to 35 mph or less. We are concerned that many drivers will continue to drive at the higher speed, resulting in increased accident risk.
- b. **Sight distance and other traffic safety issues** -- The City of Milpitas has provided a separate letter (attached) which outlines further concerns on the part of the City regarding the grade separation option. These include sight distance considerations for traffic on Dixon Landing Road. The City's analysis concludes that the Dixon Landing Road grade separation design does not meet AASHTO sight distance standards.

3. **Emergency vehicle access to Spinnaker Apartments**

The Spinnaker Apartments is a large residential complex served by just two driveway entrances, both on Dixon Landing Road in the northeast quadrant of the crossing. One of those entry points is within the area that would be substantially depressed to create the grade separation. As a result, the reconfigured driveway would require extensive reconstruction to remain accessible to emergency vehicles, resulting in a substantial loss of parking spaces. The City of Milpitas has expressed concern regarding safety and emergency access at this site if the road were grade separated. The attached letter from the City's Fire Chief and Fire Marshal notes that the access design would not meet their requirements for a second access and therefore would be in direct violation with the California Fire Code and City Standard Practice.

4. **Property impacts**

Your letter states "The only consequence in grade separating both BART and UP tracks is the loss of a single driveway to the commercial lot in the southwest quadrant." We believe there are additional impacts which should be considered:

- **Milmont Drive** -- The intersection of Milmont Drive and Dixon Landing Road is located less than 300 feet from the rail crossing. As a result, this busy intersection would need to be lowered by up to six feet to accomplish the grade separation.

Mr. Daren Gilbert
December 27, 2010
Page 3 of 4

Pedestrian access to and from all properties surrounding the intersection would be impaired. Accessibility for disabled persons would be permanently reduced because the existing relatively level intersection would be placed on a steeper gradient.

- At least one other driveway, serving the office development on the northwest quadrant, would be eliminated.
- As noted above, the entry to Spinnaker Apartments would be permanently affected, with a steep grade connecting the complex to the public street network.

5. Pedestrian Crossing Impacts

A full grade separation would result in a barrier to free movement between the two halves of the City. A level crossing facilitates movement of bicycles and pedestrians. The steep grades and relatively limited visibility of an undercrossing present a perceived barrier to these users. A grade separation would also present a barrier to disabled persons and not be compliant with the Americans with Disabilities Act and California Title 24.

In the existing condition, a crosswalk is provided only on the east leg of the Milmont Drive/Dixon Landing Road intersection. This is due to the very heavy volume of eastbound left turns at this location. To accommodate this heavy turning movement, the City has constructed dual eastbound left turn lanes and omitted the crosswalk on the west leg so that turning traffic is not interrupted by pedestrian crossings. In a fully grade-separated condition, ADA considerations would require eliminating the existing crosswalk on the east leg, and relocating it to the west leg. This could cause further delay for turning vehicles. In addition, because the major attractor of pedestrian traffic at this location is the shopping center on the southeast corner, there is concern that many pedestrians will continue to cross on the east side of the intersection, without the benefit of a protected crosswalk and in an area of reduced visibility

6. Construction Period Impacts

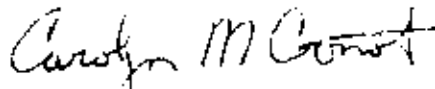
The construction of a fully grade-separated crossing on this busy arterial street would substantially increase the complexity of the BART construction. It would necessitate State and Federal environmental clearance of the changed condition and purchase of additional right-of-way. The additional environmental and right-of-way requirements would potentially delay the start of Dixon Landing Road construction by a year or more and the more complex construction could also add to the total construction duration at Dixon Landing Road. Because the construction would involve extensive detours and changes of traffic patterns, the risk of vehicular accidents during this time would be increased for the duration of construction. Emergency access for City of Milpitas fire and police services would be impacted for the entire duration of the construction. This presents a substantial impact to area residents and businesses which we believe should be considered.

Mr. Daren Gilbert
December 27, 2010
Page 4 of 4

The Record of Decision for the federal Final Environmental Impact Statement on the Silicon Valley Berryessa Extension articulates reasons that VTA and the City of Milpitas support construction of BART in a retained cut under Dixon Landing Road. Updated cost estimates show that both configurations at Dixon Landing Road have similar projected costs for construction. However, due to the increase in the construction schedule, added real estate requirements, and the need for additional environmental clearance, the fully grade-separated condition adds several million dollars to the overall project cost.

VTA appreciates the opportunity to present additional information and CPUC's willingness to review its position on this matter. With your concurrence, VTA would like to proceed with approval of the option to construct BART under Dixon Landing Road via the GO 88-B procedure.

Sincerely,



Carolyn M. Gionot
Chief SVRT Program Officer

Cc: Michael Burns, VTA
Tom Williams, City of Milpitas
Greg Armendariz, City of Milpitas



CITY OF MILPITAS

455 EAST CALAVERAS BOULEVARD, MILPITAS, CALIFORNIA 95035-5479
GENERAL INFORMATION: 408-586-3000, TDD: 586-3013, www.ci.milpitas.ca.gov

December 15, 2010

Carolyn Gonot
Chief SVRT Program Officer
SVRF Project
Valley Transportation Authority
3331 N. First Street
San Jose, Ca.

Mr. Daren Gilbert
Supervisor, Rail Crossings Engineering Section
Consumer Protection and Safety Division
California Public Utilities Commission
180 Promenade Circle, Suite 115
Sacramento, CA 95834

Subject: City Preferred Alternative for BART/Freight Railroad Crossing at Dixon Landing Road

Dear Carolyn and Daren,

Thank you both for meeting with the City of Milpitas on November 23, 2010, to allow the City to discuss its concerns regarding the Dixon Landing/BART/Freight railroad grade separation alternative and present the basis for the City's preferred "BART in a retained-cut" alternative, which maintains Dixon Landing Road at-grade with an at-grade railroad crossing. As we discussed at our meeting, the City's concerns with the Dixon Landing Road grade-separation (Dixon Landing under an at-grade BART and freight railroad) are primarily due to public safety (fire and traffic) problems which this alternative creates. There are also several other issues with this grade-separation alternative, including the relocation of public utilities onto the private mobile home frontage road (on the southside of Dixon Landing Road.) We believe this grade-separation alternative requires displacement of several mobile homes to accommodate this utility relocation. In addition, we expressed the fire safety and traffic safety issues that this grade-separation alternative also creates. As requested and for your reference, attached is a memorandum from the City Fire Chief and Fire Marshall which addresses the loss of the second fire access to Spinaker Apartment. Below is the Traffic Engineer's analysis and safety concerns related to the grade-separation:

Eastside Crosswalk crossing Dixon Landing Road

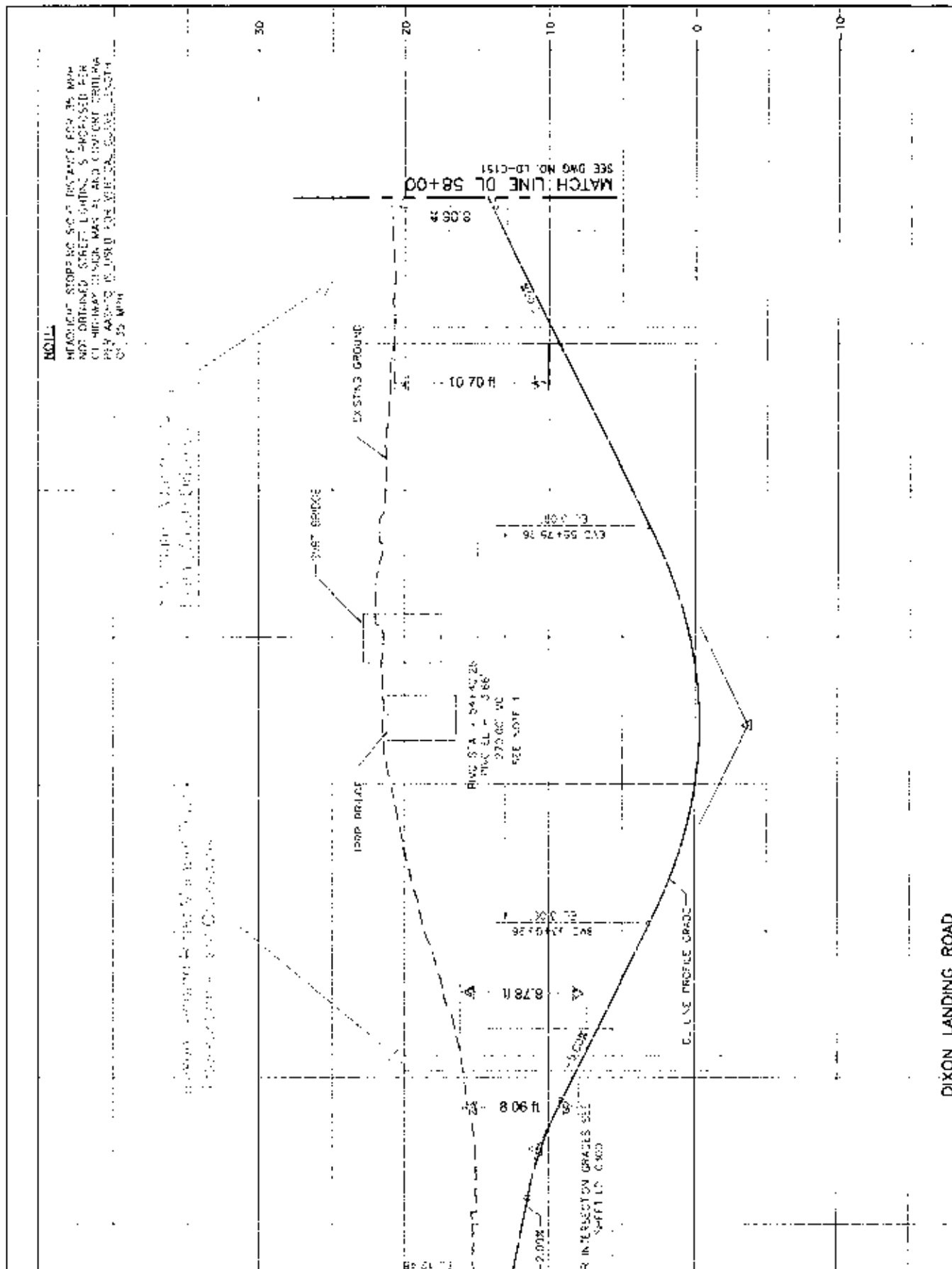
At the intersection of Dixon Landing Road and Milmont Drive, the shopping center located on the southeast corner of the intersection is the primarily pedestrian traffic generator in the area. The pedestrian route for industrial businesses north of Dixon Landing Road and residential housings located north of Dixon Landing Road and east of the UPRR tracks make use of the existing eastside crosswalk to cross Dixon Landing Road to reach the shopping center. Relocating the eastside crosswalk to the westside of the intersection will significantly increase pedestrian walking distance

1

and travel time. Elimination of the eastside crosswalk will likely also encourage jaywalking across Dixon Landing Road. The existing established eastside Dixon Landing Road crosswalk is required to serve the pedestrian traffic in the area. Replacing the eastside crosswalk with a new westside crosswalk is not advised, as there is a very high free-right turn movement from southbound Milmont Ave. to westbound Dixon Landing Road, and this would create greater pedestrian and vehicle conflicts. The City of Milpitas does not support elimination of the eastside crosswalk.

Eastside Crosswalk Cross Slope Profile with Grade Separation Configuration

In a grade separation configuration, Dixon Landing Road will be depressed approaching the UPRR tracks from Milmont Street. There will be a steep grade drop from Milmont Street to UPRR tracks. The existing eastside crosswalk crossing Dixon Landing Road at the intersection would be negatively impacted with a severe cross slope. Wheelchair users will be challenged with a 5% cross slope at this crosswalk (Figure 1). This cross slope is greater than the maximum 2% permitted under ADA's accessible route standards. The City of Milpitas does not support a Dixon Landing Road grade separation that is not compliant with ADA accessibility standards.



Intersection Sight Distance with Grade Separation Configuration

40 mph represents the 85th percentile speed on Dixon Landing Road. Intersection right turn sight distance of 385 feet is required for a 40 mph passenger car per 2001 ASSHTO Green Book (Figure 2). In a grade separation configuration, Dixon Landing Road will be depressed from UPRR tracks to the intersection of Milmont Street located less than 250 feet to the west. As a result, retaining walls upward of 7 feet would be erected on both the north and south side of Dixon Landing Road along the boundary of the public right-of-way between Milmont Street and UPRR tracks. These retaining walls will create visual barriers that compromise the existing intersection sight distance on westbound Dixon Landing Road which motorists currently enjoy. Therefore, the City of Milpitas does not support a Dixon Landing Road grade separation design that does not meet ASSHTO sight distance standards.

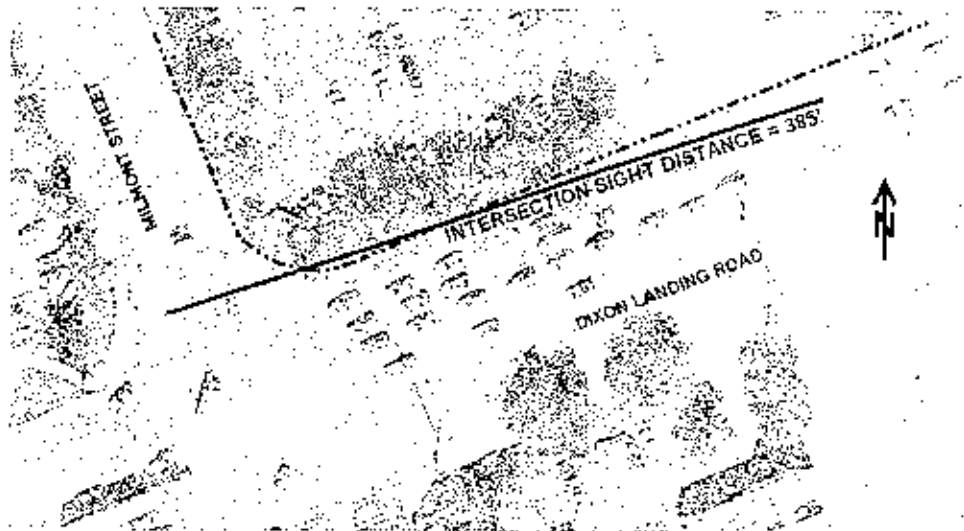
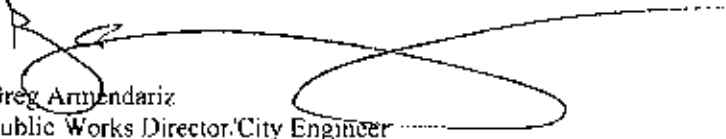


Figure 2: Intersection Sight Distance

At our meeting we discussed potential secondary access from the adjacent mobile home park to the east of the Spinaker Apartments. City has reviewed this alternative and do not advise this as a viable alternative, as it would require a permanent easement. VTA would need to procure this permanent easement prior to the City's approval of this second fire apparatus access.

Based on our meeting and this formal presentation of the City's safety concerns, we respectfully request that CPUC staff reconsider the attached letter dated September 1, 2010 and support VTA and the City's preferred alternative of a BART in a retained cut at Dixon Landing Road.

Sincerely,


 Greg Armendariz
 Public Works Director/City Engineer

Attn: Milpitas Fire Dept. Memorandum
 CPUC letter dated 09/01/10



MILPITAS FIRE DEPARTMENT
FIRE PREVENTION DIVISION

455 E. Calaveras Blvd., Milpitas, CA 95035 (408) 586-3365, FAX (408) 586-3378

To: Greg Armendariz, PE - City Engineer / Public Works Director
From: Brian E. Sturdivant, Fire Chief
Albert C. Zamora, PE - Fire Marshal
Subject: VTA / BART Rail Alignment @ Dixon Landing Road
Date: December 13, 2010

Per our standard past practice and Sections 503.1.1 & 503.1.2 of the 2007 Edition of the California Fire Code, the Fire Department requires a minimum two points of fire apparatus access for every building, structure, or facility within our jurisdiction.

In January 2005, the Milpitas Fire Department was presented with two proposals dealing with the VTA/BART rail alignment that crosses Dixon Landing Road:

- Proposal #1: VTA/BART Retained Cut - Baseline
- Proposal #2: VTA/BART At-Grade with Dixon Landing Road At Sub-grade

Our position since the aforementioned proposals in 2005 has always remained consistent. Proposal #1 provides the best advantage and the least impact in terms of the following:

- The existing roadway design speed limit of 35mph remains the same and not less due to Proposal #2.
- There are no existing fire apparatus access driveways that will have to be eliminated from the existing apartment complex, mobile home park, and commercial strip mall building. Each respective parcel will retain a minimum two points of fire apparatus access.
- The construction zone is restricted to the rail alignment area and does impact the outer portions of the right-of-way and roads on either side.

Proposal #2 is not an acceptable proposal because it effectively eliminates the second driveway (for purposes of fire apparatus access) due to the slopes of the undercrossing and steep slope of the modified west most driveway. The elimination of the second fire apparatus access would be in direct violation of the above Fire Code and City Standard practice.

Handwritten signature of Brian E. Sturdivant in black ink.

Brian E. Sturdivant, Fire Chief

Handwritten signature of Albert C. Zamora in black ink.

Albert C. Zamora, PE - Fire Marshal

CC: File

"Dedicated to providing Quality and Responsive Service for the community."

LETTER L-3

DEC-16-2010 10:16

FROM-CITY OF SUNNYVALE

4087337715

T-002 P 001/001 F-700



December 16, 2010

Sent via fax to: (408) 321-5787

Thomas W. Fitzwater
Manager, Environmental Programs and Resources Management
Santa Clara Valley Transportation Authority
Environmental Planning
3331 North 1st Street, Building B
San Jose, CA 95134

Re: Comments on Draft 2nd Supplemental Environmental Impact Report

Dear Mr. Fitzwater:

Thank you for providing the City of Sunnyvale with an opportunity to review the Draft 2nd Supplemental Environmental Impact Report for the BART Silicon Valley Project. We have no comments at this time. If you have any questions you can reach me at (408) 730 7659.

Sincerely,

Mariya Hodge
Associate Planner
Planning Division of the Community Development Department

Cc. Andrew Miner, Principal Planner
Jack Witthaus, Transportation and Traffic Manager

VTA ENV.
PROGRAMS & RESOURCES
MGMT.
2010 DEC 17 PM 8 10

L-3.1

ADDRESS ALL MAIL TO: P.O. BOX 3707 SUNNYVALE, CALIFORNIA 94088-3707
TDD (408) 730-7301

♻️ Printed on Recycled Paper

RESPONSE TO COMMENT LETTER L-3

City of Sunnyvale

- L-3.1 The commenter indicates that they do not have any comments on the Draft SEIR-2 and therefore no response is required.

LETTER P-1

Swan, Samantha

From: Coby Zeifman [cobyzeif@gmail.com]
Sent: Friday, November 05, 2010 9:33 AM
To: BARTSV-SEIR2
Subject: BART to San Jose Downtown

This BART plan for the Silicon Valley looks excellent! It's about time it has made it's way down here! Will the downtown San Jose BART station be in anyway connected to San Jose Diridon station? That would make the most sense considering that SJ Diridon connects to Amtrak, Caltrain Santa Cruz Hwy 17 Express, ACE train, and Capitol Corridor. Please have BART San Jose Downtown be at the San Jose Diridon Station.

P-1.1

Also, just for some background: why wasn't this done when BART was originally being built? Why stop at Fremont (on the east) and why stop at Millbrae (on the Peninsula)?

P-1.2

Thank you! Go BART!

Coby Zeifman

--
Coby Zeifman
(206) 349-2203
cobyzeif@gmail.com

RESPONSE TO COMMENT LETTER P-1

Colby Zeifman

- P-1.1 The comment in support of BART Silicon Valley is noted. Several design changes have occurred since publication of the SEIR-1, most notably that BART Silicon Valley would be constructed in phases. While VTA is committed to building the full 16.1-mile extension to Santa Clara, the current state of the economy requires that BART Silicon Valley be built using a phased-construction approach. This SEIR-2 evaluates the Phase 1 of BART Silicon Valley, which would terminate in San Jose near Berryessa Road at the proposed Berryessa Station. The remaining 6.2 miles of BART Silicon Valley would be constructed when funding is available, and would include a station immediately east of the San Jose Diridon Station, as well as stations in Alum Rock, Downtown San Jose, and Santa Clara.
- P-1.2 The original development of BART was constrained by available funding resources. Subsequent BART extensions have occurred as funding becomes available. Construction of the approved and funded BART Extension to Warm Springs in Fremont is currently underway. Funding is now available for Phase 1 of BART Silicon Valley, from the approved BART Warm Springs Station to the proposed Berryessa Station in San Jose. The remaining 6.2 miles of BART Silicon Valley to Santa Clara would be constructed when funding is available.

LETTER P-2

Swan, Samantha

From: Coby Zeifman [cobyzeif@gmail.com]
Sent: Friday, November 05, 2010 9:45 AM
To: BARTSV-SEIR2
Subject: Bikes on Bart

Your plan touts that it is "Less than 12-minute bike ride for 260,000 people."

What accommodations have you made for these potential bikers. I often bring my bike on BART. Thankfully not many others do. Since San Jose is such a spread out community and biking is such a widely used form of transportation here ([San Jose Bike Party](#)), what accommodations will be made to BART to include the biking community? VTA light rail has bike racks. Caltrain has bike cars. What will the BART trains coming down to Silicon Valley do to meet the needs of the biking community? (having more any more than 6 people per car standing and holding their bikes is not a solution).

P-2.1

Thank you!

Coby Zeifman

—
Coby Zeifman
(206) 349-2203
cobyzeif@gmail.com

RESPONSE TO COMMENT LETTER P-2

Colby Zeifman

P-2.1 **Subsection 4.2.6** of the Draft SEIR-2 describes existing and planned bicycle facilities that would be near the proposed BART stations within the cities of Fremont, Milpitas, and San Jose. As described on pages 4.2-28 and 4.2-29 of the Draft SEIR-2, bicycle facilities, such as bike lanes, bike paths, and bike parking are planned as part of the station campuses and would be planned, designed, and constructed consistent with BART Facilities Standards, which include standards for bicycle paths and bicycle parking requirements. VTA is currently completing a Station Access Planning and Conceptual Engineering Study. Phase 1 would improve bicycle connectivity through station areas. New bicycle lanes would be installed near and on the Milpitas and Berryessa stations. Bicycles would be permitted within station elevators and carried up/down any stairs equipped with bicycle stair channels to access station platforms. Bicycle parking would also be provided at the proposed BART stations. Consistent with BART Bicycle Access Guidelines, bicycle parking demand has been estimated on projected ridership and mode of access. BART Facilities Standards do not quantify the bicycle parking type. The type of bicycle parking will depend on observed demand and station design. VTA will continue to work with the City of San Jose on off-site bicycle access improvements to the future Berryessa BART Station. As shown in **Appendix C** of this Final SEIR-2, bicycle parking is located near station entrances and no bicycle parking has been designated for park-and-ride or parking garage locations.

LETTER P-3

Swan, Samantha

From: saiyanna charitou [charitou@pacbell.net]
Sent: Sunday, November 07, 2010 4:47 PM
To: BARTSV-SEIR2
Subject: BART Seir response

Dear Mr. Fitzwater:

I received a copy of the disk of the BART 2nd Seir and reviewed it. I will like to compliment its extensive thoroughness and presentation of knowledge, as well as its recognition of potential problems and solutions. I remain impressed, and I thank the contributors who worked on this project and all the EIR's I have received in the past for the BART extension project.

I would like to comment that I look forward to the day when I, and so many other countless citizens of our county's cities, will appreciatively ride BART from Santa Clara, San Jose, and Milpitas stations to points all over the Bay Area about our daily tasks. We have more than a million people in San Jose alone. We are the tenth largest city in America. We need an efficient, economical, environmentally-friendly, and stress-free way to get to work every day. With an economy like ours, finding work, even far away from home, is better than no work at all. How wonderful it would be to have BART take us there every day, fast and efficient, while we read, catch up on internet work, sleep, or pleasantly chat with other passengers. How wonderful it would be to ride BART for shopping, attending school, vacationing, sports, visiting friends, and other activities. How wonderful it would be to not worry about inclement weather or dangerous road conditions as we ride BART in security.

P-3.1

Bringing BART to San Jose/Santa Clara is the right thing to do. Let's get people where they need to go while taking cars off the road and decreasing pollution, road congestion, and stress.

Good leaders make good things happen that would not ordinarily happen. I believe the leaders of our VTA, our Mayor's office, our local legislators, and all people of authority in our city are in a position to extend BART to San Jose/Santa Clara without further delay.

Let's start building BART extension!!

Please feel free to forward or read this at any Public Hearing that would make a difference to bringing BART as quickly as possible to Santa Clara and San Jose.

Sincerely,
Saiyanna Charitou
Proud citizen of San Jose
Businessperson, teacher, wife, and mother

RESPONSE TO COMMENT LETTER P-3

Saiyana Charitou

P-3.1 The comment in support of BART Silicon Valley is noted and no further response is required.

LETTER P-4

Swan, Samantha

From: Swan, Samantha
Sent: Tuesday, November 30, 2010 1:52 PM
To: BARTSV-SEIR2
Subject: FW: BART at Milpitas

From: Fredrick Schermer [mailto:fredrick_schermer@dot.ca.gov]
Sent: Tuesday, November 30, 2010 8:58 AM
To: Fitzwater, Tom
Subject: RE: BART at Milpitas

Thank you for that information, Tom,

Before sending you the Caltrans comment on the CEQA Draft 2nd Supplemental EIR for the Bart Extension (which will be short), I am sending you a comment of my own. I have a degree in economics, and am very much interested in transit as alternative to freeway travel. I see the following unfolding with the BART Milpitas station:

An escalator is only envisioned for the Milpitas BART station to move passengers to and from the at-grade level, but there is no escalator to or from the nearby high-placed VTA light-rail station. It appears that BART is delivering according to mass-transit principles, but that VTA is building according to what they are accustomed to, not aware of the larger transit entity (capable of transporting several hundreds of people per train) coming into their community. I believe VTA does not know how to respond to an opportunity that can increase ridership and improve their bottom line, and I am surprised that BART is not a stronger proponent for escalators to the VTA light-rail station either. Am I the only one seeing this because I grew up in a nation with more experience in mass-transit and a government demanding transit agencies follow economic priorities? I find it hard to believe others don't sense this, too.

By not connecting well, VTA does not just hurt its own enterprise, but mass-transit can then not perform most optimally either. This means that the synergistic result of this very expensive BART project will be less than what is potentially possible. Both BART and VTA will receive fewer passengers and less revenue every year due to then lacking the optimal transfer capability for larger groups of people. Currently, VTA has only two potential locations that can be 'money-makers' — BART Milpitas and Diridon — with the rest of the system of course a necessity but it not having the same level of economic value. It will be very difficult to *not* make Diridon function well (but who knows what people without economic training can come up with), but in Milpitas it appears that the planners are moving towards short-term savings and long-term diminished revenues. VTA has done it before: their single track connection to Caltrain at Mountain View is definitively another example of a missed opportunity to make both VTA and Caltrain function better. The high-placed VTA light-rail station at Milpitas is another miss, as in miss-communication. I do not have too much respect for the VTA-transit decision makers, Tom, but I try to write the arguments down in a neutral as possible manner.

By not having escalators, close to all potential passengers for VTA light rail in each BART train will have to climb the stairs with a few 'lucky' ones occupying the slow elevator. I do not know of any BART station that does not have escalators from such a high position as VTA's light-rail, the only station in the VTA system going to connect to BART for the next ten years. This set up will lead to fewer users of both BART and VTA light-rail (this is a certainty, just review Caltrain's success story after implementing the baby-bullet train: passengers respond tremendously on changes in transit quality).

What I consider worse is that the overcrossing may be in the way of easily implementing escalators in the future, driving up the cost for VTA or both agencies. There is never a cheaper time than the present to build towards the highest possible long-term potential (and I don't mean build more garages, because that is not where the future of conurban-metropolitan transit is pointing to). Even when one does not want escalators now, the plans should include that possibility for implementing escalators later on as cheaply as possible (by having no expensive obstacles built in the most logical places for escalators).

One opportunity BART and VTA have now, but are not considering, is to have exits at the BART train platforms coming up right underneath the VTA light-rail line. There, a passenger area can get build by encasing the area right underneath the VTA light-rail line. From here escalators can move straight up to the VTA light-rail platform, some thirty feet up. This would

P-4.7, cont. | eliminate the overcrossing, create a full transit environment, have the fastest passage for large crowds between VTA light rail and BART. The planned BART entrance could be built smaller with fewer people using this second entryway.

P-4.8 | Even though BART always underestimated its numbers of riders at the opening of a new segment, the expected numbers were always reached within a few years (for instance, BART to SFO reached the expected number of passengers three years later, and has been growing 65% in 7 years time. I do not know why they built the third track (and I would also not have built the station as a terminus; it makes no economic sense). So you will not hear me claim BART knows all either, but one cannot declare BART to have ever under-built its facilities, something VTA is currently proposing).

P-4.9 | Naturally, Caltrans is a third party in this as well. With not having transit set up in the most optimal fashion more people will start or continue to drive their private cars. Since the freeway is also built-out, additions/adjustments are all of the more expensive kind. Greenhouse-gas emissions will also not be at the lowest possible level.

P-4.10 | I come from a nation that has been built-out for decades, and all additions are costly, Tom, and it makes people focus on getting the future picture right in the present situation; this includes understanding where expansions will most likely occur and to build buildings in such manner these additions will be cheapest when they occur. Though there is a lot of space in California, the Bay Area is more and more built-out, and adjustments are becoming more and more costly (or moved towards areas that are supposedly cheaper, but that cost us in many other ways). We should be saving future generations the extra costs of adding standard features to transit that can benefit us already today.

Okay, enough of my economic transit promotions. Please expect a much shorter Caltrans comment.

Best regards,

Fredrick Schermer
Office of System Planning
Caltrans - District 4
Phone: 1(510)286-5557
Fax: 1(510)286-5513

RESPONSE TO COMMENT LETTER P-4***Frederick Schermer***

- P-4.1 BART Silicon Valley facilities are being designed to accommodate 2030 ridership projections that are based on ABAG land use projections, meet BART Facilities Standards, and have been reviewed extensively, and accepted by the FTA. However, the feasibility of providing an escalator connection from BART to the light rail connection may be considered through the final design phase of the design-build contract.
- P-4.2 Refer to Response P-4.1.
- P-4.3 Refer to Response P-4.1.
- P-4.4 VTA has placed considerable importance on providing optimal transfer facilities at the planned Milpitas and Berryessa BART stations, and will invest a similar amount of planning for transfer facilities at the remaining stations in Phase 2 of BART Silicon Valley. Prior to moving station campus design past the conceptual design level, a station campus access study was conducted to ensure the best possible access was provided for passengers arriving on all modes, including bicycle/pedestrian, transit, shuttle, kiss and ride, and park-and-ride. This evaluation considered key information such as access and circulation, mode of access splits, existing and adopted land-uses, and current and future transit operating plans. Also, refer to Response P-4.5.
- P-4.5 Refer to Response P-4.1.
- P-4.6 Refer to Response P-4.1.
- P-4.7 VTA, BART, and the City of Milpitas have worked extensively to plan the Milpitas Station so that it maximizes potential ridership, facilitates transfers to the light rail system, and provides for adjacent transit oriented development (TOD). While BART and light rail transfers are important, approximately 36 percent of the riders go to or from the Milpitas Station by bus or park-and-ride. Therefore, the station design must account for several means of access.
- P-4.8 The comment regards the accuracy of BART ridership projections. The three most recent BART extensions that have opened for revenue service are to Pittsburg/Bay Point, Dublin/Pleasanton, and San Francisco International Airport (SFO)/Millbrae. Two of the three

extensions have ridership that nearly matches or exceeds projections. The exception is the SFO/Millbrae extension, which has not met ridership expectations.

The Pittsburg/Bay Point Extension opened in 1996. According to the Draft Environmental Impact Report/Environmental Assessment (EIR/EA) for the project (1988), the extension was projected to have 12,000 daily entries and exits in the horizon year 2000. There actually were 13,563 daily entries and exits in September 2000 (13 percent above projections), and ridership has grown by about 10 percent on the extension since that time.

The Dublin-Pleasanton BART Extension opened in 1997. The Draft EIR (1989) projected that the extension would have 21,760 daily trips by 2005 (10 years after its projected opening). In Fiscal Year 2008, 10 years after its actual opening, the extension had 20,672 daily total trips, or approximately 95 percent of projected ridership.

The SFO BART Extension opened in 2003 and has not met its ridership projections. The Final Environmental Impact Report/Environmental Impact Statement (EIR/EIS) (1998) estimated that 62,000 daily trips would be made in the projected opening year (1998) on the four extension stations in San Mateo County: South San Francisco, San Bruno, SFO, and Millbrae. The Final EIR/EIS projection for 2010 was 68,600 trips. However, the SFO BART Extension did not open until 2003 and using a mid-point forecast of 65,300 daily trips (6 years after opening year) is more appropriate for comparisons. In Fiscal Year 2009, BART had approximately 31,500 trips on the extension or approximately 48 percent of projected ridership using the 65,300 figure. There are several key reasons why ridership on the SFO BART Extension has so far not met the projections:

- The SFO-BART forecasts were based on a 1980 Census-driven travel demand model that reflected low economic growth and significantly higher gas prices; thus, it predicted less driving and more transit use in the study area than has actually occurred.
- Surcharges to SFO Airport on BART in San Mateo County were expected to be eliminated. The surcharges are still in effect and have been raised since the extension opened in 2003.

- Several years after construction started on the SFO BART Extension, Caltrain introduced the Caltrain express (“Baby Bullet”) service, which is highly competitive with BART, and was not taken into account in the travel forecasts.
- Caltrain and BART have maintained separate fare structures, and an integrated fare system was never introduced. This requires patrons making transfers to purchase separate tickets.

The SFO BART Extension was designed to allow for maximum operating flexibility and efficiencies based on future system demand, service implementation, and intermodal connectivity.

BART Silicon Valley facilities are being designed to accommodate 2030 ridership projections that meet BART Facilities Standards and have been accepted by the FTA.

P-4.9 Refer to Responses P-4.1, P-4.4, and P-4.7. **Table 4.10-1** on page 4.10-12 of the Draft SEIR-2 shows that Phase 1 would reduce the regional vehicle miles traveled (VMT), as compared to the 2030 No Project condition. This reduction in VMT would also result in a reduction in greenhouse gas emissions compared to the No Project condition; as such, Phase 1 would result in a beneficial impact related to greenhouse gas emissions and global climate change.

In regards to freeways, page 4.2-62 of the Draft SEIR-2 notes that the addition of station trips at the Berryessa Station would significantly impact four freeway segments. The Draft SEIR-2 states that the mitigation required to reduce these impacts is the widening of the freeway, but that the substantial cost of this improvement renders the mitigation infeasible in terms of cost and impacts would remain significant and unavoidable.

P-4.10 The Milpitas and Berryessa Stations have been designed based on ABAG land use projections, BART Facilities Standards, FTA requirements, and local TOD opportunities. However, the project is also constrained by funding limitations. Should additional federal funds become available, the additional features could be considered.

Swan, Samantha

LETTER P-5

From: Reporter73 [reporter73@yahoo.com]
Sent: Wednesday, December 08, 2010 7:59 AM
To: BARTSV-SEIR2
Subject: BART Extension

I would like to comment on the e-mail I received about public opinions on the BART rail extension into North San Jose.

P-5.1

First, I contacted County Supervisor Don Cortese some time ago about not letting BART police patrol in Santa Clara County and instead give patrol duty to the Santa Clara Sheriff's Department.

P-5.2

Second, because of the VTA light rail line, traffic signals are a mess on Capitol Avenue, especially right there at the Hostetter Station. I think this should be included in any report being prepared as traffic is especially heavy during commute hours.

Thank you,
Albert Reavis
1265 N Capitol Av 133
San José CA 95132-2548

The MVS REPORTER
San José Area 73

RESPONSE TO COMMENT LETTER P-5

Albert Reavis

- P-5.1 Police departments in the cities of Fremont, Milpitas, and San Jose would serve Phase 1 through mutual aid agreements among the cities, BART, and VTA. VTA and BART would expand existing mutual aid agreements with the cities as necessary to provide a safe environment. The mutual aid agreements among local police service providers would be expanded to include security personnel, station areas, and facilities. The Berryessa Station would also include a BART security office, which would provide a more visible security presence for passengers and enhance responses to emergency calls at this station and the Milpitas Station in the Phase 1 area.
- P-5.2 It is assumed that the commenter is referring to the Capitol Avenue/Hostetter Road intersection near the VTA Hostetter Light Rail Station. This intersection was not included as part of the 48 study intersections for Phase 1 due to its distance from the proposed Milpitas and Berryessa station sites. As noted in **subsection 4.2.7.2** on page 4.2-32 of the Draft SEIR-2, the study intersections were selected by local cities for inclusion in the traffic analysis due to their proximity to the proposed stations, their location along anticipated station access traffic routes, and/or the concern regarding potential significant impacts at these locations. Based on these criteria, the Capitol Avenue/Hostetter Road intersection was not selected for evaluation as part of this SEIR-2.

LETTER P-6

Nancy M. Ashman
17 East Ridge Court
Danville, CA 94506
925-736-6292 / fax 925-736-9500
nashman@sbcglobal.net

December 8, 2010

Tom Fitzwater
VTA Environmental Planning, Bldg. B
3331 North First Street
San Jose, CA 95134-1927

Re: 1502 Gladding Court, Milpitas, CA

Dear Mr. Fitzwater:

P-6.1

This letter concerns the 2nd SEIR for Bart Silicon Valley. I owned the property at 1502 Gladding Court, Milpitas, CA. I am concerned that your VTA project will impact my property. Is my property designated as a future site for parking for the VTA project? Also, will the extension of Milpitas Blvd. impact (eliminate) the current parking spaces assigned for this building? According to your proposed plans, it appears that some of the parking spaces for this building will be eliminated. If this occurs it will affect my ability to lease and/or sell this building.

P-6.2

Currently, the building is for sale or lease and I had a potential buyer for this property. The buyer backed out of the deal because I could not guarantee that the building and/or parking spaces would not be affected. I was told that the building will not be annexed but I would like a written response by VTA stating this property will also not have any parking spaces eliminated due to this project.

P-6.3

I would appreciate this letter written in a prompt manner since the sale of the building is going to be difficult to sell/lease without it.

Thank you,

Nancy Ashman

RESPONSE TO COMMENT LETTER P-6

Nancy Ashman

- P-6.1 The footprint of the Milpitas Station campus has been reduced based on refinements to campus engineering and design. The property at 1502 Gladding Court is no longer designated as a future surface parking site. The revised Milpitas Station campus site plan is provided as **Figure 2-1** of this Final SEIR-2. The extension of South Milpitas Boulevard will not eliminate existing parking located on the property at 1502 Gladding Court.
- P-6.2 Refer to Response P-6.1.
- P-6.3 Refer to Response P-6.1.

LETTER P-7

Swan, Samantha

From: sherzstein@aol.com
Sent: Friday, December 17, 2010 7:24 AM
To: BARTSV-SEIR2
Cc: norm@matteoni.com; robherzstein@aol.com
Subject: comments on SEIR
Attachments: VTA_letter_sent_5-28-10.doc

Mr. Fitzwater,

Below are my comments on the Draft 2nd Supplemental Environmental Impact Report (SEIR).

- P-7.1 | I believe that this SEIR does not meet CEQA standards. The Air Quality plan is not consistent with VTA's Milpitas Stations land use plan. The Air Quality section of the SEIR discuss the parking structure but does not adequately address the many additional areas of surface parking proposed in the Milpitas Station land use plan.
- P-7.2 | The SEIR land use plan for the Milpitas Stations does not comply with SB 375 nor SB 32 as explained in my letter to VTA dated May 28, 2010. (see attached letter) VTA in their Milpitas Station land use plan as purposed in the SEIR misses the opportunity to add an additional 700 Transit Oriented housing units which are allowed by the City of Milpitas zoning!
- P-7.3 | Therefore I believe that the Valley Transit Authority should not certify the SEIR until VTA has a better understanding of the air quality impact to the Bay Region and the impact of not building the additional Transit Oriented housing in VTA's Milpitas Station land use plan.

Stan
Herzstein Properties, LLC

HERZSTEIN PROPERTIES, LLC
795 Folsom St., 1st Floor
San Francisco, CA 94107
415 793-7932

May 28, 2010

Mr. Michael T. Burns, General Manager
Santa Clara Valley Transit Authority
3331 North First Street
San Jose, CA 95134-1927

RE: Request for VTA to reconsider the land use configuration of the proposed Milpitas Transit Center

Dear Mr. Burns:

I am writing you as a member of VTA's Milpitas Community Working Group and a property owner in the vicinity of the proposed Milpitas Transit Center. I, and other members of that Working Group, devoted literally hundreds of hours to develop a land use and transportation plan for the Transit Center area. In our extensive and thoughtful deliberations, we relied on extensive professional studies to determine a plan that provides the maximum public benefits, as I will detail below. The City of Milpitas adopted the visionary Milpitas Transit Area Specific Plan in November 2007. Then, considerably after the fact, in early 2010, the VTA requested a significant reconfiguration of the station area, without either refuting the professional studies that went into the original station area plan, or reconvening the Working Group and conducting required public participation, and the City obliged.

This letter will show that the modified land use plan developed by VTA, while perhaps well intentioned, is seriously flawed both technically and procedurally and should be revised to adhere to the previously adopted Milpitas Transit Area Specific Plan.

Federal Transportation Administration New Starts Criteria

FTA New Starts Criteria place considerable emphasis on density, local land use plans, zoning, and capital improvement plans that are transit supportive. In no less than six FTA criteria categories – Existing Land Use, Growth Management, Transit Supportive Corridor Policies, Supportive Transit Regulations near Transit Stations, Tools to Implement Land Use Policies, and Performance and Impacts of Land Use Policies – the originally adopted Milpitas Transit Area Specific Plan was far superior to the revised plan. The “new” VTA plan is in effect a downzoning of lands immediately surrounding the Transit Center site, potentially resulting in a down-scoring of this important project for the next New Starts submittal for this highly competitive funding.

P-7.4

Mr. Michael T. Burns
May 28, 2010, page 2

Senate Bill 375 and Assembly Bill 32

The Sustainable Communities and Climate Protection Act (SB375), also known as the California Anti-Sprawl Bill, recognizes that bringing housing and jobs closer to public transit will cut automobile trips, and help meet the statewide targets for reducing greenhouse gas emissions as set by AB32, the California Global Warming Solutions Act. SB375 will limit the state's CO-2 emissions by curbing suburban sprawl and increasing transit-based development through various incentives. If a community plans dense, walkable, mixed use, transit oriented growth that reduces automobile use and greenhouse gas emissions, such as the originally adopted Milpitas Transit Area Specific Plan, it gets moved to the front of the line for state and federal transportation funds.

The attached letter on the subject of SB375 from Steve Heminger, Executive Director, MTC and Henry Gardner, Executive Director, ABAG dated April 29, 2010, calls for the Bay Area to have aggressive targets for reducing greenhouse gases from motor vehicles...“the challenge is urgent; what we leave behind for future generations is at stake...we need incentives to get people out of cars (better transit, walkable neighborhoods, etc....curbing greenhouse gases also yields better public health for our residents...public participation in this process is essential...”

This summer the California Air Resources Board will be releasing limits and reduction measures to meet the 2020 cap. By next January, CARB must officially adopt specific regulations to achieve the global warming emission reductions. As Governor Schwarzenegger said in adopting AB32, “...with this landmark legislation, we are the first in the nation to tackle land-use planning. What this will mean is more environmentally-friendly alternative transportation options and neighborhoods we can safely and proudly pass on to future generations.

P-7.5

In this environment, it is inconceivable to me that a public transit agency would produce a station area plan that goes against the goals of SB375 and AB32, when a better, achievable plan had already been adopted by the local community.

Milpitas Transit Area Special Plan

The Milpitas Transit Area Special Plan was adopted by the City of Milpitas for lands within easy walking distance of the proposed Milpitas BART station and VTA's Montague Station. The City of Milpitas, in hiring Dyett & Bhatia Urban and Regional Planners to develop this plan, requested they design a smart growth land use plan for the City's transit core. The Milpitas Transit Area Specific Plan vision statement reads:

Create attractive high density urban neighborhoods with a mix of land uses around the light rail stations and future BART station in Milpitas. Create pedestrian connections so that residents, visitors, and workers will walk, bike, and take transit. Design streets and public spaces to create a lively and attractive street character, and a distinctive identity for each subdistrict.

Mr. Michael T. Burns

May 28, 2010, page 3

Under the leadership of then Council member and now Mayor Robert Livengood and other city leaders, and with the support of the City staff, the City undertook a process to develop the Specific Plan and create design guidelines for property close to the proposed BART station. The result of this visionary leadership is the November 28, 2007 Milpitas Transit Area Specific Plan (map attached). This Plan is designed to add 7,100 housing units and over 17,000 new residents to this area. Some of the highest density housing (Boulevard Very High Density Mixed Use) is planned adjacent to the Station creating a transit village. The Plan suggests keeping the block lengths short where possible, therefore making the area more pedestrian friendly.

In an earlier draft configuration of the Milpitas Specific Area Plan, a large park was placed close to the BART station. Under the leadership of then Councilman Livengood and other city leaders, this open space was retained but the park was moved to more appropriate locations, while an agreement was developed to insure that all landowners in the re-zoned area would fairly share in the cost of open space provision.

The City's leadership understood that to make the Milpitas Transit Area Specific Plan a reality, they needed to create a process that would encourage private developers to build, while at the same time provide the funding the City required to support this new development. The City certified an EIR and completed an economic plan within this planning area. The City's EIR includes a traffic plan, and as part of this process, the City resolved drainage issues and sewage issues all of which would have been impediments to building a transit village. Economic Research Associates produced an economic plan to insure that the citizens of Milpitas will not be burdened with the cost of any new development. The developers and tenants of this rezoned area will pay their fair share for the necessary costs of building new infrastructure under the Milpitas Transit Area Specific Plan.

Unfortunately the land use changes VTA is proposing (map attached) will eliminate a significant number of housing units, and may invalidate the City of Milpitas' carefully crafted economic plan, putting additional economic burden on the citizens of Milpitas.

P-7.6

The Milpitas Transit Area Specific Plan does not examine the exact placement of the new BART station. But this issue was of great concern to the community and was discussed in many community meetings that I attended. Community leaders and City officials all believed that the station's public access from the north side of Montague Expressway was a smart growth issue, but could only be resolved by VTA. Montague Expressway is a six-lane high-speed expressway. It creates a barrier for riders who need access to access either the proposed BART station or the existing VTA Montague Station from the north side of the Montague Expressway. VTA's present plan calls for an overhead walkway to be built and funded sometime in the future.

P-7.7

The Problem

What is most surprising is that normally it is the transit agency that wants higher density housing built adjacent to their stations, increasing ridership, and it is the local

P-7.8

Mr. Michael T. Burns
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P-7.8,
cont.

government who fights for less housing density adjacent to transit stations in their community. But in this case the “new” VTA land use plan *lowers* the number of potential housing units adjacent to the stations compared to the Milpitas Transit Area Specific Plan. When in early 2010 VTA relocated the station parking from the preferred location designated in the adopted Milpitas Transit Area Specific Plan, VTA eliminated over 250 zoned housing units, according to the Milpitas Planning Department. In addition, by moving the Milpitas Boulevard extension to the south and widening it, the VTA further decreased the number of housing units that may be built on this critical site adjacent to the station. The adopted Milpitas Transit Area Specific Plan designated this area for very high density mixed use, including housing, and would accommodate about 500 housing units. Without further study it is unknown how many of these critically needed housing units would be lost under the “new” VTA land-use plan, but it is clear that the number is substantial.

P-7.9

All these changes were made “in the back room” without participation of the many stakeholders who worked so hard to develop a plan that benefits the VTA riders, BART riders, the citizens of Milpitas, and all people who are concerned with global warming and the threat to the planet. These changes are neither in accordance with the preferred location in the Milpitas Transit Area Specific Plan as developed by the community, nor with the certified EIR on that Plan.

Plan Adjustments that Should be Made by VTA

VTA should make the following adjustments to its land use plan thereby benefiting the VTA, increasing its chances to successfully compete for highly competitive New Starts funds, benefiting the VTA riders, lowering carbon emissions, protecting the economic well-being of the citizens of the City of Milpitas, creating a community not a transit station in a parking lot, and increasing the viability of our regional transit system.

P-7.10

1. Narrow the Milpitas Boulevard extension so that this new road conforms to the design of the Milpitas Transit Area Specific Plan.

- a. Milpitas Boulevard was extended in the adopted Plan, helping to make for shorter and more pedestrian friendly blocks. The City of Milpitas was seeking to create a transit village; these new VTA changes are more akin to a 1960s transit station surrounded by parking than a 21st century transit village.
- b. VTA’s plan has widened Milpitas Boulevard from the design in the Milpitas Transit Area Specific Plan, from what was a width of 100 feet to a proposed width of 144 feet in the areas closest to the proposed BART station, a 44% increase. This not only eliminates land for the transit village development, but also creates another impossible pedestrian barrier.
- c. Reverting to the design originally adopted in the Milpitas Transit Area Specific Plan will allow for significantly more housing units to be built adjacent to the transit stations, in these areas already zoned mixed-use, including high-density housing, by the City of Milpitas.

P-7.11

P-7.12

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 May 28, 2010, page 5

- d. This proposed change is needed so that our region can comply with SB375, by allowing the construction additional transit-oriented housing, helping MTC and ABAG accomplish their mandate to lower greenhouse gases. And it is simply good land use planning that meets the goals set forth by the City of Milpitas in the vision statement to the Transit Area Specific Plan. Where is the “neighborhood we can safely and proudly pass on to future generations?” P-7.13

- 2. **Move Milpitas Boulevard north to so that it conforms to the design of the Milpitas Transit Area Specific Plan.**
 - a. This will allow for additional transit-oriented housing units to be built adjacent to the stations, taking advantage of high density residential zoning from the City of Milpitas.
 - b. This change likewise is needed so that our region can comply with SB375, by creating more transit-oriented housing helping MTC and ABAG accomplish their goal of lowering greenhouses gases. In 2010, it is no longer acceptable to leave such important land use decisions solely in the hands of the transportation engineers, without the benefit of comprehensive planning and full public participation. P-7.14

- 3. **Return VTA’s parking structure to the location as described in the Milpitas Transit Area Specific Plan.**
 - a. This will allow taking advantage of existing zoning and the certified EIR to build 250 additional housing units. This therefore speeds the process of building transit-oriented housing and helps to lower greenhouse gases. It is also simply just good land use planning.
 - b. The City of Milpitas has already preformed an extensive traffic study as part of the Milpitas Transit Area Specific Plan’s EIR process. This demonstrates reverting to the parking structure location in the Specific Plan is practical. P-7.15
 - c. Again, this change is needed so that our region can comply with SB375, by creating more transit-oriented housing helping to accomplishing our goal of lowering greenhouse gases. Moving the parking structure from the City’s preferred location to the VTA location negates any hope of developing a well-designed, environmentally sustainable transit village. The VTA plan no longer allows a “dense, walkable mixed-use transit oriented village”.

- 4. **Slide the BART Montague Station to the to the north allowing VTA to design station entrances on the north side of Montague Expressway.**
 - a. Moving this station about 50 to 100 feet to the north would put part of the BART station under Montague Expressway.
 - b. This change will encourage housing to be built north of Montague Expressway by resolving this open issue. P-7.16

Mr. Michael T. Burns
May 28, 2010, page 6

P-7.16, cont. | c. The change will make the transit system more pedestrian friendly, by allowing pedestrians to enter the stations from the North side of Montague Expressway instead of having to cross a six-lane Expressway. While the desire was strongly expressed during the public planning process for the area, VTA has made no attempt to address these needs. What happened to the vision of creating “pedestrian connections so that residents, visitors, and workers will be able to walk, bike, and take transit?”

Issues and Answers

P-7.17 | 1. VTA might claim my request for VTA to make improvements to its land use plan is too late and will delay building the proposed Milpitas BART extension. My response is that the first three recommendations have all been through an extensive public process that includes a certified EIR, traffic study, and economic study.

P-7.18 | 2. VTA might claim the rules have not been set yet for complying with SB375 therefore VTA cannot help. My response is that every transit oriented housing unit will help save our planet. You still have time before you complete your final design to improve your land use plan. Additionally, my fourth recommendation will solve a problem that is important to the local community.

P-7.19 | 3. VTA may claim that the City of Milpitas abandoned the Milpitas Transit Area Specific Plan in their March 2010 council meeting allowing VTA more parking. The City of Milpitas will now need to consider the trade-off of parking vs. transit oriented housing now that region must comply with SB 375. I believe that careful consideration by the City will remind them why they originally adopted the Specific Plan and that they should return to that Plan. Since transit dollars are tied to meeting greenhouse gas restrictions, there is every benefit to VTA and Milpitas to make these changes.

P-7.20 | Please review VTA’s present land use proposal for the land adjacent to the proposed Milpitas BART station. Changing the proposed land use plan as suggested in this letter will increase VTA’s ability to obtain discretionary New Starts funding, benefit VTA’s riders, take advantage of the City of Milpitas smart growth plans, and lower greenhouse emissions, helping MTC and ABAG meet the regions greenhouse emission goals for our region as required in SB375.

Thank you.

Stanley D. Herzstein
Herzstein Properties, LLC

Mr. Michael T. Burns
May 28, 2010, page 7

cc: Sam Liccardo, Chairperson, VTA Board of Directors
Mayor Robert Livengood, City of Milpitas
Planning department, City of Milpitas
Steve Heminger, Executive Director, MTC
Henry Gardner, Executive Director, ABAG
James Fang, President, BART Board of Directors
Dorothy Dugger, General Manager, BART
Leslie T. Rogers, Regional Administrator, Federal Transportation Agency, Region 9
Russell Hancock, President and CEO, Joint Venture Silicon Valley
Carl Guardino, President and CEO, Silicon Valley Leadership Group
Marla Wilson, Sustainable Development Associate, Greenbelt Alliance
Jim Wundeman, President & CEO, Bay Area Council
Sean Randolph, President, Economic Institute
Gabriel Metcalf, Executive Director, SPUR

Enclosures:

Milpitas Transit Area Specific Plan Map (November 28, 2007)
Letter from Steve Heminger and Henry Gardner to James Goldstene, CARB, April
29, 2010
Milpitas Station, West Transit Center Option 4B, VTA, 2/16/2010

RESPONSE TO COMMENT LETTER P-7

Stan Herzstein

P-7.1 The Draft SEIR-2 has been prepared pursuant to the statutes and guidelines of CEQA. The Draft SEIR-2 was based on the methodology identified in Article 9 of the CEQA Guidelines to evaluate Phase 1's impacts to the environment. Feasible mitigation measures have also been identified to reduce and minimize impacts to the environment.

Section 4.3, Air Quality, of the Draft SEIR-2 has also been prepared pursuant to the Bay Area Air Quality Management District's (BAAQMD) 2010 CEQA Guidelines. **Subsection 4.3.4.2** on pages 4.3-8 and 4.3-9 of the Draft SEIR-2 evaluates the operational emissions associated with Phase 1. This evaluation considers the VMT, based on anticipated ridership and parking capacity at the BART stations. As noted on page 4.3-8, Phase 1 would result in a decrease in pollutant emissions as compared to the No Project condition in year 2030, thus resulting in a regional beneficial air quality impact. **Subsection 4.3.4.3** on pages 4.3-9 through 4.3-11 of the Draft SEIR-2 also evaluates the localized carbon monoxide (CO) emissions associated with the proposed BART stations. This evaluation relates specifically to the multi-level parking structures, as these structures provide large parking capacities and can result in slow moving or idling vehicles during peak periods. The CO emission concentrations at the Milpitas Station would not exceed the federal or state emission thresholds and would therefore remain in conformance with the BAAQMD's 2010 Clean Air Plan. Unlike parking garages that have confined spaces, surface parking air pollutants disperse much faster and do not require hot spot analysis. As stated above, overall air pollutant emissions were quantified and determined to be less with the project than without the project.

P-7.2 As a public transit project, BART Silicon Valley and associated facilities (including station campuses) support the goals of Senate Bill 375 (SB 375) and Assembly Bill 32 (AB 32). Moreover, Phase 1 is projected to attract approximately 25,000 new daily transit trips, which are primarily diverted from auto trips in the corridor. VTA recognizes the importance of transit-oriented development. However, TOD development potential is secondary to BART station facility requirements. VTA's requirements for the Milpitas Station area are not consistent with City's preferred layout as presented in the Milpitas Transit Area Specific Plan (TASP). The City's "illustrative layout" does not satisfy the needs of a multi-modal

transit facility in several areas, including BART parking structure design standards, parking ingress and egress requirements, VTA bus operational needs, and FTA ridership/parking requirements. In the Background and Key Issues chapter, Market Analysis section of the TASP, "Timing and greater certainty about land acquisition and site plan for BART," an issue identified by City staff and stakeholders was the "need for greater certainty about plans for all the new roads, parking, transit facilities and other infrastructure associated with BART...the layout of the project components must be known prior to future development in the BART Station area..." Additionally, in the BART Station Design and Layout section of the TASP, the plan recognizes parking structure and bus bay layout as key remaining issues. The section further indicates that, "The parking structure serving BART patrons may be located on the east side of the station, or on other immediately surrounding sites depending on land acquisition by VTA." VTA met with the City of Milpitas through a series of coordination meetings to develop a revised campus plan for the Milpitas BART Station. This current location of the campus parking structure and transit center was developed with input from City staff and accepted by the Milpitas City Council at their March 3, 2010 meeting.

- P-7.3 **Section 4.10, Greenhouse Gas Emissions**, on page 4.10-13 of the Draft SEIR-2 states that BART Silicon Valley Phase 1 is anticipated to reduce greenhouse gas emissions compared to No Project conditions by 3,464 metric tons per year. **Section 4.3, Air Quality**, on page 4.3-8 of the Draft SEIR-2 states that Phase 1 would also reduce regional air quality emissions, and therefore result in a beneficial air quality impact. Also, refer to Response P-7.2.
- P-7.4 FTA requires that New Starts candidate projects provide transit park-and-ride facilities that meet the projected demand of the FTA accepted travel demand model. VTA supports the City of Milpitas' TASP, and anticipates the TASP will generate substantial ridership for the extension. However, as ridership increases, station facilities must also increase to support this demand. The TASP based the location of the Milpitas Station transit facilities (park-and-ride and transit center) on ridership data that has since evolved, based on project refinement and the FTA New Starts requirements. The most current data, which has been submitted and accepted by FTA for the BART Silicon Valley's annual New Starts submittal, indicates that parking demand and transit center requirements to support projected ridership cannot be accommodated within the area that was identified by the TASP. Therefore, it was a necessity to

- expand the layout for these facilities within the campus area as presented to the Milpitas City Council at their March 3, 2010 meeting.
- P-7.5 Refer to Responses P-7.2 and P-7.4.
- P-7.6 Refer to Response P-7.2.
- P-7.7 A Milpitas Station platform extending north of Montague Expressway was evaluated early during project development. It was deemed cost-prohibitive to build a station under Montague Expressway and would jeopardize BART Silicon Valley's federal funding eligibility. A pedestrian overcrossing spanning Montague Expressway to the Milpitas Station is included in the TASP and would be funded by others.
- P-7.8 Refer to Response P-7.2.
- P-7.9 Refer to Response P-7.2.
- P-7.10 VTA's design of the extension of the South Milpitas Boulevard thoroughfare is consistent with the development standards and guidelines of the Milpitas TASP. Facilities outside the South Milpitas Boulevard thoroughfare are required for successful multi-modal access to the future Milpitas BART Station. Refer to Response P-7.2.
- P-7.11 Refer to Response P-7.10.
- P-7.12 Refer to Response P-7.4.
- P-7.13 Refer to Responses P-7.2, P-7.3, and P-7.4.
- P-7.14 Refer to Responses P-7.2, P-7.3, P-7.4, and P-7.10.
- P-7.15 Refer to Responses P-7.2, P-7.3 and P-7.4.
- P-7.16 Refer to Response P-7.7.
- P-7.17 Refer to Response P-7.7.
- P-7.18 Refer to Responses P-7.2 and P-7.3.
- P-7.19 Refer to Response P-7.4.
- P-7.20 Refer to Response P-7.4.

Swan, Samantha

LETTER P-8

From: FJDMCC@aol.com
Sent: Friday, December 17, 2010 9:16 AM
To: BARTSV-SEIR2
Subject: Dixon BART Crossing Comments

TO: Tom Fitzwater,

I oppose placing Dixon Landing Road under the tracks. Undergrounding Dixon Landing Road will have great negative economic and access impacts on the surrounding homeowners, property owners, businesses, and jobs.

I prefer a retained cut under Dixon landing Road for the tracks and that will have the least negative impact on the surrounding homeowners, property owners, businesses, and jobs.

Thank you,

Frank J. De Smidt

PO Box 360342
Milpitas, CA 95036
408-263-3474

P-8.1

RESPONSE TO COMMENT LETTER P-8

Frank J. De Smidt

P-8.1 The support for the Dixon Landing Road Retained Cut Option, where BART would cross under Dixon Landing Road, is noted. The Draft SEIR-2 includes two options for a grade separation at Dixon Landing Road:

- BART in a retained cut under Dixon Landing Road
- BART and UPRR tracks at grade with Dixon Landing Road reconstructed as an underpass.

The Retained Cut Option has been selected as the preferred alignment where the UPRR crossing at Dixon Landing Road would remain at grade.

Swan, Samantha

LETTER P-9

From: LaBrier, Barbara L. [blabrier@pircher.com] on behalf of Hickey, Michelle [mhickey@pircher.com]
Sent: Friday, December 17, 2010 5:08 PM
To: BARTSV-SEIR2
Cc: Hickey, Michelle; Villa, Fernando
Subject: Comments to the Draft 2nd Supplemental Environmental Impact Report for the Bart Silicon Valley Phase 1 - Berryessa Extension
Attachments: LAXDOCS_7788951_1.PDF

Please see attached letter.

Barbara LaBrier
Legal Secretary
Pircher, Nichols & Meeks
1925 Century Park East, Suite 1700
Los Angeles, CA 90067
310.551.4847
310.201.8922 (fax)
blabrier@pircher.com

<<LAXDOCS_7788951_1.PDF>>

=====
IRS CIRCULAR 230 DISCLOSURE: To ensure compliance with requirements imposed by the IRS, we inform you that any tax advice contained in this communication (including any attachments) was not intended or written to be used, and cannot be used, for the purpose of (i) avoiding tax-related penalties under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any matters addressed herein.

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PIRCHER, NICHOLS & MEEKS
ATTORNEYS AT LAW
1925 CENTURY PARK EAST, SUITE 1700
LOS ANGELES, CALIFORNIA 90067
310.201.8900
FAX: 310.201.8922
www.pircher.com

900 NORTH MICHIGAN AVENUE
SUITE 1080
CHICAGO, ILLINOIS 60611
312.916.3112
FAX: 312.916.3348

J. MICHELLE HICKEY
T. 310.201.8953 F. 310.564.1815
MHICKEY@PIRCHER.COM

December 17, 2010

VIA EMAIL AND FACSIMILE

Mr. Tom Fitzwater
VTA Environmental Planning, Building B
3331 North First Street, San Jose, CA 95134-1927
Email: BARTSV-SEIR2@vta.org
Fax: (408) 321-5787

Re: Comments to the Draft 2nd Supplemental Environmental Impact Report
for the Bart Silicon Valley Phase 1 - Berryessa Extension

Dear Mr. Fitzwater:

P-9.1 | Pircher, Nichols & Meeks submits these comments on behalf of Walton CWCA Wrigley Creek 31, LLC (Walton), the owner of the property located at 386 Railroad Court, Milpitas, California (the Property) which is part of the Wrigley Creek Industrial Park. The Property is currently the Alternate B Location for the High Voltage Substation SRC and Switching Station SRR (collectively, the Stations) for the Silicon Valley Bart Project (the Project). Alternative Location A of the Stations is a vacant lot within the approved Bart Warm Springs Station in Fremont, California. (Draft 2nd Supplemental Environmental Impact Report (Draft 2nd SEIR), pg. 4.15-6 and Figure C-3.) Although it is unclear as to the full extent of the area that will be impacted by the Stations, the Draft 2nd SEIR indicates that an area encompassing approximately 40 parking spaces will be used. Such area will cause a much greater impact than the previous design because it will impact truck ingress, egress and parking and impact the parking ratios needed for the current leases, city requirements and future marketability of the Property. (Draft 2nd SEIR, pg. 4.15-8 and Figure C-14.) As addressed below, the Draft 2nd SEIR is deficient in several respects and does not comply with the California Environmental Quality Act (CEQA), California Public Resources Code, §§ 21000 *et seq.*

P-9.2 | The Draft 2nd SEIR fails to: a) identify and adequately analyze the environmental
P-9.3 | impacts to the Property or the surrounding community of locating the Stations at the Alternative
P-9.4 | Location B; b) identify a reasonable range of environmentally superior alternatives; c) provide
P-9.5 | sufficient information and analysis about each of the two alternative sites to permit an evaluation
of the relative merits of the alternatives; and d) evaluate the comparative merits of the
alternatives, all as required by CEQA. (14 Cal. Code of Regs. §15126.6(a)(CEQA requires that

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“an EIR shall describe a range of reasonable alternatives to the project, or 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.”) Both Alternative Locations A and B are new locations for the Stations and are listed as Design Changes 3 and 10, respectively, on the list of Design Changes that are to be the focus of the environmental review of the Draft 2nd SEIR. Accordingly, both Alternative Locations A and B must be fully described and analyzed to permit an evaluation of the relative merits of the alternatives and the comparative merits of the alternatives must be evaluated. (*Id.*)

P-9.5,
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P-9.6

The Draft 2nd SEIR violates CEQA because it fails to analyze as required the land use compatibility, visual quality, traffic, safety, noise and vibration and socio-economic impacts caused by locating the Stations at Alternative Location B. This failure to comply with CEQA cannot be overlooked even with the previous environmental reviews since the Draft 2nd SEIR was specifically required to examine the design changes, including Design Change 10 that moved the Stations to Alternative Location B.

P-9.7

The High Voltage Substation and Switching Station are not compatible with and would severely impact the Property’s current land use, and would cause visual quality, traffic, safety and socio-economic impacts.¹ This location of the Stations could potentially preclude the current commercial/industrial uses on the Property and lead to a complete “taking” of our client's Property since the damage to the remainder would be permanent and complete. The location of the Stations would severely impact truck ingress and egress from the warehouses and other businesses located currently on the Property and preclude truck parking at the Property. (See Figure C-14 showing narrow triangular shaped back area for truck delivery and turn around and temporary parking and location of the proposed Stations.) The area where the Stations would be located is used for big rig truck turn around and parking. Big rig trucks and other traffic must turn around to exit out of the Property since there is only one entrance to the Property for both ingress and egress. The area is also used for much needed big rig truck parking since parking trucks in other areas of the Property would interfere with business operations and other traffic going in and out of the Property. Any encroachment on this area would impede the ability of trucks to ingress and egress and park at the Property. The warehouses and other businesses rely on truck transportation of goods and accordingly cannot function without clear unimpeded truck ingress and egress and parking. In addition, the Property cannot afford to lose the approximately 40 parking spaces since current leases for the Property and the City of Milpitas have parking ratios that must be met and adequate parking is needed to be able to market the Property in the future. Furthermore, it would be unsafe to locate the High Voltage Substation and Switching

P-9.8

P-9.9

¹ Agencies must consider economic and social factors in determining whether mitigation measures and project alternatives are feasible. (Pub. Res. Code § 21081(a)(3); 14 Cal. Code Regs. §§15091(a)(3), 15364.) However, such information is not required to be included in the EIR but must be included elsewhere. (14 Cal. Code Regs. §15131.)

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P-9.9,
cont.

Station in this area of high truck traffic and tight maneuverability. As a consequence, the proposed site of the Stations under Alternative Location B would result in significant land use compatibility, safety and traffic impacts which the Draft 2nd SEIR utterly fails to address in violation of CEQA.

P-9.10

This Alternative will cause other significant land use compatibility and visual impacts which the Draft 2nd SEIR likewise ignores. Locating the Stations on the Property will also significantly impact the future redevelopment of the Property. Because the owners of the Property believe the highest and best use of the Property would be a mixed residential and retail use development, they have had several meetings and correspondence directly with planning department officials at the City of Milpitas, who gave a favorable outlook to the proposed redevelopment concept. The Property has redevelopment potential because it is located within the Milpitas Redevelopment Plan and close to downtown and because such use would be in keeping with the nearby residences and new nearby neighborhood amenities, such as the new public library and new senior center. Moreover, the industrial park located on the Property is one of the few remaining warehouse uses within the nearby area. Like the surrounding area, the Property would be better used if redeveloped with a mixed residential and retail use development. Locating the large High Voltage Substation and Switching Station on the Property would essentially kill the redevelopment of the Property for mixed residential and retail uses -- which the City itself desires to have on the Property -- due to the visual blight, noise fear of electromagnetic fields and continued Stations access requirements. In fact, the Stations on the Property will create a negative visual impact on the surrounding neighborhoods already located on both sides of the railroad tracks where Alternative Location B is proposed. The Draft 2nd SEIR considers none of these significant impacts, contrary to CEQA's mandates.

The Draft 2nd SEIR does not adequately analyze the impacts in the areas of visual quality, traffic, safety, noise and vibration, land use and socio-economic impacts, as outlined below:

P-9.11

Visual Quality Impacts: The Visual Quality section of the Draft 2nd SEIR acknowledges that Location B, unlike Location A, does have an impact on residential view groups but then utterly fails to discuss the visual impact on the residential view groups near Location B. The Draft 2nd SEIR states in pertinent part that "under Alternate Location A, the High Voltage Substation SRC and Switching Station SRR would be relocated from an area of Milpitas that has an existing asphalt parking lot surrounded by large warehouse-style buildings, a railroad corridor, and *nearby residential viewer groups* to an area in Fremont that has similar surface parking areas and large warehouse-style buildings. . . . There are no nearby residential viewers." (Draft 2nd SEIR, pg. 4.17-6 (emphasis added).) Yet, in its discussion of the Location B design change, the Draft 2nd SEIR does not discuss the residential view groups but instead improperly relies on its analysis in the previous Draft SEIR. However, the Draft SEIR does not acknowledge or discuss the nearby residential visual groups and instead wrongly concludes with no support that the area is predominately industrial: "The addition of the towers to this location in a predominantly industrial area would not have a substantial adverse effect on a scenic vista,

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and would not substantially degrade the existing visual character or quality of the area or its surroundings.” (Draft SEIR, pg. 204.) The Final SEIR does not correct this error. (See Final SEIR, Chapters 3 and 4.) Accordingly, the Draft 2nd SEIR cannot rely on the previous erroneous analysis in concluding that the new design change moving the Stations to Alternative Location B has no significant impact on visual quality or land use compatibility with the surrounding residential area.

P-9.11,
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Traffic and Safety Impacts: The Draft 2nd SEIR does not consider any of the traffic or safety issues. There is no Traffic or Transportation section in the Draft 2nd SEIR. Similarly, the Security and Safety Systems section does not analyze Design Change 10 locating the Stations to Location B. As discussed above, the Stations will cause a severe impact on the traffic flow of big rig trucks and other vehicles to the Property. Since there is only one ingress and egress to the Property, this impact will be significant. Moreover, locating a High Voltage Substation and Switching Station near large truck traffic that must maneuver in a confined area is not safe. Accordingly, the Draft 2nd SEIR fails to meet CEQA’s mandate to identify and mitigate these significant impacts, and the Stations should not be located on the Property.

P-9.12

Noise and Vibration and Construction Noise: The Draft 2nd SEIR also inadequately assesses the noise and vibration impacts to the Property and the surrounding community. The Draft 2nd SEIR does not propose a sound wall to lessen the noise from the passing trains for the Property or the nearby residents. (Draft 2nd SEIR, 4.13, Figure 4.13-3D.) Moreover, the Draft 2nd SEIR does not consider the impact of the noise from the Stations on the Property but only the impact to what it has deemed “noise-sensitive land uses on Berryessa Street.” [Draft 2nd SEIR, pg. 4.13-43]. As discussed above, the owners of the Property have been in discussion with the City of Milpitas regarding redeveloping the Property to a mixed residential and retail use. This will cause additional residents to be impacted by both the noise and vibrations from the trains and noise from the Stations.

P-9.13

Land Use and Socio-Economic Impacts: The Draft 2nd SEIR does not consider any land use compatibility impacts for Design Change 10 moving the Stations to Location B but does consider the impacts of Design Change 3 moving the Stations to Location A. (Draft 2nd SEIR, pg. 4.12-8.) The Draft 2nd SEIR also erroneously concludes that there are no potential socio-economic impacts resulting from the Project “because no displacements of residences or businesses would result from this design change.” (Draft 2nd SEIR, pg. 4.15-8.) Such analysis fails to consider the economic viability of the businesses located on the Property and the Property itself after the loss of regular parking and big rig truck turn around and parking. Impacting the truck ingress and egress and turn around and parking area of this Property that requires truck traffic as part of its operations and has parking ratio needs and requirements has the potential to effectively terminate the current commercial warehouse use. Accordingly, such taking would result in significant impacts on the current land use and economic viability of the business and the Property itself. That impact, in turn, would cause the displacement of the businesses located on the Property, another impact not addressed anywhere in the Draft 2nd SEIR. Indeed, the current leases and the City have parking ratios that could be impacted by the

P-9.14

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P-9.14,
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reduction in parking spaces. Moreover, the Property must have adequate parking to attract future tenants. In addition, the Stations are not compatible with the surrounding community residential land uses and create negative visual quality impacts for such users. Finally, as discussed above, the Stations are not compatible with future redevelopment of the Property to a mixed residential and retail use development. If the VTA takes the Property through condemnation for the Project, it will need to pay the fair market value based on the Property's highest and best use and will be required to pay severance damages to the remainder of the Property. In this case, such damages could be significant. Since the Draft 2nd SEIR fails to address any of these significant impacts, it is deficient under CEQA.

P-9.15

P-9.16

The Draft 2nd SEIR is also defective because it fails to identify a reasonable range of environmentally superior alternative locations for the Stations. (14 Cal. Code of Regs. §15126.6(a)(CEQA requires that "an EIR shall describe a range of reasonable alternatives to the project, or 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 requires that an EIR identify both feasible alternatives and feasible mitigation measures that could avoid or substantially lessen the project's significant environmental effects. (Cal. Pub. Res. Code §§ 21002, 21002.1(a), 21100(b)(4), 21150.) The Draft 2nd SEIR only presents two alternative locations for the Stations and provides no discussion of why other alternatives were not considered.

In addition, the Draft 2nd SEIR is defective because it fails to provide sufficient information and analysis about each of the two alternative sites to permit an evaluation of the relative merits of the alternatives and fails to evaluate the comparative merits of the alternatives, all as required by CEQA. (14 Cal. Code of Regs. §15126.6(a).) A comparison on the merits of Alternative Location A and B makes it clear that Alternative Location A is the better choice for the location of the Stations. Choosing Location A would also better meet the following goals set forth in Section 2 of the Draft 2nd SEIR:

P-9.17

Goal 3: Environmental Benefits. To provide transit improvements *that enhance and preserve the social and physical environment and minimize potential negative impacts* resulting from implementation of the transit alternatives.

Goal 8: Community and Stakeholder Acceptance. To provide a transportation system *that reflects the needs and desires of the residents and businesses in the corridor, is compatible with local planning initiatives*, and generates widespread political support.

(Draft 2nd SEIR, pg. 2-12 (emphasis added).)

Choosing Alternative Location A would meet the CEQA requirement and Goal 3 objective of minimizing the potential negative impacts of the Project and Goal 8 objective to gain community and stakeholder acceptance by providing a transportation system that reflects

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the needs and desires of the residents and businesses in the corridor, is compatible with local planning initiatives and generates widespread political support.

P-9.17,
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As to Land Use and Socio-Economic Impacts, Alternative Location A is the better choice for the location of the Stations. As concluded in the Land Use Section of the Draft 2nd SEIR, "Alternate Location A would have a less-than-significant impact with respect to compatibility with surrounding land uses, and no mitigation is required" since the site is located on a vacant lot in an area surrounded by industrial land uses with no nearby residences. (Draft 2nd SEIR, 4.12-8.) On the other hand, the Stations are not compatible with the current Alternative Location B's land use on the Property and is not compatible with the redevelopment plans for the future use of the Property. The Stations would displace an integral portion of an already developed Property causing business operation, noise, traffic and safety issues, displace existing businesses and significantly hindering the ability to market the current development to future tenants or to develop the Property into a mixed residential and retail use in keeping with the surrounding neighborhoods. Moreover, the Stations cause visual quality impacts to the surrounding residential neighborhoods. Finally, the VTA will need to condemn the Property at Alternative Location B and pay fair market value based on the highest and best use for such taking and severance damages to the remainder of the Property. Accordingly, the Draft 2nd SEIR fails to provide sufficient information and analysis about each of the two alternative sites to permit an evaluation of the relative merits of the alternatives and fails to evaluate the comparative merits of the alternatives, all as required by CEQA.

P-9.18

As to Visual Quality Impact, Alternative Location A has less impact because there are no residences nearby and the Stations fit into the surrounding area. As stated in the Draft 2nd SEIR, "Alternate Location A would be immediately adjacent to the existing UPRR Union Pacific Railroad (UPRR) Warm Springs Yard, which has a utilitarian visual character related to the railroad and yard facilities" with "no nearby residential viewers." (Draft 2nd SEIR, pg. 4.17-6.) The Draft 2nd SEIR admits that Alternative Location B, on the other hand, "has nearby residential viewer groups." (Draft 2nd SEIR, pg. 4.17-6.) Indeed, Location B is surrounded by residences on either side of the railroad tracks and the Property may be redeveloped to a mixed residential and retail use. The Draft 2nd SEIR does not, as required, provide sufficient information and analysis about the visual impacts or evaluate the comparative merits of the visual impacts of these two alternatives, as required by CEQA.

P-9.19

Locating the Stations on Alternative Location A would have significantly less Traffic and Safety Impacts. Based on the aerials and description provided in the Draft 2nd SEIR, Location A appears to be a vacant lot with no ingress and egress issues. In sharp contrast, as discussed above, locating the Stations at Location B would prevent the ingress and egress of trucks from the current warehouse use and create an unsafe situation. As noted above, the Draft 2nd SEIR did not provide any information regarding these traffic and safety issues, much less an evaluation of the comparative merits. Accordingly, the Draft 2nd SEIR is defective.

P-9.20

Clearly, Alternative Location A, a vacant lot with no nearby residents, is the better location with regards to noise impacts than Alternative Location B. In fact, the Draft 2nd

P-9.21

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P-9.21,
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SEIR concluded that there were no noise impacts with regard to Design Change 3 which located the Stations at Location A. The Draft 2nd SEIR did recognize the potential noise impact to Alternative Location B and discussed such noise impacts. As discussed above, the analysis of the noise impact was inadequate and failed to consider the true noise impacts on the Property's current use much less the impact if the Property was redeveloped into a mixed residential and retail use. Again, the Draft 2nd SEIR did not provide adequate information to compare these two alternatives and did not evaluate the comparative merits of these two alternatives.

P-9.22

The other potential impacts of locating the Stations at Location A were all found to be less than significant and required no mitigation measures. (Draft 2nd SEIR, 4.4-15 (concluding none of the Design Changes, including Design Change 3, would result in a significant impact on Biological Resources, including any special-status species or critical habitat, wetlands, or waters of the US/State, riparian habitat, or other sensitive natural community), 4.18-9 (concluding no additional significant impacts to Water Resources caused by the Design Changes, including Design Change 3, and no new mitigation measures required), 4.19-36 (concluding that the Construction will not create a potential public or environmental health hazard or an undue potential risk for health-related accidents, or result in a safety hazard for people residing or working in the project area).) Accordingly, Alternative Location A is clearly the environmentally superior alternative site and the VTA should choose this design option. In any case, the Draft 2nd SEIR is defective under CEQA for failing to provide sufficient information and analysis about each of the two alternative sites to permit an evaluation of the relative merits of the alternatives and to evaluate the comparative merits of the alternatives.

P-9.23

In view of each of the defects of the Draft 2nd SEIR as outlined above, CEQA requires that the VTA revise this document to address these deficiencies and recirculate the revised SEIR for public comment and review.

P-9.24

Our client would like to meet with the VTA to address, in a constructive manner, these matters and its concerns about how this Project would impact its Property and its tenants. I will contact you shortly for this purpose.

Meanwhile, please contact me if you have any questions or comments concerning the foregoing.

Sincerely yours,


J. Michelle Hickey

IMH/jmh

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*This information was provided after the close of the public comment period,
which was December 17, 2010.*

PIRCHER, NICHOLS & MEEKS

ATTORNEYS AT LAW
1925 CENTURY PARK EAST, SUITE 1700
LOS ANGELES, CALIFORNIA 90067
310.201.8900
FAX 310.201.8922
www.pircher.com

900 NORTH MICHIGAN AVENUE
SUITE 1060
CHICAGO, ILLINOIS 60611
312.916.9112
FAX: 312.916.3348

J. MICHELLE HICKEY
T. 310.201.8953 F. 310.564.1816
MHICKEY@PIRCHER.COM

January 21, 2011

VIA EMAIL AND FACSIMILE

Mr. Tom Fitzwater
VTA Environmental Planning, Building B
3331 North First Street, San Jose, CA 95134-1927
Email: BARTSV-SEIR2@vta.org
Email: Tom.Fitzwater@vta.org
Fax: (408) 321-5787

Re: The Draft 2nd Supplemental Environmental Impact Report (Draft 2nd SEIR) for
the Bart Silicon Valley Phase 1 - Berryessa Extension (the Project)

Dear Mr. Fitzwater:

The following is the promised follow up letter to the meeting between the VTA and Walton CWCA Wrigley Creek 31, LLC (Walton) on Friday, January 14, 2011 regarding the impacts of locating the Project's High Voltage Substation SRC and Switching Station SRR (collectively, the Stations) at the Wrigley Creek Industrial Park (the Industrial Park). Walton hopes that the VTA seriously considers the issues raised in Walton's December 17th comment letter and emphasized in the meeting regarding the significant impacts to current operations to the Industrial Park and to future property income, value and development.

As pointed out in the December 17th letter and as further discussed at the meeting, the Industrial Park uses the land that would be taken by the VTA to park and store trucks and truck trailers waiting to load and unload goods from the Industrial Park warehouses, a turn around and passing area for trucks and required parking for the businesses located in the Industrial Park. As you are aware, there is no street parking near the Industrial Park and there is a one way ingress and egress to the section of the Industrial Park that the VTA proposes to take. The attached photos that Walton previously provided the VTA show the no parking signs on the nearby street, trucks and truck trailers parked waiting for loading and unloading within the Industrial Park and the narrow ingress and egress for large trucks in the area of the Industrial Park that VTA proposes to take. The attached site plans, also previously provided to you, show the businesses and loading docks that rely on the large truck staging and parking area that the VTA intends to take.

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Walton was very disappointed to learn that the VTA has abandoned its consideration of the Alternative Location A for the Stations because of objections raised by the Union Pacific Railroad. Walton requests that the VTA take the time to consider other locations since Alternative Location A has now been abandoned and Alternative Location B would have significant impacts that were not considered in the Draft 2nd SEIR. Walton encourages the VTA to look for another location that does not impact businesses and nearby residences and potential future redevelopment such as will be impacted if the Stations are placed at Alternative Location B.

However, if the VTA must locate the Stations near Alternative Location B then it should lessen the overall impacts, particularly the impacts to traffic and safety and businesses by locating the Stations on the storage lot adjacent to the Industrial Park. Locating the Stations on the storage lot property eliminates the traffic and safety impacts since the Industrial Park will have adequate truck and regular parking and truck ingress/egress, passing and turn around area. Relocating the Stations will also lessen the land use compatibility and socio-economic impacts. The loss of rental space of the storage lot property cannot begin to compare with the disruption to all of the businesses in the Industrial Park which require but no longer have truck staging, parking and turn around and passing area and adequate regular parking. In sum, locating the Stations at Alternative Location B as currently proposed could potentially preclude the current commercial/industrial uses on the Property and lead to a complete "taking" of Walton's Industrial Park property since the damage to the remainder would be permanent and complete. Moreover, the Industrial Park property will be valued at the highest and best use which will be residential and mixed use development further increasing damages that the VTA must compensate Walton for. As the VTA is aware from the December 17th letter, Walton has had discussions with the City of Milpitas regarding the redevelopment of the Industrial Park to a residential and mixed use development. The narrow strip of land that makes up the storage lot property does not appear to have as much potential for redevelopment that the larger Industrial Park property has. Since one of CEQA's goals is to lessen impacts, the VTA should look for other locations or at a minimum place the Stations on the storage lot property.

Walton is very concerned that the VTA might not seriously consider the impacts to the Industrial Park or seek other alternative locations and designs because the VTA has now abandoned Alternative Location A and has a self imposed deadline of March 3, 2011 to present the Final 2nd SEIR to the VTA Board. Although Walton understands the VTA's desire to conclude the environmental review process, it believes that the new information provided by Walton regarding the significant impacts caused by locating the Stations at Alternative Location B and the apparent abandonment of Alternative Location A dictate that the VTA give a detailed and reasoned, good faith analysis of such new information. (14 Cal. Code Regs. §15088.) In the present case, a detailed and reasoned, good faith analysis would entail looking at new alternative locations if any and/or a significant new redesign of the Stations that addresses the significant impacts to the Industrial Park raised by Walton.

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Walton believes that the above new information requires recirculation and, thus, precludes the VTA Board from certifying the Final 2nd SEIR. (14 Cal. Code Regs. §15088.5(a).) Walton also believes that the fundamentally and basically inadequate and conclusory nature of the Draft 2nd SEIR's treatment of the impacts of locating the Stations at Alternative Location B requires reanalysis and recirculation. (14 Cal. Code Regs. §15088.5(a).) The December 17th letter outlines such inadequacies and, thus, they will not be repeated in full here. It is difficult to believe that the VTA Board could properly certify an environmental review whose draft report circulated for public comment did not even recognize, much less analyze, the significant impacts to the Industrial Park and the nearby residences. Indeed, as pointed out in the December 17th letter, there is no discussion of the traffic and safety and land use compatibility impacts in the Draft 2nd SEIR. The Draft 2nd SEIR and previous studies, furthermore, do not acknowledge or discuss the visual impact on the surrounding residences and inadequately address the noise and vibration impacts. Finally, such report does not adequately discuss the socio-economic impacts and instead erroneously concludes that there are no potential socio-economic impacts resulting from the Project "because no displacements of residences or businesses would result from this design change." (Draft 2nd SEIR, pg. 4.15-8.) Finally, as pointed out in the December 17th letter, the Draft 2nd SEIR is also defective because it fails to identify a reasonable range of environmentally superior alternative locations for the Stations. (14 Cal. Code of Regs. §15126.6(a)(CEQA requires that "an EIR shall describe a range of reasonable alternatives to the project, or 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.") With the abandonment of Alternative Location A, the Draft 2nd SEIR now presents only one location.

Under these circumstances, the VTA cannot move forward and certify the final report and approve the project. CEQA dictates that the VTA must first analyze the impacts it failed to consider previously and review of any reasonable alternative locations or designs for the Stations that would lessen such impacts and recirculate such analysis and alternatives for public comment. Based on our meeting, it is our understanding that VTA is looking at alternatives to address the impacts, including redesign. I will call you on Monday to discuss the status of VTA's efforts. As stated in the December 17th letter and at the meeting, Walton would like to work with the VTA to address, in a constructive manner, these matters and its concerns about how the location of the Stations would impact the Industrial Park and its tenants.

Meanwhile, please contact me if you have any questions or comments concerning the foregoing.

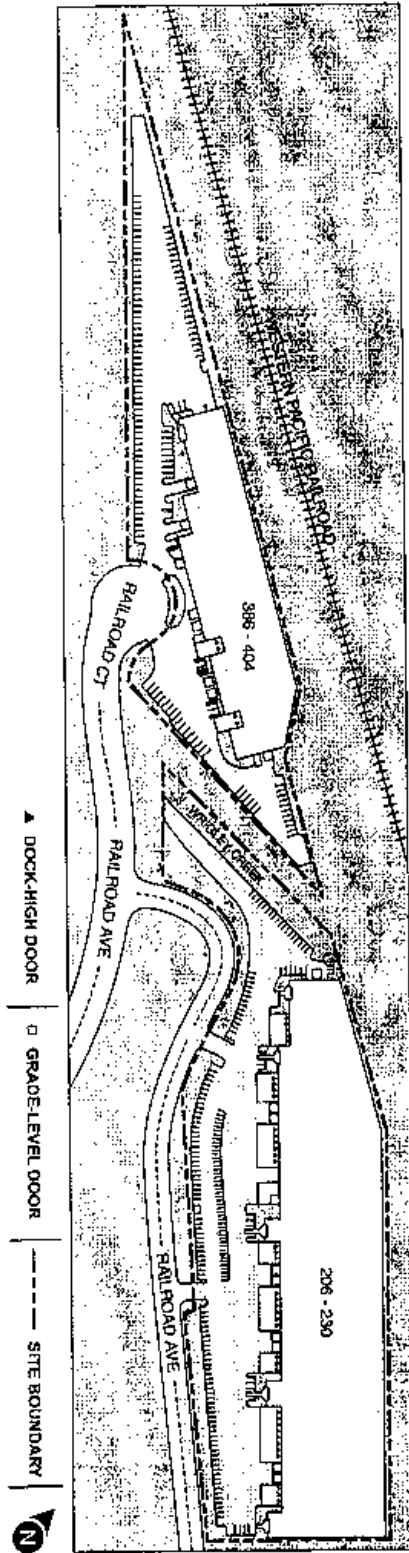
Sincerely yours,



J. Michelle Hickey

JMH/jmh

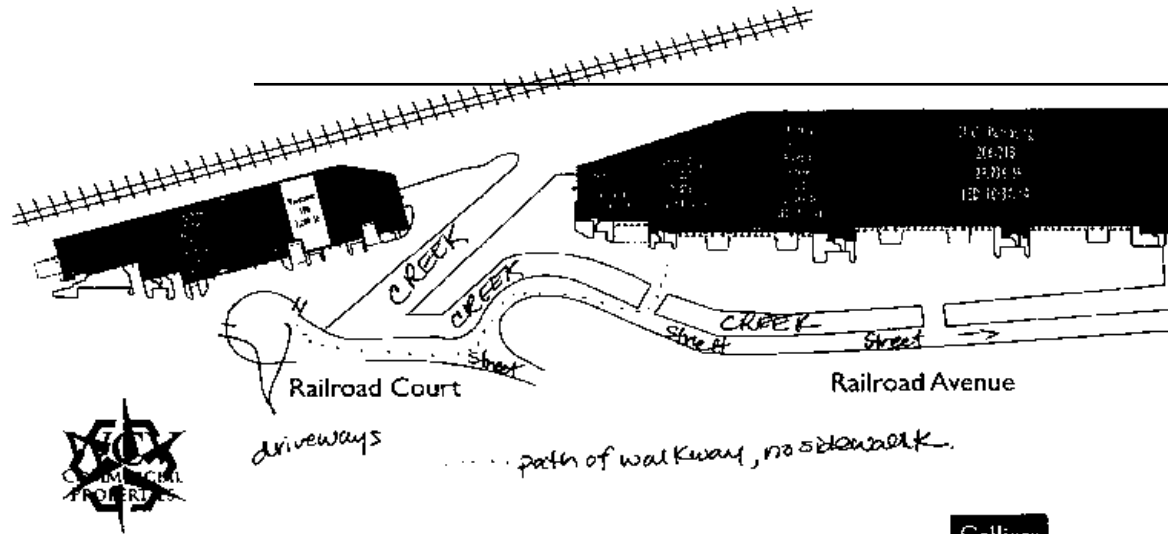
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Wrigley Creek Industrial Park

206-230 Railroad Avenue
386-396 Railroad Court
Milpitas, CA 95035

Expiration	
[Solid Black Box]	2011
[Solid Black Box]	2012
[Solid Black Box]	2013
[Solid Black Box]	2014

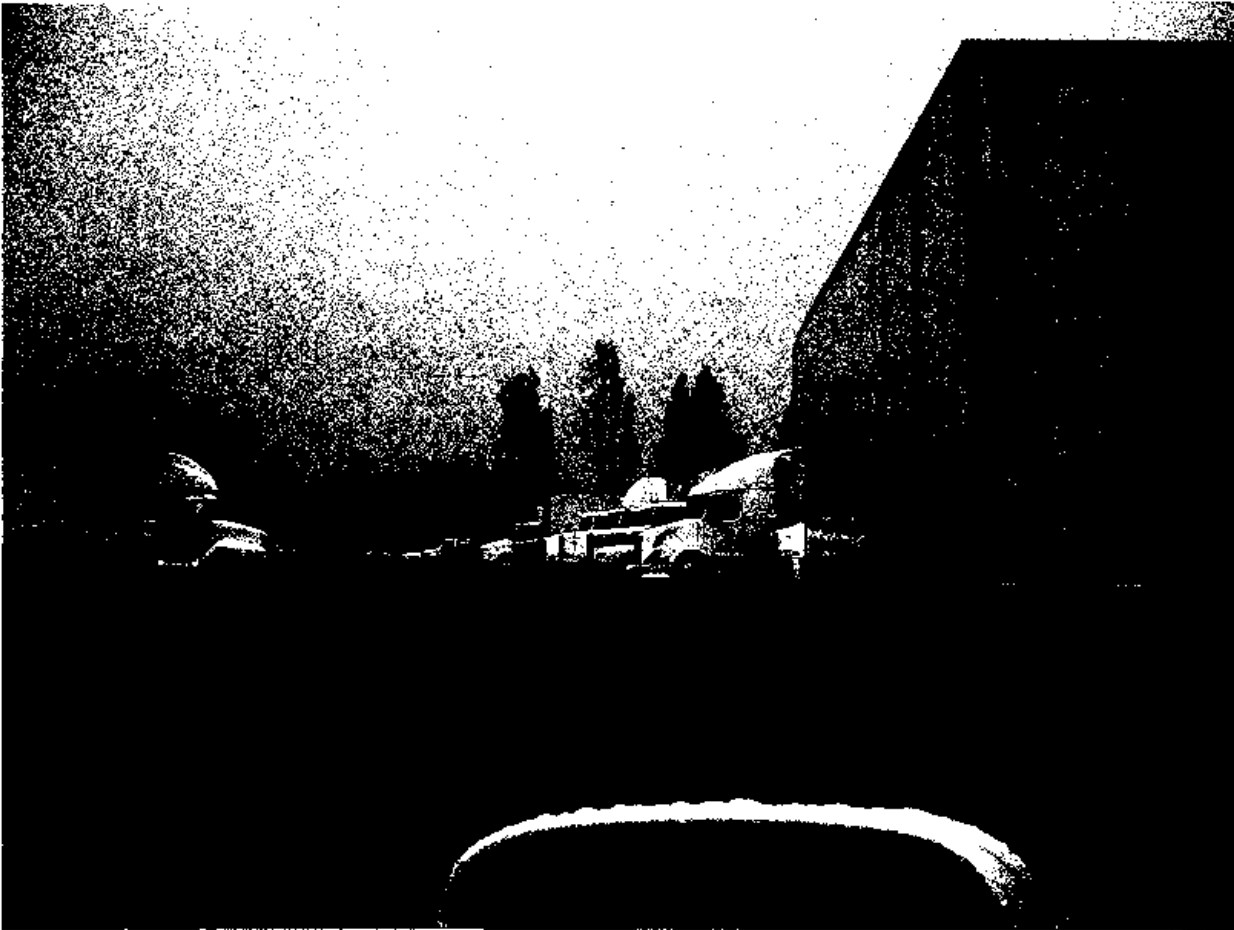


Revised 1/3/2011



WrigleyCreek0604.rps

















RESPONSE TO COMMENT LETTER P-9

J. Michelle Hickey

P-9.1 The commenter is referring to Draft SEIR-2 Design Change 10, Systems Facilities Alternate Location B, as discussed on page 4.15-8 of the Draft SEIR-2 (this design change is Design Change 9 in this Final SEIR-2 due to the design refinements). Figure B-14 in **Appendix B** of the Draft SEIR-2 shows the extent of the area to be impacted by the systems facility proposed at this location. As noted on page 4.15-8 of the Draft SEIR-2, Alternate Location B would cause the displacement of about 25 storage units at an RV storage business and 40 surface parking spaces at the adjacent light industrial business at the Wrigley Creek Industrial Park property. The loss of parking would not cause the displacement of the Wrigley Creek Industrial Park business. Moreover, Alternate Location B would avoid the complete displacement of the RV storage business as previously evaluated with the design of the systems facility in the SEIR-1, thereby reducing impacts relative to business displacements. Access to this light industrial business from Railroad Court would remain.

It should be noted that the FEIR and SEIR-1 both identified this property as the location for systems facilities in Figures A-18 and C-17, respectively. Also, there is a discussion on page 4.15-13 of the FEIR regarding the loss of parking on this property. This SEIR-2 documents the loss of 40 parking spaces, which represents approximately 10 more spaces than the configuration identified in the FEIR and SEIR-1. Subsequent to publication of the Draft SEIR-2, the systems facilities at Alternate Location B were reconfigured to reduce the loss of parking to approximately 30 spaces. See P-9 Attachment to this response for the current design of the Systems Facilities Alternate Location B. Also refer to Response P-9.14 below.

Refer to response to comment P.9-12 for impacts to truck ingress and egress, and refer to response to comment P.9-10 for impacts to parking and parking ratios required for leases, city requirements, and future marketability of the property.

P-9.2 Refer to Responses P-9.1 and P-9.6 through P-9.24 below.

P-9.3 Refer to Response P-9.16 below.

P-9.4 Refer to Responses P-9.16 and P-9.17 below.

P-9.5 Refer to Responses P-9.16 through P-9.23 below.

P.9-6 The statement that “Both Alternative Locations A and B are new locations for the Stations” is incorrect. Only Alternate Location A is a new location, and it was evaluated in the Draft SEIR-2 only as an alternate location for High Voltage Substation SRC and Switching Station SRR. Systems Facilities Alternate Location B has been selected as the preferred systems facilities location.

As noted on page 1-1 of the Draft SEIR-2, this SEIR-2 updates information presented in the previous CEQA documents prepared for BART Silicon Valley (formerly referred to as the BART Extension Project). This SEIR-2 updates information presented in the FEIR and the SEIR-1. Per CEQA Guidelines Section 15163(2)(b), a supplement to an EIR “need contain only the information necessary to make the previous EIR adequate for the project as revised.” Thus, the SEIR-2 focuses on the design changes and associated environmental impacts, as well as substantive new information that became available since certification of the SEIR-1.

As noted in **Table 3-1** on pages 3-4 through 3-8 of the Draft SEIR-2, Draft SEIR-2 Design Changes 3 and 10, Systems Facilities Alternate Locations A and B, respectively, were considered to provide updates to the environmental analysis related to land use, noise and vibration, socioeconomics, visual quality, biological resources, water resources, and construction impacts.

P-9.7 Refer to Response P-9.14 regarding land use impacts, Response P.9-11 for visual quality and aesthetics impacts, Response P-9.12 for impacts to traffic and safety, Response P-9.13 for impacts to noise and vibration, and Response P-9.14 for socioeconomic impacts.

P-9.8 Refer to Response P-9.14 regarding land use impacts, Response P.9-11 for visual quality and aesthetics impacts, Response P-9.12 for impacts to traffic and security and system safety, and Response P-9.14 for socioeconomic impacts. Refer to Response P-9.14 regarding impacts to parking ratios.

As stated in **subsection 4.15.13** of the Draft SEIR-2, “VTA will provide financial assistance and relocation services to owners and occupants of businesses and the residence displaced by Phase 1 as part of VTA’s Relocation Assistance Program. VTA’s Relocation Program is consistent with all federal and State laws applicable to business and residential relocations.” Any temporary or permanent partial takes of property by VTA would also be conducted in

accordance with VTA, state and federal requirements. Therefore, no significant socioeconomic impacts would result from the implementation of Phase 1.

- P-9.9 Refer to Response P-9.12 regarding impacts to truck ingress, egress and parking. Refer to Response P-9.14 regarding impacts to parking ratios. Refer to Response P-9.10 regarding land use compatibility and Response P-9.12 regarding traffic and safety impacts.
- P-9.10 Consistent with the CEQA Guidelines Appendix G, **Section 4.12, Land Use**, of the Draft SEIR-2 evaluates land use compatibility with existing land uses and consistency with formalized and adopted local and regional land use plans and policies. The location of Systems Facilities Alternate Location B would be similar to the approved systems facilities location evaluated in the FEIR and SEIR-1 and would not result in any new significant impacts related to existing land use. In addition, no plans have been filed with the City of Milpitas to redevelop the property. Therefore, the Systems Facilities Alternate Location B would remain compatible with the existing adjacent industrial land uses and consistent with local and regional land use plans and policies. Systems Facilities Alternate Location B has been selected as the preferred systems facilities location.
- Refer to Response P-9.11 regarding visual quality and aesthetics impacts.
- According to the City of Milpitas General Plan Land Use Map (October 2010), the proposed site for the Systems Facilities Alternate Location B is designated for Manufacturing and Warehouse Use. The site is not formally designated for future mixed residential or retail use. Thus, development of this systems facility would remain consistent with the permitted uses on the property.
- The property is located within a redevelopment area in the Milpitas Midtown Specific Plan. However, the property remains zoned as Manufacturing and warehousing and redevelopment. Land uses are anticipated to include “office buildings, R&D, warehousing, manufacturing, restoration and revitalization of existing architecturally significant buildings and structures.”
- The Midtown Specific Plan does include a transit-oriented development overlay zone in the vicinity of the Walton Cal West property. These overlay zones are designated for areas within a 2,000 foot walk from a rail station. The area in question is partially

inside and outside of the overlay zone for the South Calaveras Future BART Station. However, as described in Design Change 11, the South Calaveras Future BART Station has been eliminated from the project. Without a transit station within a 2,000 foot walk, this area should no longer be considered a transit-oriented development overlay zone. The systems facility would be compatible with the existing adjacent industrial land uses and consistent with local and regional land use plans and policies.

Refer to Response P-9.9 regarding visual impacts, Response P-9.13 regarding noise impacts, and Response P-9.12 regarding access impacts. As stated in **Section 4.7 Electromagnetic Fields**, of the Draft SEIR-2, no new impacts from EMF or interference were identified.

P-9.11 **Section 4.17, Visual Quality and Aesthetics**, of the Draft SEIR-2 includes an evaluation of visual impacts. Pages 4.17-6 through 4.17-7 of the Draft SEIR-2 state that Alternate Location A would not have significant impacts related to visual quality. Page 4.17-7 of the Draft SEIR-2 indicates that Alternate Location B would not result in any new visual impacts beyond those considered in the SEIR-1 since the location of the system facility location would only shift about 100 feet south and the existing warehouse use is not considered a visually sensitive land use. The visual impacts would remain less than significant. Systems Facilities Alternate Location B has been selected as the preferred systems facilities location.

The commenter is correct in that the visual evaluation of this systems facility in the SEIR-1 does not discuss the nearby residential uses that could have views of the systems facility. This Final SEIR-2 amends **subsection 4.17.4.3** on page 4.17-7 of the Draft SEIR-2 to include discussion of the views from the nearby residences as follows:

Alternate Location B would shift the High Voltage Substation SRC and Switching Station SRR slightly south (less than 100 feet) of the system facilities identified under the approved project. No new scenic resources or vistas have been identified in the area, nor has the existing visual character of the area changed since certification of the SEIR-1. Thus, Alternate Location B would not result in any new impacts to visual quality or aesthetics beyond those already considered in the SEIR-1, and the SEIR-1 discussion remains applicable to this SEIR-2. **The Systems Facilities Alternate Location B could be visible from the nearby residences, which are located east of the UPRR**

tracks and approximately 250 feet away from the facility. However, the residents already experience views of industrial and utilitarian visual elements to the west, including the UPRR tracks, paved storage yards, and large rectangular warehouse-style buildings. The addition of the systems facility would be consistent with the existing visual elements of the adjacent industrial developments. Therefore, Alternate Location B would have a less-than-significant impact related to scenic vistas, the existing visual character, scenic resources, and light and glare. Systems Facilities Alternate Location B has been selected as the preferred systems facilities location.

This text revision is also shown in **Chapter 5, Draft SEIR-2 Errata**, of this Final SEIR-2.

Refer to response to comment P-9.14 regarding land use impacts.

P-9.12

The statement that there is no Traffic or Transportation section in the Draft SEIR-2 is incorrect. This section can be found on pages 4.2-1 through 4.2-75 of **Section 4.2, Transportation**, of the Draft SEIR-2.

Additional analysis was conducted to determine Phase 1's impacts to truck access to this site. The attached Truck Turn Exhibit in Attachment P-9 to this response demonstrates that the configuration of the systems facility leaves sufficient remaining space within the property's parking lot for big rigs to pull in, back up, and turn around to exit the property safely. In addition, since this exhibit was prepared, the systems facility was reconfigured again to consolidate the facilities into a smaller footprint than shown in this exhibit. The current design, as illustrated in the exhibit in Attachment P-9 to this response, shows that the southern boundary of the systems facility has been moved 32 feet farther to the north, allowing for additional space for truck turning movements. Therefore, the impacts to truck ingress and egress at this property are less than significant.

The loss of on-site big rig parking on the triangular piece of property identified for the system facilities would not introduce new significant environmental impacts. The site would still provide sufficient parking according to City of Milpitas requirements. Also refer to Response P-9.14 regarding City parking requirements.

The system facilities will have security fencing. In addition, the two-story train control building will be the closest system facility to the

trucking operations and will provide a barrier to the high voltage substation and switching station from any truck movements. Therefore, these two uses can safely exist on adjacent properties.

P-9.13

In regards to noise and vibration, **Section 4.13, Noise and Vibration**, of the Draft SEIR-2 includes an evaluation of noise and vibration impacts. Systems Facilities Alternate Location A would not be located within the vicinity of noise sensitive uses (i.e., residential developments) and would not result in any new noise impacts. Page 4.13-43 of the Draft SEIR-2 states that Systems Facilities Alternate Location B would also not result in any significant noise impacts due to its distance from the nearby noise sensitive uses. Systems Facilities Alternate Location B has been selected as the preferred systems facilities location.

Subsection 4.13.4.3 on page 4.13-43 of the Draft SEIR-2 states that Systems Facilities Alternate Location B would not result in any significant noise impacts. The evaluation is based on existing noise sensitive uses within the vicinity of the systems facility, rather than undefined and not approved potential future land uses. The traction power substation facility would generate noise levels of 50 dBA at 50 feet, which is an acceptable level for existing land uses and no mitigation would be required. Operation of the systems facility would not result in any significant vibration impacts and no mitigation would be required.

P-9.14

Section 4.12, Land Use, of the Draft SEIR-2 includes an evaluation of land use compatibility. Page 4.12-8 of the Draft SEIR-2 states that Systems Facilities Alternate Location A would have a less-than-significant impact related to land use compatibility. As noted on page 3-22 of the Draft SEIR-2, the location of Systems Facilities Alternate Location B would be similar to the approved systems facilities location evaluated in the FEIR and SEIR-1 and would not result in any new significant impacts related to land use and impacts would remain less than significant. Systems Facilities Alternate Location B has been selected as the preferred systems facilities location.

With regard to parking and parking ratios, Milpitas City Ordinance, Title XI (Zoning, Planning and Annexation), Section 53 (Off-street Parking Regulations), Table 53.09-1 (Number of Parking Spaces Required) states that manufacturing and warehousing facilities require a minimum of one parking space per 1,500 square feet and office space requires a minimum of one parking space per 350 square feet. VTA contacted the City of Milpitas regarding the planning files on this property (James Lindsay, Planning and

Neighborhood Services Director). According to City planning files, the property has 13,358 square feet of office and 42,042 square feet of warehouse, generating a requirement of 67 parking spaces. The 1991 plans for the property on file with the City indicate that 137 parking spaces are supplied. Even with the loss of 40 parking spaces as discussed in the Draft SEIR-2, the parking requirement would still be met. However, since the publication of the Draft SEIR-2, the systems facility has been consolidated into a smaller footprint. The loss of parking has been reduced from 40 spaces to 30 spaces. The loss the 30 parking spaces also allows the site to meet the parking requirements. **Subsection 4.15.4.1**, under heading “City of Milpitas” and subheading “Design Change 10. Systems Facilities Alternate Location B (STA 260+00)” on page 4.15-8 of the Draft SEIR-2 has been revised as follows:

Near Railroad Court in Milpitas, High Voltage Substation SRC, Traction Power Substation SRR/Switching Station SRR, Train Control Building S28, and a PG&E tower would be constructed west of the UPRR ROW. Construction of these facilities as described in the SEIR 1 would have caused the displacement of one light industrial business, which included 135 vehicle storage customers. Upon further refinement of the systems facilities at this location, now these facilities would cause the displacement of up to approximately 25 storage units at one light industrial business (a recreational vehicle (RV) storage area), but would not displace the entire light industrial business. This design change would no longer impact the cell tower at this location. These facilities would also cause the displacement of up to approximately ~~40~~ **30** parking spaces from an adjacent industrial use; however, the loss of parking would not cause the displacement of this industrial business (Figure C-14, STA 258+00 in **Appendix C**). Because no displacements of residences or businesses would result from this design change, the impact would be less than significant.

This text revision is also shown in **Chapter 5, Draft SEIR-2 Errata**, of this Final SEIR-2.

Refer to Response P-9.12 regarding impacts to truck parking.

- P-9.15 Refer to Response P-9.10 for a discussion of land use compatibility and Response P-9.11 for a discussion of visual quality and aesthetic impacts related to the Systems Facilities Alternate Locations A and B. Systems Facilities Alternate Location B has

been selected as the preferred systems facilities location. Refer to Response P-9.10 for a discussion of impacts to future residential redevelopment potential. Refer to Response P-9.8 regarding property compensation.

P-9.16 This SEIR-2 does not introduce any new project alternatives. Chapter 3 of the FEIR describes the range of alternatives considered for BART Silicon Valley. Section 3.6 of the FEIR also describes the range of alternatives considered but eliminated from further evaluation as part of the EIR process. No additional project alternatives were considered as part of the SEIR-1. As such, the description of the range of alternatives considered in the FEIR remains applicable to this SEIR-2 and the evaluation of Phase 1.

The environmental impact analysis of Alternate Location A and B did not result in the identification of any significant environmental impacts. Therefore, CEQA statutes and guidelines do not require that additional alternate locations be considered. However, the siting constraints are further described below.

Alternate Location B consists of the systems facilities high voltage substation (SRC), the traction power and switching station (SRR) and a train control house (S28). The proposed site is situated on parcels owned by Brian Horner and Calwest Industrial Holdings, Inc., the latter parcel is also the site for the Wrigley Creek Industrial Park. These two parcels combined form a triangular site resulting from the divergence of operating railroad tracks owned by UPRR. The site is also bisected by a Pacific Gas and Electric (PG&E) high voltage power line running on an east-west alignment.

The proposed site of Alternate Location B is the preferred location for the systems facilities for the following reasons:

- High voltage lines are located directly over the site, which provides high voltage power directly fed to the power transformers through a planned intermediate pole under the existing power lines. The proximity of the power lines will significantly reduce the cost of power transmission thus providing overall savings to Phase 1. Because the proposed high voltage substation is located so close to the existing 115 kV lines at this site, it is not necessary to construct new extensions of the 115 kV lines through city streets.
- The 34.5 kV ac house and the 1,000 V dc house are integral part of the traction power and the 34.5 kV switching requirements and must be located within the immediate vicinity of the high voltage power source and each other.

The train control house (TCH) is co-located at this site to serve the track crossover known as Interlocking S27, which is located on the guideway opposite the site across the UPRR tracks. The train control house must be located within 2,000 feet of the interlocking it is serving to minimize voltage drop. During location planning, the immediate vicinity of the interlocking was evaluated to find the most feasible location for the TCH. It was determined that to the east of the tracks is a residential community, bounded by Berryessa Creek, to the north is the crossing of Berryessa Creek and Abel Street, to the south is Wrigley Creek Industrial Park and the Wrigley Creek crossing while to the west of the interlocking is the UPRR and farther west, is a residential neighborhood. For these reasons, there is no feasible alternate location.

- In order to minimize the footprint of the TCH and to lessen property impacts, the building is planned to be a 2-story structure, which will differ from all other train control houses on this Project that are single story buildings. The design of the building would integrate appropriate architectural features similar to a residence as much as practical to avoid adversely impacting the existing establishments.
- A high voltage PG&E 115 kV power source is required to power the system during operations. There are only 4 locations along the Phase I alignment where it is feasible to connect to existing 115 kV power sources. These locations are (north to south along the project's alignment):
 - Warm Springs Court (Alternative Location A)
 - Railroad Court (Alternative Location B)
 - Montague Expressway
 - Las Plumas Avenue
- Phase 1 already proposes a connection to the 115 kV power source at Las Plumas Avenue, so this is not a viable alternative. The 115 kV power source at Montague Expressway is located too far south along the project's alignment and too close to the Las Plumas Avenue connection, to meet the needs of the project. In addition, connection to the 115 kV source at this location would require feeding the power through new long transmission lines, which is substantially more costly compared to a 115 kV power source located adjacent to the alignment in a more suitable location.

There is no other available high voltage PG&E 115 kV power source between this site and the high voltage power source serving the former NUMMI facilities to the north. An alternate site at the northern area was evaluated but was later rejected by both UPRR and BART (See the discussion under the heading “Alternate Locations” below). As a high voltage power source is already located near the end of the SVBX alignment at Las Plumas Avenue, a site to the south of the Railroad Court site would not be practical.

Alternate Locations:

Warm Springs Court, Fremont, CA

As described on page 3-17 of the Draft SEIR-2, VTA evaluated an alternate site for the HVSS at a BART-owned parcel at Warm Springs Court, in Fremont. This alternate site would require extending high voltage service from the existing PG&E 115 kV line currently serving the facilities at the former NUMMI plant.

In order to provide the required power to the BART-owned parcel at Warm Springs Court, the existing PG&E 115 kV line would be extended across the UPRR mainline and the UPRR yard tracks. Since there are cranes with long-reach masts operating within the yard, a high voltage line crossing over this operating yard is not desirable due to safety considerations. UPRR found that this crossing was unacceptable and suggested that the PG&E line cross over its mainline farther to the north.

Subsequent location studies were conducted on the UPRR suggestion. The only feasible crossing over the mainline would be on a skewed alignment 780 feet long between towers. This crossing would be just south of the planned BART Warm Springs Station and ending at a new high tower located at the southwest corner of the planned Warm Springs Station parking lot. From there the line would continue southerly to the BART-owned parcel at Warm Springs Court. This high voltage line would run between the planned BART 150-foot high radio tower and an existing industrial building, but the routing would be within 80 feet of the tower. The close proximity of the 115 kV line to the tower does not provide enough clearance for safety and will not satisfy operating restrictions normally required between a high voltage line and a radio tower. As a result of these clearance issues, the alternate 115 kV line routing is not feasible.

After further investigations, the SVBX Project determined that the Alternate Site at Warm Springs Court is not a technically acceptable location since the UPRR will not permit routing of 115 kV lines over the yard tracks and due to conflicts with the Radio Tower for the alternate routing to the north of the UPRR yard.

Edgewater Drive, Milpitas, CA

Another possible location for the HVSS was along the east side of the alignment, but this would locate the systems in a community park directly across from the Wrigley Creek Industrial Park and Horner Property. The site was ruled out as it would adversely impact the park and its use and be located closer to existing residential uses.

P-9.17 The FEIR described a systems facility at this location similar to what is currently proposed, and evaluated the environmental impacts of the facility. The SEIR-1 described a modified, but very similar, systems facility at this location and analyzed the environmental impacts due to changes in design. The Draft SEIR-2 describes the environmental impacts of the minor changes to the facility at this location, and evaluates the environmental impacts associated with those changes.

The Draft SEIR-2 evaluates an alternate location for the High Voltage Substation (SRC) and Switching Station (SRR) only, under Draft SEIR-2 Design Change 3, Systems Facilities Alternate Location A. Traction Power Substation SRR and Train Control Building S28 would still be located at the proposed location at Railroad Court that was approved in the FEIR and SEIR-1, but moved approximately 100 feet to the south.

The support for Systems Facilities Alternate Location A is noted. As discussed in **Chapter 2, Design Refinements**, of this Final SEIR-2, the Systems Facilities Alternate Location B has been selected as the preferred systems facilities location.

P-9.18 The support for Systems Alternate Location A is noted. As discussed in **Chapter 2, Design Refinements**, of this Final SEIR-2, the Systems Facilities Alternate Location B has been selected as the preferred systems facilities location.

Refer to Response P-9.10 for a discussion of land use compatibility and the System Facilities Alternate Location B's compatibility with the planned land use designations as defined by the City of Milpitas General Plan Land Use Map (October 2010), and the impact to future residential redevelopment potential.

Also refer to Response P-9.13 for a discussion of noise, and Response P-9.12 for a discussion of traffic and safety impacts related to Systems Facilities Alternate Locations A and B.

Refer to Responses P-9.11 for a discussion of visual impacts related to Systems Facilities Alternate Locations A and B.

Refer to Responses P-9.8 and P-9.14 for a discussion of the potential for business displacements associated with Systems Facilities Alternate Locations A and B.

P-9.19 Refer to Response P-9.11 for a discussion of visual impacts associated with Systems Facilities Alternate Locations A and B.

As stated in Response P-9.10, the proposed site for the Systems Facilities Alternate Location B is designated for Manufacturing and Warehouse Use in the City of Milpitas General Plan Land Use Map (October 2010) and is not designated for future mixed residential or retail use. Systems Facilities Alternate Location B has been selected as the preferred systems facilities location.

P-9.20 Refer to Response P-9.12 regarding traffic and safety impacts and Response P-9.16 regarding Alternate Location A. Systems Facilities Alternate Location B has been selected as the preferred systems facilities location.

P-9.21 The support for Systems Alternate Location A is noted. As discussed in **Chapter 2, Design Refinements**, of this Final SEIR-2, the Systems Facilities Alternate Location B has been selected as the preferred systems facilities location.

Refer to Response P-9.13 for a discussion of noise impacts associated with Systems Facilities Alternate Locations A and B.

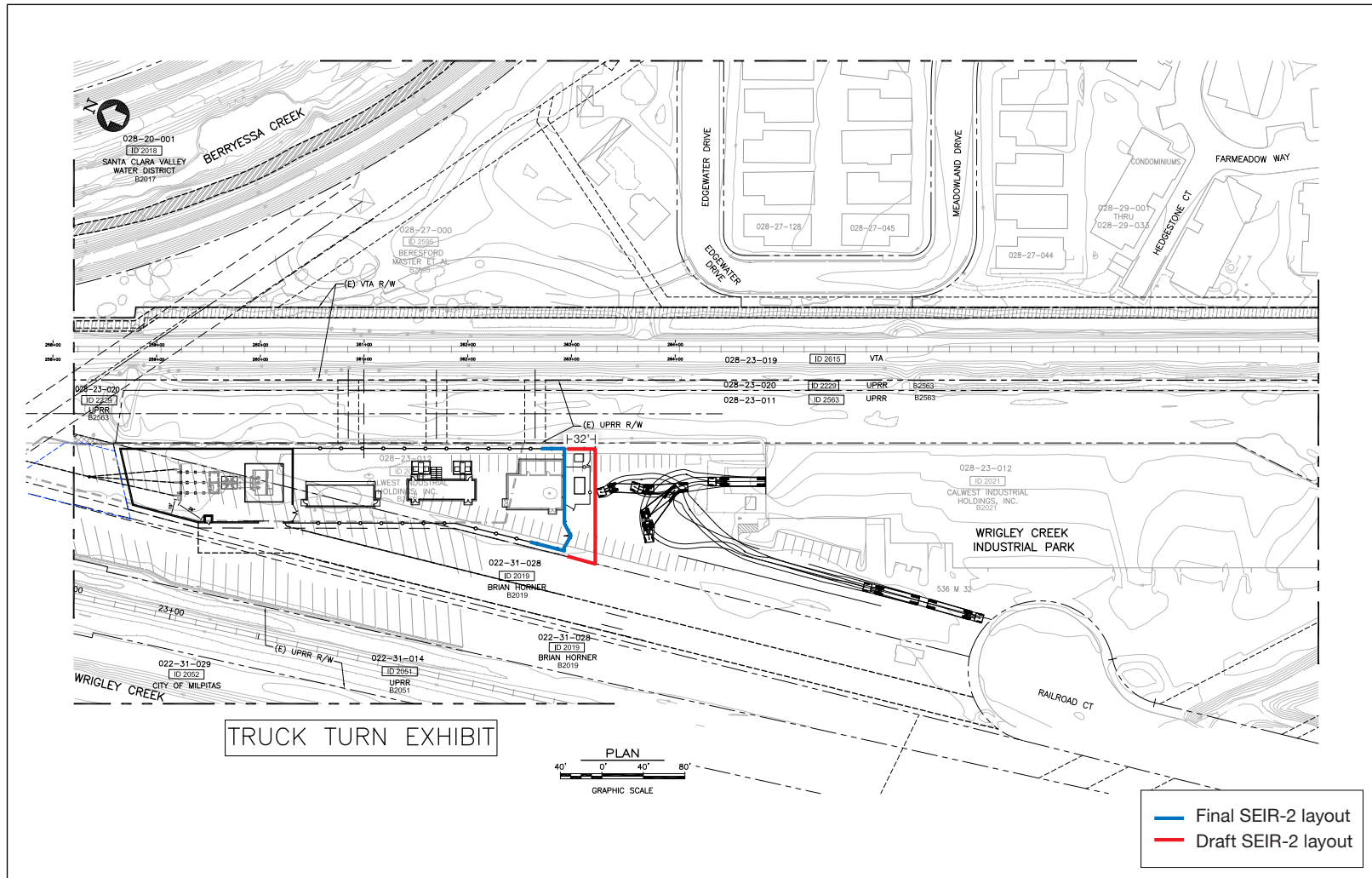
P-9.22 The support for Systems Alternate Location A is noted. As discussed in **Chapter 2, Design Refinements**, of this Final SEIR-2, the Systems Facilities Alternate Location B has been selected as the preferred systems facilities location.

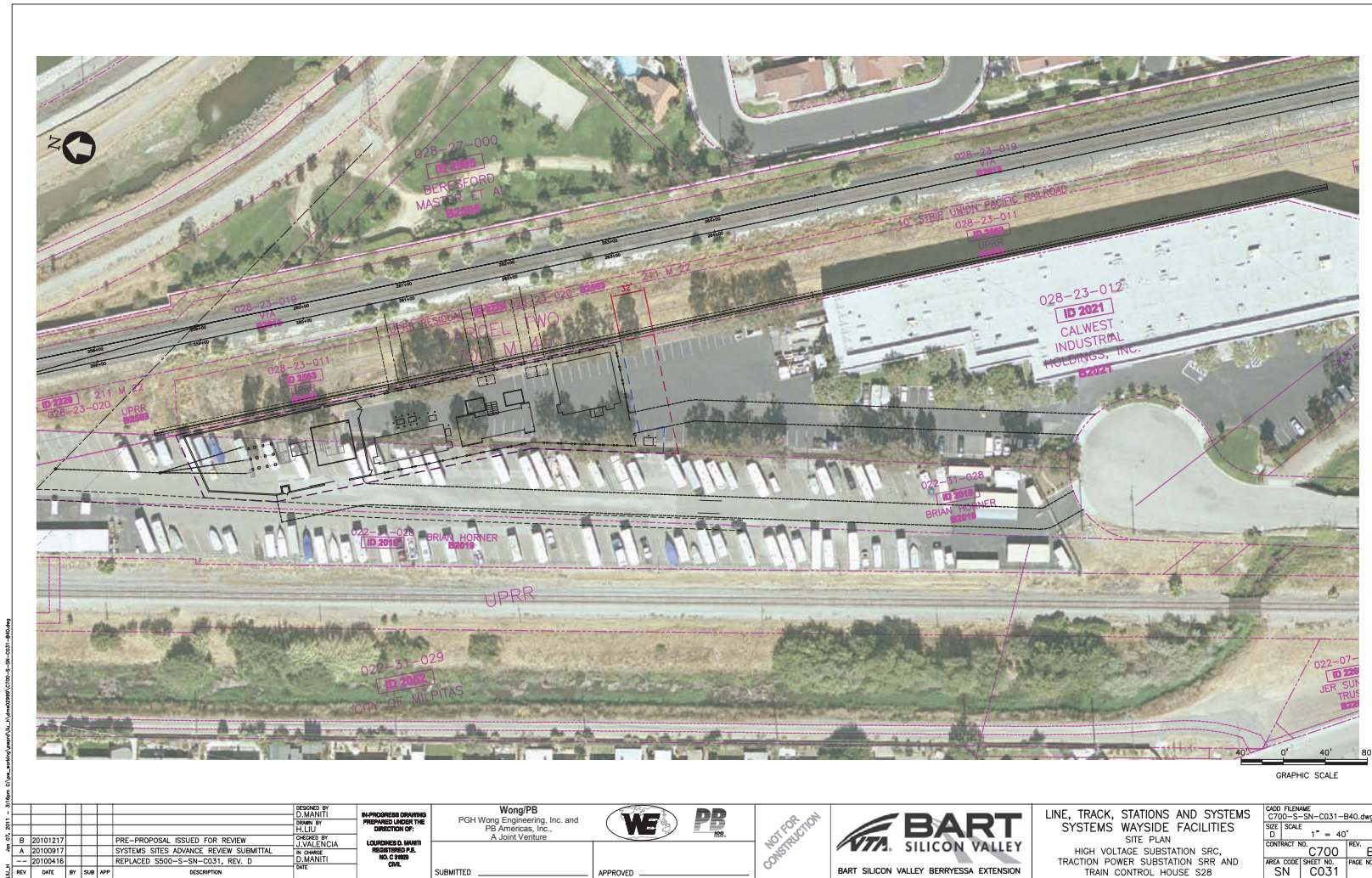
In addition, Alternate Locations A and B were determined not to result in any significant impacts. Therefore, Alternate Location B is a viable option and is the preferred systems facilities location.

P-9.23 Refer to Responses P-9.1 through P-9.22. The Draft SEIR-2 did not identify any significant impacts related to implementation of Alternate Location A. Systems Facilities Alternate Location B has

been selected as the preferred systems facilities location. Therefore, recirculation of the SEIR-2 is not required by CEQA statutes and guidelines.

- P-9.24 On January 14, 2011 VTA staff met with representative of the property owner. Property owner representatives included Thomas Hwang, Nancy Babb and J. Michelle Hickey (by telephone). Their concerns were reiterated this meeting. The new exhibit shifting the systems facilities further to the north to reduce impacts to their property was provided at this meeting. This exhibit is included as Attachment P-9 to this response.





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TRANSCRIPT T-1

VTA PUBLIC HEARING

BART SILICON VALLEY
BERRYESSA EXTENSION PROJECT
PUBLIC MEETING

**CERTIFIED
ORIGINAL**

REPORTER'S TRANSCRIPT OF PUBLIC COMMENTS

DATE: Thursday, December 9, 2010

TIME: 7:08 p.m.

LOCATION: MILPITAS SENIOR CENTER
40 North Milpitas Boulevard
Rooms 40 & 41
Milpitas, CA 95035

REPORTED BY: NOELIA ESPINOLA, CSR
License Number 8060

#38053

Advantage *ARs* Reporting
Services, LLC

1083 Lincoln Avenue, San Jose, California 95125, Telephone (408) 920-0222, Fax (408) 920-0188

1 P R O C E E D I N G S
2
3 MR. FITZWATER: If you would tell us your
4 name.
5 MR. KLUFT: My name is Ian Kluff. I had --
6 I've been watching this process probably since around
7 2000. So I -- some of that time I have been actually a
8 member of the Hostetter Neighborhood Working Group that
9 -- Community Working Group. And, also, I have since
10 been appointed to the San Jose International Airport
11 Commission, although I'm here just as a private
12 citizen. You know, we've had meetings dozens of times
13 and there's no chance to get approval to represent
14 anyone. So I'm just speaking for myself.
15 But I did want to point out that San Jose
16 International Airport is expecting that the BART
17 extension will go to Santa Clara and plan on a people
18 mover project. Based on that, you will need to
19 coordinate with them of this change.
20 And I expect at the very least, you're going
21 to need to plan on shuttle buses going through
22 Berryessa to the airport. Because it's just close
23 enough that people are going to try to do that anyway.
24 I've given that -- I gave that similar
25 comment on the -- on the scoping meetings. But I

T-1.1

T-1.2

1 wanted to make sure it gets in on the official record
2 here.

3 MR. FITZWATER: Okay. And your name first?

4 MR. MARSHALL: David Marshall, I live in
5 Milpitas.

6 I just have a quick question. When do you
7 expect the Warm Springs station to be operational?

8 MR. FITZWATER: I guess I have heard that
9 Warm Springs is supposed to open in 2014.

10 MR. MARSHALL: Is that still on schedule?

11 MR. FITZWATER: I think so.

12 UNIDENTIFIED VOICE: There's a lot of time
13 for it to be off schedule.

14 MR. MARSHALL: Is construction underway on it
15 now?

16 MR. FITZWATER: Construction is definitely
17 underway. I know they're working on Lake Elizabeth
18 right now. And I haven't heard anything different.

19 Anyone else have a formal comment? Okay.
20 Then I'll close the public hearing part.

21 But there is certainly a lot of experts here
22 in the room that can try and answer any of your
23 specific concerns. And we do have that exhibit on the
24 back of the room that highlights where sound walls will
25 be, where vibration mitigation is, and where noise

1 insulation pipes are located along with a number of
2 other environmental topical areas. So I'd encourage
3 you look at the maps or exhibits or ask us questions.

4 Thank you for coming.

5 (End of public comments.)

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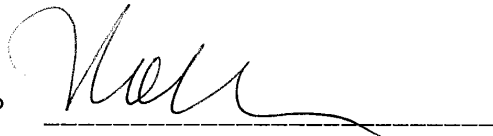
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I, NOELIA ESPINOLA, do hereby certify:

That the public comments were taken down by me in shorthand at the time and place therein named, and thereafter reduced to computerized transcription under my direction.

And I hereby certify the foregoing transcript is a full, true and correct transcript of my shorthand notes so taken.

I further certify that I am not interested in the outcome of this hearing.

Dated: December 20, 2010 
NOELIA ESPINOLA, CSR #8060

RESPONSE TO TRANSCRIPT T-1

Ian Kluff

- T-1.1 As noted on page 3-1 of the Draft SEIR-2, VTA is committed to building the full 16.1-mile extension of BART Silicon Valley to Santa Clara. The current state of the economy requires that BART Silicon Valley be built using a phased-construction approach, with the ultimate intention of providing full extension to Santa Clara when funding becomes available. The phased-construction approach does not preclude the full extension of BART Silicon Valley.
- T-1.2 As noted in **subsection 3.2.1.1** on page 3-10 of the Draft SEIR-2, VTA would provide new bus routes to provide service to the San Jose International Airport, as well as other transit centers and major employment destinations in Santa Clara County. Phase 1 would include an expansion of bus service from the proposed Milpitas Station to the San Jose International Airport.

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